

over price and output decisions of enterprises; and (vi) such other factors as the administering authority considers appropriate.

#### Comments—Deadline, Format, and Number of Copies

The deadline for submission of comments will be 45 days after the date of publication of this notice in the **Federal Register**. All comments should be filed at the Department of Commerce Central Records Unit located at the address listed below. Rebuttal comments may be submitted up to 30 days after the date initial comments are due. Each person submitting comments should include his or her name and address, and give reasons for any recommendation. To facilitate their consideration by the Department, comments should be submitted in the following format: (1) Begin each comment on a separate page; (2) concisely state the issue identified and discussed in the comment and include any supporting documentation in exhibits or appendices; (3) provide a brief summary of the comment (a maximum of 3 sentences) and label this section "summary of comment;" (4) provide an index or table of contents; and (5) include the case number A-447-801 in the top right hand corner of the submission. To simplify the processing and distribution of comments, the Department requires the submission of documents in electronic form accompanied by an original and six copies in paper form. We require that documents filed in electronic form be on DOS formatted 3.5' diskettes and prepared in either WordPerfect 9 format or a format that the WordPerfect program can convert and import into WordPerfect 9. Please submit comments in separate files on the diskette. Comments received on diskette will be made available to the public on the Internet at Import Administration's Web site, <http://ia.ita.doc.gov>. Paper copies will be available for reading and photocopying in the Central Records Unit, Room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. Any questions concerning file formatting, document conversion, access on the Internet, or other file requirements should be addressed to Andrew Lee Beller, Import Administration Webmaster, (202) 482-0866.

#### Hearing

After reviewing all comments and rebuttal comments, the Department will determine whether a public hearing on the NME country issue is warranted, if

one is requested in the initial or rebuttal comments on this issue. If the Department determines that a hearing is warranted, the Department will announce a place and time for that hearing.

This determination is issued and published in accordance with sections 751(b) and 771(18)(C)(ii).

Dated: October 8, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-831]

#### Stainless Steel Sheet and Strip in Coils from Taiwan: Notice of Court Decision

**AGENCY:** Import Administration, International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of Court Decision.

**SUMMARY:** On August 22, 2002, the United States Court of International Trade ("Court") sustained the final remand determination made by the Department of Commerce ("the Department") pursuant to the Court's remand of the final determination of the administrative review of stainless steel sheet and strip in coils from Taiwan. See *Tung Mung Development Co., Ltd. v. United States*, Ct. No. 99-07-00457, Slip Op. 02-93 (Ct. Int'l Trade August 22, 2002) ("*Tung Mung I*"). This case arises out of the Department's *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Taiwan*; 64 FR 30592 (June 8, 1999) ("*Final Determination*"). The final judgment in this case was not in harmony with the Department's June 1999 *Final Determination*.

**EFFECTIVE DATE:** September 2, 2002.

**FOR FURTHER INFORMATION CONTACT:** Laurel LaCivita, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-4243.

**SUPPLEMENTARY INFORMATION:** The Court of International Trade in *Tung Mung II* affirmed the Department's remand redetermination, which related to the Department's middleman dumping methodology and the antidumping margin assigned to the Tung Mung

Development Co., Ltd. ("*Tung Mung*") and Yieh United Steel Company Ltd. ("*YUSCO*").

In *Tung Mung Development Co., Ltd. v. United States*, Slip Op. 01-83, Ct. Int'l Trade LEXIS 94 (July 3, 2001) ("*Tung Mung I*"), the Court remanded the Department's determination on the issue of the single, weighted-average rate for producers and middlemen. The Court ordered the Department to "either provide a reasonable explanation of substantial evidence for its change in practice, or \* \* \* apply a combination rate, consistent with its prior practice."

On November 8, 2001, the Department issued its draft results of redetermination of remand for comment by interested parties. On November 15, 2001, petitioners<sup>1</sup> and Tung Mung submitted comments in response to the Department's draft results of redetermination of remand. Plaintiff-Intervener YUSCO did not file comments in response to the Department's draft results of redetermination of remand. On November 20, 2001, petitioners, Tung Mung and YUSCO submitted rebuttal comments. On November 28, 2001, the Department issued its final results of redetermination of remand to the Court. The remand redetermination explained the legal authority under which the Department may apply *either* a single weighted-average rate or a combination rate in a middleman dumping case, depending on the facts of the case. The Department reconsidered its use of a single weighted-average rate in this case, in response to the Court's expressed concern, and applied instead combination rates to both Tung Mung's and YUSCO's merchandise.

On August 22, 2002, the Court affirmed the Department's analysis and recognized the authority of the Department to apply either a single weighted-average rate or a combination rate in a middleman dumping case, depending on the facts of the case. It then sustained the Department's redetermination of remand. See *Tung Mung II*.

In its decision in *Timkin Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) ("*Timkin*"), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 U.S.C. § 1516a(e), the Department must publish a notice of a court decision which is not "in harmony" with a Department determination, and must suspend

<sup>1</sup> Allegheny Ludlum, AK Steel Corporation (formerly Armco, Inc.), J&L Specialty Steel, Inc., North American Stainless, Butler-Armco Independent Union, Zanesville Armco Independent Union, and the United Steelworkers of America, AFL-CIO/CLC.

liquidation of entries pending a "conclusive" court decision. The Court's decision in *Tung Mung II* on August 22, 2002, constitutes a final decision of that court which is "not in harmony" with the Department's final results of antidumping duty administrative review. This notice is published in fulfillment of the publication requirements of *Timkin*.

Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or, if appealed, upon a "conclusive" court decision.

Dated: October 3, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02-26310 Filed 10-15-02; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Export Trade Certificate of Review

**ACTION:** Notice of application.

**SUMMARY:** The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey C. Anspacher, Director, Office of 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](mailto: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. A 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 Act 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 a 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 copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, DC 20230, or transmit by e-mail at [oetca@ita.doc.gov](mailto:oetca@ita.doc.gov). 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 02-00003." A summary of the application follows.

#### Summary of the Application

**Applicant:** Corn Refiners Association, Inc. ("CRA"), 1701 Pennsylvania Avenue, NW., Suite 950, Washington, DC 20006.

**Contact:** M. Jean Anderson, Counsel, Telephone: (202) 682-7217.

**Application No.:** 02-00003.

**Date Deemed Submitted:** October 2, 2002.

Members (in addition to the applicant): A.E. Staley Manufacturing Company, Decatur, Illinois (subsidiary of Tate & Lyle plc, London, United Kingdom); Archer Daniels Midland Company, Decatur, Illinois; Cargill, Incorporated, Minneapolis, Minnesota; Corn Products International, Inc., Westchester, Illinois; National Starch and Chemical Company, Bridgewater, New Jersey (subsidiary of ICI plc, London, United Kingdom); Penford Corporation, Bellevue, Washington; and Roquette America, Inc., Keokuk, Iowa (subsidiary of Roquette Frères, Lestrem, France). CRA seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

### Export Trade

#### Product

High fructose corn syrup ("HFCS"), a sweetener derived from the corn wet milling process. HFCS takes the following forms: 42 percent fructose (item 1702.40 of the U.S. Harmonized Tariff Schedule (HTS)); 55 percent fructose and enriched HFCS (greater than 55 percent fructose) (item 1702.60 of the HTS); and crystalline fructose (item 1702.50 of the HTS).

#### Export Markets

HFCS will be exported only to Mexico.

#### Purpose

The CRA will manage the system for allocating rights to ship under tariff-rate quotas (TRQs) permitting duty-free entry of U.S. HFCS into Mexico.

#### Organization and Membership

The CRA, a not-for-profit Delaware corporation, is a trade association for the corn refining industry. Its membership includes all U.S. producers of HFCS. Under the CRA bylaws, any U.S. entity engaged in the United States in the production and distribution of products produced from corn by the wet milling process (e.g., corn starch, corn syrup, corn sugar, corn alcohol) is eligible for membership in the CRA.

#### TRQ Administrator

The CRA shall contract with an independent third party who is not engaged in the production, distribution or sale of HFCS to administer the TRQ System. The third party Administrator will be subject to general oversight and supervision by the Board of Directors of the CRA.

#### TRQ System

The Administrator shall allocate TRQ rights based on each member's U.S. HFCS share of total U.S. HFCS production capacity. In accordance with those allocations, the Administrator shall issue certificates ("TRQ Certificates") to members evidencing the right to ship specified quantities of U.S. HFCS duty-free to Mexico. TRQ Certificates shall be freely transferable.

#### Confidential Information

Any confidential information submitted by an applicant for membership, by a member, or by any other person in connection with the TRQ System shall be marked "confidential" and submitted to the Administrator, who shall maintain its confidentiality. The Administrator shall not disclose such confidential