

2003, Carus requested an administrative review of Groupstars Chemicals Co., Ltd.-Shandong, Groupstars Chemical Co., Ltd.-Yunnan, JCC and the Jianshui Chemical Plant. Based on these requests, the Department initiated an administrative review of Groupstars Chemicals, LLC, Groupstars Chemicals Co., Ltd.-Shandong, Groupstars Chemical Co., Ltd.-Yunnan, JCC and the Jianshui Chemical Plant.

The Department is rescinding its review of the companies named in Carus' request for review because Carus has withdrawn its request. See Carus' September 16, 2003 letter to the Department. Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Although Carus withdrew its request after the 90-day period, there were no other requests to review any of the companies for which Carus requested a review, and the review for these companies had not yet progressed beyond a point where it would have been unreasonable to allow Carus to withdraw its request for a review. This action is consistent with the approach taken in past antidumping proceedings. See *Frozen Concentrated Orange Juice From Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 40913, 40914 (June 14, 2002) where, pursuant to a request filed after the 90 day deadline, the Department rescinded the review. Additionally, 19 CFR 351.213(d)(1) provides that the Secretary may extend the time limit for withdrawal requests where it is reasonable. Therefore, for the above stated reasons, the Department pursuant to 19 CFR 351.213(d)(1), has decided that it is reasonable to accept Carus' withdrawal of its request for review.

Furthermore, with respect to the remaining review request, we have determined that it is appropriate to rescind the review of Groupstars Chemicals, LLC because this company is a U.S. importer, rather than an exporter or producer, of subject merchandise and it failed to identify the exporter(s) or producer(s) to be reviewed. See Groupstars Chemicals, LLC's January 28, 2003 letter to the Department. Section 351.213(b) of the Department regulations requires that reviews be requested for particular exporters or producers. See 19 CFR 351.213(b)(1) stating that domestic interested parties may request an administrative review of "specified individual exporters or producers"; 19 CFR 351.213(b)(2)

stating that an exporter or producer may request an "administrative review of only that person;" 19 CFR 351(b)(3) stating that an importer of subject merchandise may request an administrative review of only an "exporter or producer \* \* \* of the subject merchandise imported by that importer." Moreover, the courts have held that the party requesting the review, not the Department, bears the burden of naming and selecting the proper party to be reviewed. See e.g., *Floral Trade Council v. United States*, 888 F.2d 1366, 1369 (Fed. Cir. 1989) (where the Court of Appeals for the Federal Circuit held that a request for an administrative review must be for review of "specified individual \* \* \* producers [] or exporters"). Additionally, in past PRC cases, the Department has rescinded administrative reviews when requesting parties failed to identify the actual PRC exporter of the subject merchandise in their review requests. See *Iron Construction Castings from the People's Republic of China: Rescission of Antidumping Duty Administrative Review*, 68 FR 33103-01 (June 3, 2003) (in which the Department rescinded the review because the company for which the review was requested and initiated was not an exporter of subject merchandise, but a producer of subject merchandise); see also *Certain Cased Pencils From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 66 FR 1638-02 (January 9, 2001) (in which a party requested a review of the producer of subject merchandise, rather than the exporter of subject merchandise); see also *Laizhou City Guangming Pencil-Making Co. Ltd., Et Al., v. United States*, No. 02-151, Slip Op. 02-151, 01-00047 (Ct. Int'l Trade December 18, 2002). Because Groupstars Chemicals, LLC is not a PRC exporter of the subject merchandise, and failed to identify any PRC exporter(s) of the subject merchandise in its review request, and with Carus' withdrawal of its review requests, the Department is rescinding this review with respect to Groupstars Chemicals, LLC.

The Department will issue appropriate assessment instructions to the U.S. Bureau of Customs and Border Protection.

#### Notification to Interested Parties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries

during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with 19 CFR 351.213(d)(4) and, sections 751(a)(2)(c) and 777(i)(1) of the Act.

Dated: October 2, 2003.

**James J. Jochum,**

*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 October 3, 2003, the Canadian Wheat Board 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 final determination of Sales at Less Than Fair Value made by the United States Department of Commerce, International Trade Administration, respecting Certain Durum Wheat and Hard Red Spring Wheat from Canada. This determination was published in the **Federal Register**, (68 FR 52741) on September 5, 2003. The NAFTA Secretariat has assigned Case Number USA-CDA-2003-1904-04 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 October 3, 2003, requesting panel review of the 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 November 3, 2003);

(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 November 18, 2003); 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: October 6, 2003.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*  
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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 October 3, 2003, the Government of Canada 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. Second requests were filed on behalf of the Canadian Wheat Board, the Government of Saskatchewan, and the Government of Alberta, respectively. Panel review was requested of the final affirmative Countervailing Duty determination made by the United States Department of Commerce, International Trade Administration, respecting Certain Durum Wheat and Hard Red Spring Wheat from Canada. This determination was published in the **Federal Register**, (68 FR 52747) on September 5, 2003. The NAFTA Secretariat has assigned Case Number USA-CDA-2003-1904-05 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.

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Dated: October 6, 2003.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 090903C]

#### Small Takes of Marine Mammals Incidental to Specified Activities; Oceanographic Survey in the Northwest Atlantic Ocean Near Bermuda

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of receipt of application and proposed incidental take authorization; request for comments.

**SUMMARY:** NMFS has received an application from the Lamont-Doherty Earth Observatory (LDEO) for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to conducting an oceanographic survey in