

### Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended 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 (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 7021B, Washington, DC 20230. 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 84-16A12."

Northwest Fruit Exporters' ("NFE") original Certificate was issued on June 11, 1984 (49 FR 24581, June 14, 1984) and previously amended on May 2, 1988 (53 FR 16306, May 6, 1988); September 21, 1988 (53 FR 37628, September 27, 1988); September 20, 1989 (54 FR 39454, September 26, 1989); November 19, 1992 (57 FR 55510, November 25, 1992); August 16, 1994 (59 FR 43093, August 22, 1994); November 4, 1996 (61 FR 57850, November 8, 1996); October 22, 1997 (62 FR 55783, October 28, 1997); November 2, 1998 (63 FR 60304, November 9, 1998); October 20, 1999 (64 FR 57438, October 25, 1999); October 16, 2000 (65 FR 63567, October 24, 2000); October 5, 2001 (66 FR 52111, October 12, 2001); October 3, 2002 (67 FR 62957, October 9, 2002); September 16, 2003 (68 FR 54893, September 19, 2003); and October 14, 2004 (69 FR 61802, October 21, 2004). A summary of the application for an amendment follows.

### Summary of the Application

*Applicant:* Northwest Fruit Exporters, 105 South 18th Street, Suite 227, Yakima, Washington 98901-2149.

*Contact:* James R. Archer, Manager, Telephone: (509) 576-8004.

*Application No.:* 84-16A12.

*Date Deemed Submitted:* September 6, 2005.

*Proposed Amendment:* Northwest Fruit Exporters seeks to amend its Certificate to:

1. Add each of the following companies as a new "Member" of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Bolinger & Sons, Wenatchee, WA; C&M Fruit Packers, Wenatchee, WA; Cascade Fresh Fruits, LLC, Manson, WA; AltaFresh L.L.C. dba Chelan Fresh Marketing, Chelan, WA; Nuchief Sales Inc., Wenatchee, WA; Orchard View Farms, The Dalles, OR; SST Growers and Packers LLC, Granger, WA; Voelker Fruit and Cold Storage, Yakima, WA; and Yakima-Roche Fruit Sales L.L.C., Yakima, WA; and

2. Delete the following companies as "Members" of the Certificate: Fox Orchards, Mattawa, WA; Magi, Inc., Brewster, WA (as a result of a merger with Chelan Fruit Cooperative, a Member of NFE); Monson Fruit Co., Selah, WA (for its cherry operation, only); Rawland F. Taplett dba R.F. Taplett Fruit & Cold Storage Co., Wenatchee, WA; Sund-Roy L.L.C., Yakima, WA; and Washington Export, LLC, Yakima, WA.

Dated: September 13, 2005.

**Jeffrey Anspacher,**

*Director, Export Trading Company Affairs.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

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

**ACTION:** Notice of decision of panel.

**SUMMARY:** On September 9, 2005, the binational panel issued its decision in the review of the final determination made by the International Trade Administration, respecting Alloy Magnesium from Canada Final Countervailing Duty Determination, New Shipper Review, Secretariat File No. USA-CDA-2003-1904-02. The binational panel affirmed the International Trade Administration determination with two dissenting opinions and one concurring opinion. Copies of the panel decision are available from the U.S. Section of the NAFTA Secretariat.

**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 the 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 has been conducted in accordance with these Rules.

### Panel Decision

The determination is as follows:

A. With respect to the *de facto* specificity issue, a majority of the panel decided to uphold the Department's Final Determination. Chairman Endsley and panelist Holbein wrote the panel opinion, while panelist Winham wrote separate concurring views. Panelists Anissimoff and LaBarge dissent.

B. With respect to the AUL calculation issue, the panel unanimously upheld the Department's Final Determination.

C. With respect to the discount rate issue, the panel unanimously upheld the Department's Final Determination.

The panel has directed the Secretary to issue a Notice of Final Panel Action on the 11th day following the issuance of the panel decision.

Dated: September 13, 2005.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*

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