

Petitioner Owning 100% of Yantai Timken

*Comment 8:* Yantai Timken Reported Steel Values Clerical Error

*Comment 9:* Yantai Timken Packing Values Clerical Error

*Comment 10:* Yantai Timken Part-Specific Costs

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Export Trade Certificate of Review

**ACTION:** Notice of issuance of an Export Trade Certificate of Review, Application No. 03-00006.

**SUMMARY:** The Department of Commerce has issued an Export Trade Certificate of Review to Western Fruit Exporters, LLC ("WFE"). This notice summarizes the conduct for which certification has been granted.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482-5131 (this is not a toll-free number), or by e-mail at [oitca@ita.doc.gov](mailto:oitca@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. The regulations implementing Title III are found at 15 CFR part 325 (2003).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

#### Description of Certified Conduct

##### I. Export Trade

###### 1. Products

Brine sweet cherries in any stage of processing and finished maraschino cherry products in any stage of packaging.

###### 2. Services

Inspection, quality control, marketing and promotional services.

###### 3. Technology Rights

Proprietary rights to all technology associated with Products or Services, including, but not limited to: patents, trademarks, service marks, trade names, copyrights, trade secrets, know-how.

###### 4. Export Trade Facilitation Services (as They Relate to the Export of Products, Services and Technology Rights)

All export trade-related facilitation services, including, but not limited to: Consulting and trade strategy; sales and marketing; export brokerage; foreign marketing research; foreign market development; overseas advertising and promotion; product research and design based on foreign buyer and consumer preferences; communication and processing of export orders; inspection and quality control; transportation; freight forwarding and trade documentation; insurance; billing of foreign buyers; collection (letters of credit and other financial instruments); provision of overseas sales and distribution facilities and overseas sales staff, legal, accounting and tax assistance; management information systems development and application; assistance and administration related to participation in government export assistance programs.

#### II. Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

#### III. Export Trade Activities and Methods of Operation

In connection with the promotion and sale of Members' Products, Services, and/or Technology Rights into the Export Markets, WFE and/or one or more of its Members may:

1. Design and execute foreign marketing strategies for its Export Markets;
2. Prepare joint bids, establish export prices for Members' Products and Services, and establish terms of sale in Export Markets in connection with potential or actual bona fide opportunities;
3. Grant sales and distribution rights for the Products, whether or not exclusive, into designated Export Markets to foreign agents or importers ("exclusive" meaning that WFE and/or one or more Members may agree not to sell the Products into the designated Export Markets through any other

foreign distributor, and that the foreign distributor may agree to represent only WFE and/or one or more Members in the Export Markets and none of its competitors);

4. Design develop and market generic corporate labels for use in Export Markets;

5. Engage in joint promotional activities directly targeted at developing Export Markets, such as: arranging trade shows and marketing trips; providing advertising services; providing brochures and industry newsletters; providing product, service, and industry information; conducting international market and product research; and procuring, international marketing, advertising, and promotional services;

6. Share the cost of joint promotional activities among the Members;

7. Conduct product and packaging research and development exclusively for export in order to meet foreign regulatory requirements, foreign buyer specifications, and foreign consumer preferences;

8. Negotiate and enter into agreements with governments and other foreign persons regarding non-tariff trade barriers in Export Markets such as packaging requirements, and providing specialized packing operations and other quality control procedures to be followed by WFE and Members in the export of Products into the Export Markets;

9. Assist each other in maintaining the quality standards necessary to be successful in the Export Markets;

10. Provide Export Trade Facilitation Services with respect to Products, Services and Technology (including such items as commodity fumigation, refrigeration and storage techniques, and other quality control procedures to be followed in the export of Products in Export Markets;

11. Advise and cooperate with agencies of the United States government in establishing procedures regulating the export of the Members' Products, Services and/or Technology Rights in Export Markets;

12. Negotiate and enter into purchase agreements with buyers in Export Markets regarding export prices, quantities, type and quality of Products, time periods, and the terms and conditions of sale;

13. Broker or take title to Products intended for Export Markets;

14. Purchase Products from non-Members to fulfill specific sales obligations, provided that WFE and/or one or more Members shall make such purchases only on a transaction-by-transaction basis and when the purchasing Members are unable to

supply, in a timely manner, the requisite Products at a price competitive under the circumstances;

15. Solicit non-Member producers to become Members;

16. Communicate and process export orders;

17. Procure, negotiate, contract, and administer transportation services for Products in the course of export, including overseas freight transportation, inland freight transportation from the packing house to the U.S. port of embarkment, leasing of transportation equipment and facilities, storing and warehousing, stevedoring, wharfage and handling, insurance, and freight forwarder services;

18. Arrange for trade documentation and services, customs clearance, financial instruments, and foreign exchange;

19. Arrange financing through private financial entities, government financial assistance and incentive programs and other arrangements;

20. Bill and collect monies from foreign buyers, and arrange for or provide accounting, tax, legal and consulting services in relation to Export Trade Activities and Methods of Operation;

21. Enter into exclusive agreements with non-Members to provide Export Trade Services and Export Trade Facilitation Services;

22. Open and operate overseas sales and distribution offices and companies to facilitate the sales and distribution of Products in the Export Markets;

23. Negotiate and enter into agreements with governments and foreign persons to develop countertrade arrangements, provided that this Certificate does not protect any conduct related to the sale of goods in the United States that are imported as part of any countertrade transactions;

24. Refuse to deal with or provide quotations to other Export Intermediaries for sales of Members' Products into Export Markets;

25. Require common marking and identification of Members' Products sold in Export Markets;

26. Exchange information as necessary to carry out Export Trade Activities and Methods of Operation, including:

(a) Information about sales, marketing efforts, and sales strategies in Export Markets, including pricing; projected demand in Export Markets for Products; customary terms of sale; and foreign buyer and consumer product specifications;

(b) Information about the price, quality, quantity, source and delivery

dates of Products available from WFE and its Members for export;

(c) Information about terms and conditions of contracts for sales in Export Markets to be considered and/or bid on by WFE and/or Members;

(d) Information about joint bidding opportunities;

(e) Information about methods by which export sales are to be allocated among WFE and/or Members;

(f) Information about expenses specific to exporting to and within Export Markets, including transportation, transshipments, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing and customs duties or taxes;

(g) Information about U.S. and foreign legislation and regulations, including federal marketing order programs that may affect sales to Export Markets;

(h) Information about WFE's or Members' export operations, including sales and distribution networks established by WFE or Members in Export Markets, and prior export sales by Members, including export price information; and

(i) Information about claims or bad debts by WFE's or Members' customers in Export Markets.

#### IV. Definitions

"Export Intermediary" means a person who acts as distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing, or arranging for the provision of, Export Trade Facilitation Services.

#### V. Members (Within the Meaning of Section 325.2(l) of the Regulations)

Eola Cherry Company, Inc., Gervais, Oregon; Diana Fruit Co., Inc., Santa Clara, California; Johnson Foods Co., Inc., Sunnyside, Washington; and Oregon Cherry Growers, Inc., Salem, Oregon.

#### VI. Terms and Conditions of Certificate

1. Neither WFE nor any Member shall intentionally disclose, directly or indirectly, to any other Member any information about its or any other Member's costs, production, capacity, inventories, domestic prices, domestic sales, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods, unless (1) such information is already generally available to the trade or public; or (2) the information disclosed is a necessary term or condition (e.g., price, time required to fill an order, etc.) of an actual or potential bona fide sale and the

disclosure is limited to the prospective purchasing Member.

2. Each Member shall determine independently of WFE and each other the quantity of Products each will make available for export or sell through WFE. WFE may not require any Member to accept any offer for sale or require any Member to export any minimum quantity of Products.

3. Any agreements, discussions, or exchanges of information under this Certificate relating to quantities of Products available for Export Markets, product specifications or standards, export prices, product quality or other terms and conditions of export sales (other than export financing) shall be in connection only with actual or potential bona fide export transactions or opportunities and shall include only those Members participating or having a genuine interest in participating in such transactions or opportunities, provided that WFE and/or the Members may discuss standardization of Products and Services for purposes of making bona fide recommendations to foreign governmental or private standard setting organizations.

4. Meetings at which WFE and Members allocate export sales and establish export prices shall not be open to the public.

5. Participation by WFE and/or Members in any Export Trade Activity or Method of Operation under this Certificate shall be entirely voluntary as to WFE and/or the Members, subject to the honoring of contractual commitments for sales of Products, Services or Technology Rights in specific export transactions. A Member may withdraw from coverage under this Certificate at any time by giving written notice to WFE, a copy of which WFE shall promptly transmit to the Secretary of Commerce and the Attorney General.

6. WFE and the Members will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

#### VII. Protection Provided by Certificate

This Certificate protects WFE and its directors, officers, and employees acting on its behalf, as well as its Members,

and their directors, officers, and employees acting on their behalf, from private treble damage actions and governmental criminal and civil suits under U.S. Federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

#### VIII. Effective Period of Certificate

This Certificate continues in effect from the effective date indicated below until it is relinquished, modified or revoked as provided in the Act and the Regulations.

#### IX. Other Conduct

Nothing in this Certificate prohibits WFE and its Members from engaging in conduct not specified in this Certificate, but such conduct is subject to the normal application of the antitrust laws.

#### X. Disclaimer

The issuance of this Certificate of Review to WFE by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion by the Secretary of Commerce or the Attorney General concerning either (a) the viability or quality of the business plans of WFE or its Members or (b) the legality of such business plans of WFE or its Members under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

The application of this Certificate to conduct in Export Trade where the United States government is the buyer or where the United States Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V(D) of the "Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition)," 50 FR 1786 (January 11, 1985) ("Guidelines").

In accordance with the authority granted under the Act and Regulations, this Export Trade Certificate of Review is hereby granted to Western Fruit Exporters, L.L.C.

The effective date of the Certificate is December 8, 2003. A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: December 15, 2003.

**Jeffrey C. Anspacher,**

*Director, Office of Export Trading Company Affairs.*

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### DEPARTMENT OF COMMERCE

#### International Trade Administration

#### Notice of Allocation of Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics for Calendar Year 2004

December 12, 2003.

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

**ACTION:** Notice of allocation of 2004 worsted wool fabric tariff rate quota.

**SUMMARY:** The Department of Commerce (Department) has determined the allocation for Calendar Year 2004 of imports of certain worsted wool fabrics under tariff rate quotas established by Title V of the Trade and Development Act of 2000 as amended by the Trade Act of 2002. The companies that are being provided an allocation are listed below.

**FOR FURTHER INFORMATION CONTACT:** Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

#### SUPPLEMENTARY INFORMATION:

#### BACKGROUND:

Title V of the Trade and Development Act of 2000 (The Act) as amended by the Trade Act of 2002 creates two tariff rate quotas, providing for temporary reductions in the import duties on two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers. For worsted wool fabric with average fiber diameters greater than 18.5 microns (Harmonized Tariff Schedule of the United States (HTS) heading 9902.51.11), the reduction in duty is limited to 4,500,000 square meters per year. For worsted wool fabric with average fiber diameters of 18.5 microns or less (HTS heading 9902.51.12), the reduction is limited to 3,500,000 square meters per year. The Act requires the President to ensure that such fabrics are fairly allocated to persons (including firms, corporations, or other legal entities) who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers in the United States and who apply for an allocation based on the amount of such suits cut and sewn during the prior calendar year. Presidential Proclamation 7383, of December 1, 2000, authorized

the Secretary of Commerce to allocate the quantity of worsted wool fabric imports under the tariff rate quotas. On January 22, 2001, the Department published regulations establishing procedures for applying for, and determining, such allocations. 66 FR 6459, 15 CFR 335.

On August 28, 2003, the Department published a notice in the **Federal Register** (68 FR 51767) soliciting applications for an allocation of the 2004 tariff rate quotas with a closing date of September 29, 2003. The Department received timely applications for the HTS 9902.51.11 tariff rate quota from 13 firms. The Department received timely applications for the HTS 9902.51.12 tariff rate quota from 14 firms. All applicants were determined eligible for an allocation. Most applicants submitted data on a business confidential basis. As allocations to firms were determined on the basis of this data, the Department considers individual firm allocations to be business confidential.

#### FIRMS THAT RECEIVED ALLOCATIONS:

HTS 9902.51.11, fabrics, of worsted wool, with average fiber diameter greater than 18.5 micron, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (provided for in subheading 5112.11.60 and 5112.19.95). Amount allocated: 4,500,000 square meters.

#### Companies Receiving Allocation:

Bowdon Manufacturing Co., Inc.--Bowdon, GA  
Calvin Clothing Company, Inc.--Scranton, PA  
Hartmarx Corporation--Chicago, IL  
Hartz & Company, Inc.--Frederick, MD  
Hugo Boss Cleveland, Inc.--Brooklyn, OH  
JA Apparel Corp.--New York, NY  
John H. Daniel Co.--Knoxville, TN  
Majer Brands Company, Inc.--Hanover, PA  
Saint Laurie Ltd.--New York, NY  
Sewell Clothing Company, Inc.--Bremen, GA  
Southwick Clothing L.L.C.--Lawrence, MA  
Toluca Garment Company--Toluca, IL  
The Tom James Co.--Franklin, TN

HTS 9902.51.12, fabrics, of worsted wool, with average fiber diameter of 18.5 micron or less, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (provided for in subheading 5112.11.30 and 5112.19.60). Amount allocated: 3,500,000 square meters.

#### Companies Receiving Allocation:

American Fashion, Inc.--Chula Vista, CA  
Retail Brand Alliance, Inc. d/b/a Brooks Brothers--  
New York, NY  
Hartmarx Corporation--Chicago, IL  
Hartz & Company, Inc.--Frederick, MD  
Hugo Boss Cleveland, Inc.--Brooklyn, OH  
JA Apparel Corp.--New York, NY  
John H. Daniel Co.--Knoxville, TN  
Majer Brands Company, Inc.--Hanover, PA