

and rescinding all ongoing proceedings related to that order.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 22, 2002, the Department published the countervailing duty order on certain softwood lumber from Canada. *See Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products From Canada*, as corrected, 67 FR 36070 (May 22, 2002). The Department subsequently completed the first and second administrative reviews. *See Notice of Amended Final Results of Countervailing Duty Administrative Review: Certain Softwood Lumber Products from Canada*, 70 FR 9046 (February 24, 2005); *see also Notice of Final Results of Countervailing Duty Administrative Review: Certain Softwood Lumber Products from Canada*, 70 FR 73448 (December 12, 2005).<sup>1</sup> On June 30, 2005, the Department published a notice of initiation of administrative review of the countervailing duty order on certain softwood lumber products from Canada, covering the period of review (POR) April 1, 2004, to March 31, 2005 (POR 3). *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 37749 (June 30, 2005) (*Initiation Notice*). The preliminary results for POR 3 were issued on June 12, 2006. *See Notice of Preliminary Results and Extension of Final Result of Countervailing Duty Administrative Review: Certain Softwood Lumber Products From Canada*, 71 FR 33933 (June 12, 2006). On July 3, 2006 the Department published a notice of initiation of the fourth administrative review of the order covering the period April 1, 2005, to March 31, 2006 (POR 4). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 37892 (July 3, 2006).

On September 12, 2006, U.S. Trade Representative Susan C. Schwab and Canada's Minister for International Trade, David Emerson, signed the SLA 2006. One of the conditions for entry into force of the SLA 2006 was the settlement of litigation. On October 12, 2006, the government of the United States and the government of Canada exchanged letters indicating that the

conditions for entry into force of the SLA 2006 had been fulfilled.

##### Rescission Of The Reviews And Revocation Of The Order

Pursuant to the settlement of litigation, the Department hereby revokes the countervailing duty order on softwood lumber from Canada, effective May 22, 2002, without the possibility of reinstatement. As the result of the revocation of the order, which is effective for the periods being reviewed, the Department hereby rescinds all ongoing proceedings related to the countervailing duty order, including the administrative reviews for POR 3 and POR 4, and all outstanding expedited reviews.

In accordance with the terms of the SLA 2006, we will instruct U.S. Customs and Border Protection (CBP) to cease collecting cash deposits, as of October 12, 2006, on imports of softwood lumber products from Canada. Moreover, we will instruct CBP to liquidate all entries made on or after May 22, 2002, without regard to countervailing duties. In addition, we will instruct CBP to refund all deposits collected on such entries with accrued interest.

This notice is in accordance with 777(i) of the Tariff Act of 1930, as amended and 19 CFR 341.213(d)(4).

Dated: October 12, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

##### North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Termination of Panel Review

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

**ACTION:** Notice of Termination of Panel Review of the final Antidumping Duty Determination made by the International Trade Administration, respecting Certain Softwood Lumber Products from Canada, Secretariat File No. USA-CDA-2002-1904-02.

**SUMMARY:** Pursuant to the negotiated settlement between the United States and Canadian Governments, the panel review of the above noted case is terminated as of October 12, 2006. A

panel has been appointed to this panel review and has been dismissed in accordance with the *Rules of Procedure for Article 1904 Binational Panel Review*, effective October 12, 2006.

##### 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). The panel review in this matter was requested pursuant to these Rules and terminated in accordance with the settlement agreement.

Dated: October 13, 2006.

**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; Completion of Panel Review

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

**ACTION:** Notice of Completion of Panel Review of the final determination made by the U.S. International Trade Administration, in the matter of Certain Softwood Lumber Products from Canada, CVD determination, Secretariat File No. USA-CDA-2002-1904-03.

**SUMMARY:** Pursuant to the negotiated settlement agreement between the United States and Canadian

<sup>1</sup> In addition, the Department has initiated a number of "expedited reviews" to establish company-specific deposit rates and to consider whether company-specific revocation is appropriate. The Department has completed many of those reviews.

Governments, which terminated the Request for an Extraordinary Challenge Committee, this Binational Panel review is completed effective October 12, 2006. The panel appointed to this review has been dismissed in accordance with the *Rules of Procedure for Article 1904 Binational Panel Review*, effective October 12, 2006.

**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:** Pursuant to the negotiated settlement agreement between the United States and Canadian Governments, the United States withdrew the request for an Extraordinary Challenge Committee Review, which was filed on April 27, 2006. The negotiated settlement became effective on October 12, 2006. The Extraordinary Challenge Committee was to review the decisions of the Binational Panel that reviewed the final determination and remand determinations by the United States Department of Commerce in "The Matter of Certain Softwood Lumber Products from Canada: Final Affirmative Countervailing Duty Determination, Secretariat File No. USA-CDA-2002-1904-03". Therefore, on the basis of the negotiated settlement between the United States and Canada, the panel review was completed and the panelists discharged from their duties effective October 12, 2006.

Dated: October 13, 2006.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### **Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments**

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

**ACTION:** Announcement of Change in Methodology, Request for Comment

**SUMMARY:** This notice addresses three methodologies of the Department of Commerce ("the Department") in antidumping proceedings. First, the Department is revising its approach concerning the use of market economy inputs in the calculation of normal value in antidumping proceedings

involving non-market economy ("NME") countries. Specifically, the Department is revising its approach concerning cases where an NME producer sources an input from both market economy suppliers and from within the NME. Second, the Department is revising its methodology for calculating expected NME wages in antidumping proceedings involving NME countries. Third, the Department is requesting comments on its approach concerning the calculation of duty drawback adjustments to export price in antidumping proceedings when a respondent producer obtains an input both from domestic and foreign sources. On this latter issue, the Department is seeking comments on the methodology that should be used when the producer receives duty drawback on certain exports containing the input but not on other exports containing the input.

**FOR FURTHER INFORMATION CONTACT:**

Lawrence Norton with regard to market economy inputs, Shauna Lee-Alaia with regard to expected NME wages, and John Kalitka with regard to duty drawback, Office of Policy, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC, 20230, 202-482-1579, 202-482-2793, or 202-482-2730, respectively.

**SUPPLEMENTARY INFORMATION:**

#### **Issue One: Market Economy Inputs Background**

In antidumping proceedings involving NME countries, the Department calculates normal value by valuing the NME producer's factors of production, to the extent possible, using prices from a market economy that is at a comparable level of economic development and that is also a significant producer of comparable merchandise. The goal of this surrogate factor valuation is to use the "best available information" to determine normal value. See section 773(c)(1) of the Tariff Act of 1930, as amended ("the Act"); see also *Shangdong Huraong General Corp. v. United States*, 159 F. Supp. 2d 714, 719 (CIT 2001). When an NME producer purchases inputs from market economy suppliers and pays in a market economy currency, the Department normally uses the average actual price paid by the NME producer for these inputs to value the input in question, where possible. See 19 CFR 351.408(c)(1); see also *Final Determination of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans from the People's Republic of China*, 56 FR 55271, 55274-75 (October 25, 1991). When a portion of the input

is purchased from a market economy supplier and the remainder from a non-market economy supplier, the Department will normally use the price paid for the input sourced from market economy suppliers to value all of the input,<sup>1</sup> provided that the volume of the market economy input as a share of total purchases from all sources is "meaningful," a term used in the Preamble to the Regulations but which is interpreted by the Department on a case-by-case basis. See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27366 (May 19, 1997) ("Final Rule"); see also *Shakeproof v. United States*, 268 F.3d 1376, 1382 (Fed. Cir. 2001) ("Shakeproof"). Such market economy input purchases must also constitute arms-length, *bona fide* sales. See *Shakeproof*, 268 F.3d at 1382-83.

Additionally, the Department disregards market economy input purchases when there is evidence that the prices for such inputs may be distorted or when the facts of a particular case otherwise demonstrate that market economy input purchase prices are not the best available information. For example, the Department disregards all input values it has reason to believe or suspect might be dumped or subsidized. See, e.g., *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334 (CIT 2003), as *aff'd per curiam* 04 Fed. Appx. 183 (Federal Circuit, July 9, 2004). The Department has also disregarded the prices of inputs that could not possibly have been used in the production of subject merchandise during the period of investigation or review. See, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005, and accompanying Issues and Decision Memorandum, at comment 8 (December 8, 2004) ("Shrimp"). The Department has further rejected purchase prices from market economies when the input in question was produced within an NME. See *Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from the People's Republic of China*, 69 FR 34125 and accompanying Issues and Decision Memorandum, at comment 4 (June 18, 2004).

The Department published on May 26, 2005, August 11, 2005, and March 21, 2006, three notices in the **Federal Register** requesting comment on its market economy inputs methodology in NME cases (70 FR 30418, 70 FR 46816,

<sup>1</sup> See 19 CFR 351.408(c)(1).