

manufactured products in the POR. On this basis, we preliminarily determine the countervailable subsidy from the Article 7 SDI grant to be 1.59 percent *ad valorem* for NHCI.

## II. Programs Preliminarily Determined To Be Not Used

We examined the following programs and preliminarily determine that NHCI did not apply for or receive benefits under these programs during the POR:

- St. Lawrence River Environment Technology Development Program
- Program for Export Market Development
- The Export Development Corporation
- Canada-Québec Subsidiary Agreement on the Economic Development of the Regions of Québec
- Opportunities to Stimulate Technology Programs
- Development Assistance Program
- Industrial Feasibility Study Assistance Program
- Export Promotion Assistance Program
- Creation of Scientific Jobs in Industries
- Business Investment Assistance Program
- Business Financing Program
- Research and Innovation Activities Program
- Export Assistance Program
- Energy Technologies Development Program
- Transportation Research and Development Assistance Program

## III. Program From Which NHCI No Longer Receives a Countervailable Benefit

- Exemption from Payment of Water Bills

In the administrative reviews covering calendar year 1997 the Department found that NHCI's benefits from this program had been exhausted and NHCI's participation in this program had ended. We also found that no residual benefits were being provided or received and no substitute program had been implemented. In our final results, we stated that we, therefore, did not intend to continue to examine this program in the future (*see Pure Magnesium and Alloy Magnesium from Canada: Final Results of Countervailing Duty Administrative Reviews*, 64 FR 48805, 48806 (September 8, 1999)). Consistent with this determination and in the absence of any new allegation, we did not examine this program in these reviews.

## Preliminary Results of Reviews

In accordance with 19 CFR 351.221(b)(4)(i), we calculated a subsidy rate for NHCI, the sole producer/exporter subject to these administrative reviews. For the period January 1

through December 31, 2000, we preliminarily determine the net subsidy rate for NHCI to be 1.59 percent *ad valorem*. We will disclose our calculations to the interested parties upon request pursuant to section 351.224(b) of the regulations.

If the final results of these reviews remain the same as these preliminary results, the Department intends to instruct the Customs Service ("Customs") to assess countervailing duties at the net subsidy rate. The Department also intends to instruct Customs to collect cash deposits of estimated countervailing duties at the rate of 1.59 percent on the f.o.b. value of all shipments of the subject merchandise from NHCI entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these administrative reviews.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested reviews will normally cover only those companies specifically named. *See* 19 CFR 351.213(b)(2). Pursuant to 19 CFR 351.212(c), for all companies for which a review was *not* requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company v. United States*, 822 F. Supp. 782 (CIT 1993) and *Floral Trade Council v. United States*, 822 F. Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 355.22(g), the predecessor to 19 CFR 351.212(c)). Therefore, the cash deposit rates for all companies except the company covered by these reviews, will be unchanged by the results of these reviews.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies, (except Timminco Limited which was excluded from the orders during the investigations) at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rate that will be applied to non-

reviewed companies covered by these orders is that established in *Pure and Alloy Magnesium From Canada: Final Results of the Second (1993) Countervailing Duty Administrative Reviews*, 62 FR 48607 (September 16, 1997) or the company-specific rate published in the most recent final results of an administrative review in which a company participated. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1 through December 31, 2000, the assessment rates applicable to all non-reviewed companies covered by these orders are the cash deposit rates in effect at the time of entry, except for Timminco Limited which was excluded from the orders in the original investigations.

## Public Comment

Interested parties may request a hearing within 30 days of the date of publication of this notice. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs (*see below*). Interested parties may submit written arguments in case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the date of filing the case briefs. Parties who submit briefs in these proceedings should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

The Department will publish a notice of the final results of these administrative reviews within 120 days from the publication of these preliminary results. These preliminary results are published pursuant to sections 703(f) and 777(i) of the Act.

Dated: May 1, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

### North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

**AGENCY:** NAFTA Secretariat, United States Section, International Trade

Administration, Department of Commerce.

**ACTION:** Notice of first request for panel review

**SUMMARY:** On May 1, 2002, Veg Gro Sales, Inc. (a/k/a K & M Produce Distributors Inc.); Amco Farms, Inc.; Southpoint Produce (1977) Ltd.; and all Ontario companies subject to the "all others" rate (collectively referred to as the "Ontario Respondents"), filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the Amended Final Results of the Final Determination of Sales at Less Than Fair Value respecting Greenhouse Tomatoes From Canada made by the United States International Trade Administration. This determination was published in the **Federal Register**, (67 Fed. Reg. 15528) on April 2, 2002. The NAFTA Secretariat has assigned Case Number USA-CDA-2002-1904-06 to this request.

**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 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).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on May 1, 2002, requesting panel review of the Amended Final Determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in

whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is May 31, 2002);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is June 17, 2002); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: May 2, 2002.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Termination of Panel Review

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

**ACTION:** Notice of Consent Motion to Terminate the Panel Review of the final antidumping duty administrative review of the dumping order made by the International Trade Administration, respecting porcelain-on-steel cookware from Mexico (Secretariat File No. USA-MEX-98-1904-04).

**SUMMARY:** Pursuant to the Notice of Consent Motion to Terminate the Panel Review, the panel review is terminated as of April 30, 2002. A panel has been appointed to this panel review and consented to this motion. Pursuant to Rule 71(2) of the *Rules of Procedure for Article 1904 Binational Panel Review*, this panel review is terminated.

**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 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 was requested and terminated pursuant to these Rules.

Dated: May 3, 2002.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Termination of Panel Review

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

**ACTION:** Notice of Consent Motion to Terminate the Panel Review of the final antidumping duty administrative review of the dumping order made by the International Trade Administration, respecting porcelain-on-steel cookware from Mexico (Secretariat File No. USA-MEX-99-1904-05).

**SUMMARY:** Pursuant to the Notice of Consent Motion to Terminate the Panel Review, the panel review is terminated as of April 29, 2002. A panel has been appointed to this panel review and has granted this motion. Pursuant to Rule 71(2) of the *Rules of Procedure for Article 1904 Binational Panel Review*, this panel review is terminated.

**FOR FURTHER INFORMATION CONTACT:** Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.