

**DEPARTMENT OF COMMERCE****International Trade Administration****University of Pennsylvania; Notice of Decision on Application for Duty-Free Entry of Electron Microscope**

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

*Docket Number:* 04-017. *Applicant:* University of Pennsylvania, Philadelphia, PA. *Instrument:* Electron Microscope, Model Technai G<sup>2</sup> TWIN bioTWIN. *Manufacturer:* FEI Company, Japan. *Intended Use:* See notice at FR 69, 60395, October 8, 2004. *Order Date:* January 20, 2004.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as the instrument is intended to be used, was being manufactured in the United States at the time the instrument was ordered. Reasons: The foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of the instrument OR at the time of receipt of the application by U.S. Customs and Border Protection.

**Gerald A. Zerdy,**

*Program Manager, Statutory Import Programs Staff.*

[FR Doc. 04-23954 Filed 10-25-04; 8:45 am]

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**DEPARTMENT OF COMMERCE****International Trade Administration****North American Free-Trade Agreement (NAFTA), Article 1904 NAFTA Panel Reviews; Decision of the Panel**

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

**ACTION:** Notice of decision of NAFTA Panel.

**SUMMARY:** On October 19, 2004, the NAFTA Panel issued its decision in the matter of Corrosion-Resistant Carbon

Steel Flat Products from Canada, Secretariat File No. USA-CDA-00-1904-11.

**FOR FURTHER INFORMATION CONTACT:** Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, NW., 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 conducted in accordance with these rules.

*Background Information:* On December 28, 2000, Dofasco 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 results of the full sunset review of antidumping duty orders made by the United States International Trade Commission, respecting Certain Corrosion-Resistant Steel Flat Products from Canada and the continuation of antidumping duty order by the U.S. Department of Commerce based on the International Trade Commission's determination. These determinations were published in the **Federal Register**, (65 FR 75301) on December 1, 2000, and (65 FR 78469) on December 15, 2000. The NAFTA Secretariat has assigned Case Number USA-CDA-00-1904-11 to this request.

*Panel Decision*

The Panel remanded this matter back to the International Trade Commission and found:

(1) The Commission's decision to cumulate Canadian imports, in light of its consideration of the high capacity

utilization rates in Canada, is unsupported by substantial evidence; and

(2) The Commission's determination that the Domestic Industry is in a "weakened state", in light of its "profit center" rationale, is unsupported by substantial evidence and not in accordance with law.

Accordingly, the Panel remanded the case to the Commission stating:

—If it still wishes to cumulate Canadian corrosion resistant steel products, the Commission must sufficiently explain and articulate—consistent with this opinion—the basis of its conclusions as to whether, in light of the high capacity utilization rates prevalent in Canada during the period of review, there exists substantial evidence in the record upon which to base the Commission's determination that there was available excess capacity in Canada sufficient to lead to an increase in imports having a discernible adverse impact upon the domestic industry if the antidumping order were to be revoked.

—If the Commission still chooses to find that the Domestic Industry is in a vulnerable or weakened state, the Commission must sufficiently explain and articulate—consistent with this opinion—the basis of its conclusions as to whether the Commission's analysis of the impact of Canadian imports involves the profits of the domestic corrosion-resistant steel industry or those of the broader steel industry, and the impact of the profit analysis upon the Commission's affirmative vulnerability determination regarding the domestic corrosion-resistant steel industry.

In a separate opinion, Panelist Anissimoff stated in part:

The issue concerns the Arguments made by parties before the Commission which are left unaddressed by the Commission in its determination. The Complainant says that its arguments and evidence were not expressly addressed by the Commission in its determination.

The obligation to discuss relevant and material arguments legally springs from 19 U.S.C. 1677f(i)(3)(B) along with the legislative history as found at the Uruguay Round Trade Agreements, Statement of Administrative Action, H.R. Doc. No. 316, Vol. 1, 103d Cong., 2d Sess. 892 (1994) (hereinafter "SAA"). Shortly stated, the Commission is legally obliged to discuss in its determination the relevant and material arguments made by interested parties, in this case the Complainant.

Equally the Commission is presumed by law to have considered all of the

arguments and evidence of the interested parties in making its determination. However, *Dastech Int'l.*, as recognized in *Usinor Beautor v. United States*, in no sense gives a *carte blanche* to the Commission to not address in its determination the material and relevant arguments of a party.

The Panel ordered the Commission to issue a determination on remand consistent with the instructions set forth in the Panel's decision not later than December 3, 2004.

Dated: October 20, 2004.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*  
[FR Doc. E4-2857 Filed 10-25-04; 8:45 am]

**BILLING CODE 3510-GT-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Science Advisory Board; Meetings

**AGENCY:** Office of Oceanic and Atmospheric Research, NOAA, DOC.

**ACTION:** Notice of open meeting.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA) Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on long- and short-range strategies for research, education, and application of science to resource management and environmental assessment and prediction. SAB activities and advice provide necessary input to ensure that science programs are of the highest quality and provide optimal support the NOAA mission.

**Time and Date:** The meeting will be held Tuesday, November 2, 2004, from 1 p.m. to 5 p.m. and Wednesday, November 3, 2004, from 9 a.m. to 5 p.m. These times and the agenda topics described below may be subject to change. Refer to the Web page listed below for the most up-to-date meeting agenda.

**Place:** The meeting will be held both days at the National Geographic Society Headquarters, 1145 17th Street, NW., Washington, DC.

**Status:** The meeting will be open to public participation with a 30-minute time period set aside on Wednesday, November 3 for direct oral statements or questions from the public. The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written

statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. Written comments (at least 35 copies) should be received in the SAB Executive Director's Office by October 27, 2004, to provide sufficient time for SAB review prior to the meeting.

Written comments received by the SAB Executive Director after October 27, 2004, will be distributed to the SAB, but may not be reviewed prior to the meeting date.

Approximately (30) seats will be available for the public including five seats reserved for the media. Seats will be available on a first-come, first-served basis.

**Matters to be Considered:** The meeting will include the following topics: (1) NOAA Response to the SAB recommendations in the Research Review Team Report "Review of the Organization and Management of Research in NOAA", (2) Draft Strategic Plan for the U.S. Integrated Earth Observing System, (3) NOAA 5-Year Research Plan and 20-Year Research Vision, (4) Final U.S. Commission on Ocean Policy Report, (5) Regional Ecosystem Based Management, (6) Cooperative Institute For Arctic Research (CIFAR) Review, (7) Cooperative Institute for Atmospheric Sciences and Terrestrial Applications (CIASTA) Review, (8) SAB Subcommittee and Working Group Reports and (9) public statements.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael Uhart, Executive Director, Science Advisory Board, NOAA, Rm. 11142, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301-713-9121, Fax: 301-713-3515, e-mail: [Michael.Uhart@noaa.gov](mailto:Michael.Uhart@noaa.gov)); or visit the NOAA SAB Web site at <http://www.sab.noaa.gov>.

Dated: October 20, 2004.

**Louisa Koch,**

*Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.*

[FR Doc. 04-23888 Filed 10-25-04; 8:45 am]

**BILLING CODE 3510-KD-P**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Request for Public Comments on Commercial Availability Petitions under the United States - Caribbean Basin Trade Partnership Act (CBTPA)

October 21, 2004.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Request for public comments concerning two petitions for determination that certain circular single knit jersey fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA.

**SUMMARY:** On October 19, 2004, the Chairman of CITA received two petitions from Sandler, Travis & Rosenberg, P.A., on behalf of Jaclyn, Inc. of New York, alleging that certain circular single knit jersey fabrics of the specifications detailed below, classified in subheadings 6006.32.00.80 and 6006.31.00.80 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. These petitions request that women's and girl's nightwear of such fabrics assembled in one or more CBTPA beneficiary countries be eligible for preferential treatment under the CBTPA. CITA hereby solicits public comments on these petitions, in particular with regard to whether these fabrics can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by November 10, 2004, to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution, N.W., Washington, D.C. 20230.

**FOR FURTHER INFORMATION CONTACT:** Anna Flaaten, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

#### SUPPLEMENTARY INFORMATION:

**Authority:** Section 213(b)(2)(A)(v)(II) of the CBERA, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

#### BACKGROUND:

The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States. The CBTPA also provides for quota- and duty-free