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### **U.S. Antidumping Calculations Are Logical and Legal**

*Tarpon Springs, FL*—Recently, the Department of Commerce found China and Vietnam are dumping shrimp in to the U.S. market. Brazil, Ecuador, India, and Thailand, have been found preliminarily to be dumping shrimp in the U.S. market, causing injury to U.S. shrimpers and their communities throughout the Southeast. Now, in an attempt to distract attention from the 70,000 U.S. jobs at risk because of the free trade violations, these countries and the importers that make millions of dollars selling dumped shrimp are questioning longstanding methodologies used to calculate dumping margins. Specifically, they are asking the Department of Commerce to eliminate its practice of “zeroing.”

“Zeroing” is a straightforward, two-step process. First, the Department of Commerce averages all sales of a single product to determine whether that specific product is dumped. Then, the Department segregates the “good” (fairly traded) products from the “bad” (dumped) products and calculates the remedial measures by averaging the dumped products. Failure to “zero out” the non-dumped products gives credit to companies for obeying the law and allows them to water down the actual violations. The rationale of zeroing is similar to that found in many U.S. laws. For example, speeding occurs whenever some one exceeds the posted speed limit. Each occurrence of exceeding the speed limit is a separate violation. There is no expectation that days driving under the speed limit somehow offset days in which the speed limit is exceeded.

However, that is exactly what opponents of zeroing propose. They would calculate dumping much as if exceeding the speed limit by 10 miles per hour on Monday and Tuesday is offset by driving 10 miles per hour below the speed limit on Wednesday and Thursday. Of course, that is not the intent of speed limit laws and not how speed limits are enforced. Likewise, international agreements defining dumping cannot be read to permit dumping so long as there is sufficient “non-dumping” to offset the violation.

The current methodology to calculate dumping is logical and legal. Earlier this year, when the issue of zeroing was before the U.S. Court of Appeals, the court found that “Commerce’s methodology for calculating dumping margins makes practical sense...it neutralizes dumped sales and has no effect on fair-value sales.”<sup>1</sup>

Zeroing has been the standard and consistent practice of several countries, including the United States and Canada. During the negotiations for the 1994 Agreement, several countries sought to include language in the draft under discussion that would prohibit

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<sup>1</sup> The Timkin Co. v. United States, Slip. Op. 03-1098 (Fed. Cir. 2004).

zeroing expressly. That effort failed and the 1994 Agreement repeated the operative language from the prior agreement, under which zeroing had been practiced. Therefore, the recent interpretation of a three-member WTO panel that concluded the 1994 Agreement prohibits zeroing is clearly altering the agreement negotiated among sovereign nations.

The U.S. government signed the 1994 Antidumping Agreement with the understanding that zeroing is permissible under our international obligations. Now the U.S. government must review the negative ruling to determine what actions, if any, are proper. Changing the U.S. statute to remove the practice of zeroing would result in countries being able to mask free trade violations. Giving credit to companies when they obey the law to disguise the actual amount of dumping occurring clearly benefits the violators, but the benefits to American workers are, well, zero.

SSA is an alliance of the shrimp fishermen and processors of U.S. warmwater wild shrimp fishery from eight states: North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas. For more information, please visit [www.shrimpalliance.com](http://www.shrimpalliance.com).

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