

- Handling ("B&H")
- H. Inclusion of Packing Weight in Movement Expenses' Calculation
- I. Factors of Production for Pallets
- J. Application of Packing Materials and the Byproduct Offset in the Calculation of Normal Value

Comment 9: TMC

- A. AFA for Failure at Verification
- B. Separate Rate
- C. AFA for Suppliers
- D. Discounts
- E. Surrogate Value for Scrap Rail

Comment 10: Jinma

[FR Doc. 05-18587 Filed 9-16-05; 8:45 am]

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DEPARTMENT OF COMMERCE**International Trade Administration**

(C-533-063)

Certain Iron-Metal Castings from India: Notice of Amended Final Results Pursuant to Final Court Decision

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On June 16, 2005, the United States Court of International Trade (CIT) sustained the Department of Commerce's (the Department) July 9, 2004, *Final Results of Redetermination on Remand Pursuant to Kiswok Industries Pvt. Ltd. v. United States*, pursuant to Slip Op. 04-54 (CIT May 20, 2004), (*Remand Determination*), which pertains to *Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review*, 65 FR 31515 (May 18, 2000) (*Iron-Metal Castings*). See *Kiswok Industries Pvt. Ltd. and Calcutta Ferrous Ltd. v. United States*, Court No. 00-03-00127, Slip. Op. 05-73 (CIT, June 16, 2005). Because all litigation in this matter has concluded, the Department is issuing amended final results for *Iron-Metal Castings* in accordance with the CIT's decision.

EFFECTIVE DATE: July 20, 2005

FOR FURTHER INFORMATION CONTACT: Robert Copyak, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, DC 20230; telephone: (202) 482-2209.

SUPPLEMENTARY INFORMATION:**Background**

On May 18, 2000, the Department published its final results of administrative review in *Iron-Metal Castings*. Calcutta Ferrous Ltd. and

Kiswok Industries Pvt. Ltd. (collectively "respondents") challenged the Department's final results before the CIT. In the administrative review, Calcutta Ferrous Ltd. argued that "in calculating the benefits received by castings exporters from export loans, Commerce failed to take into account penalty interest paid at interest rates higher than the benchmark." See Comment 7 of the May 18, 2000, Issues and Decision Memorandum that accompanied *Iron-Metal Castings*. In *Kiswok Industries Pvt. Ltd. and Calcutta Ferrous Ltd. v. United States*, Slip Op. 04-54 (CIT May 20, 2004) (*Kiswok v. United States*), the Court concurred with Calcutta Ferrous Ltd.'s position. *Id.* at 15-18. The Court also disagreed with Commerce's position in *Iron-Metal Castings* that the overdue portion of the loan becomes a new loan with a new applicable interest rate. *Id.* at 17-18.

In light of the Court's instructions in *Kiswok v. United States*, the Department, in its redetermination, recalculated the benefit Calcutta Ferrous Ltd. realized from its preferential loans, taking into account all of the interest paid thereon. See *Remand Determination*. The Department recalculated the program rate with respect to Calcutta Ferrous' export credit loans to be 0.22 percent *ad valorem*. With this change in the program rate, the final rate for Calcutta Ferrous changed to 9.25 percent *ad valorem*. No party submitted comments regarding the Department's Remand Determination. On June 16, 2005, the CIT sustained the Department's redetermination in all respects and thus affirmed the Department's recalculations.

On July 20, 2005, the Department, consistent with the decision of the United States Court of Appeals for the Federal Circuit in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990), notified the public that the *Kiswok v. United States* decision was "not in harmony" with the Department's original results. See *Certain Iron-Metal Castings from India: Notice of Court Decision and Suspension of Liquidation*, 70 FR 41687 (July 20, 2005) (*Timken Notice*). The *Timken Notice* continued the suspension of liquidation, and further informed that if the CIT's decision was not appealed, or if appealed and the appeal was upheld, the Department would publish amended final countervailing duty results. *Id.*

Amended Final Determination

Because there is now a final and conclusive decision in the court proceeding, we are amending the final results and establishing for Calcutta

Ferrous the revised countervailing duty rate of 9.25 percent, effective as of July 20, 2005, the publication date of the *Timken Notice*. Accordingly, we will instruct the CBP to assess countervailing duties at 9.25 percent *ad valorem* on all shipments of the subject merchandise from Calcutta Ferrous Ltd., entered, or withdrawn from warehouse, for consumption on or after January 1, 1997, through December 31, 1997.

This determination is published pursuant to sections 751(3)(c) and 777(i) of the Act.

Dated: September 7, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE**International Trade Administration****Export Trade Certificate of Review**

ACTION: Notice of Application to Amend an Export Trade Certificate of Review.

SUMMARY: Export Trading Company Affairs ("ETCA") of the International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review ("Certificate"). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or e-mail at oetca@ita.doc.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 7021B, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 84-16A12."

Northwest Fruit Exporters' ("NFE") original Certificate was issued on June 11, 1984 (49 FR 24581, June 14, 1984) and previously amended on May 2, 1988 (53 FR 16306, May 6, 1988); September 21, 1988 (53 FR 37628, September 27, 1988); September 20, 1989 (54 FR 39454, September 26, 1989); November 19, 1992 (57 FR 55510, November 25, 1992); August 16, 1994 (59 FR 43093, August 22, 1994); November 4, 1996 (61 FR 57850, November 8, 1996); October 22, 1997 (62 FR 55783, October 28, 1997); November 2, 1998 (63 FR 60304, November 9, 1998); October 20, 1999 (64 FR 57438, October 25, 1999); October 16, 2000 (65 FR 63567, October 24, 2000); October 5, 2001 (66 FR 52111, October 12, 2001); October 3, 2002 (67 FR 62957, October 9, 2002); September 16, 2003 (68 FR 54893, September 19, 2003); and October 14, 2004 (69 FR 61802, October 21, 2004). A summary of the application for an amendment follows.

Summary of the Application

Applicant: Northwest Fruit Exporters, 105 South 18th Street, Suite 227, Yakima, Washington 98901-2149.

Contact: James R. Archer, Manager, Telephone: (509) 576-8004.

Application No.: 84-16A12.

Date Deemed Submitted: September 6, 2005.

Proposed Amendment: Northwest Fruit Exporters seeks to amend its Certificate to:

1. Add each of the following companies as a new "Member" of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Bolinger & Sons, Wenatchee, WA; C&M Fruit Packers, Wenatchee, WA; Cascade Fresh Fruits, LLC, Manson, WA; AltaFresh L.L.C. dba Chelan Fresh Marketing, Chelan, WA; Nuchief Sales Inc., Wenatchee, WA; Orchard View Farms, The Dalles, OR; SST Growers and Packers LLC, Granger, WA; Voelker Fruit and Cold Storage, Yakima, WA; and Yakima-Roche Fruit Sales L.L.C., Yakima, WA; and

2. Delete the following companies as "Members" of the Certificate: Fox Orchards, Mattawa, WA; Magi, Inc., Brewster, WA (as a result of a merger with Chelan Fruit Cooperative, a Member of NFE); Monson Fruit Co., Selah, WA (for its cherry operation, only); Rawland F. Taplett dba R.F. Taplett Fruit & Cold Storage Co., Wenatchee, WA; Sund-Roy L.L.C., Yakima, WA; and Washington Export, LLC, Yakima, WA.

Dated: September 13, 2005.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. 05-18492 Filed 9-16-05; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Commerce.

ACTION: Notice of decision of panel.

SUMMARY: On September 9, 2005, the binational panel issued its decision in the review of the final determination made by the International Trade Administration, respecting Alloy Magnesium from Canada Final Countervailing Duty Determination, New Shipper Review, Secretariat File No. USA-CDA-2003-1904-02. The binational panel affirmed the International Trade Administration determination with two dissenting opinions and one concurring opinion. Copies of the panel decision are available from the U.S. Section of the NAFTA Secretariat.

FOR FURTHER INFORMATION CONTACT:

Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite

2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of the final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter has been conducted in accordance with these Rules.

Panel Decision

The determination is as follows:

A. With respect to the *de facto* specificity issue, a majority of the panel decided to uphold the Department's Final Determination. Chairman Endsley and panelist Holbein wrote the panel opinion, while panelist Winham wrote separate concurring views. Panelists Anissimoff and LaBarge dissent.

B. With respect to the AUL calculation issue, the panel unanimously upheld the Department's Final Determination.

C. With respect to the discount rate issue, the panel unanimously upheld the Department's Final Determination.

The panel has directed the Secretary to issue a Notice of Final Panel Action on the 11th day following the issuance of the panel decision.

Dated: September 13, 2005.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

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