

## DEPARTMENT OF COMMERCE

## International Trade Administration

**North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Consent Motion To Terminate Panel Review.**

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

**ACTION:** Notice of Consent Motion to Terminate the Panel Review of the final determination made by the Canadian Border Services Agency respecting "Unprocessed grain corn, excluding seed corn (for reproductive purposes), sweet corn, and popping corn, originating in or exported from the United States of America" (Secretariat File No. CDA-USA-2006-1904-01).

**SUMMARY:** Pursuant to the Notice of Consent Motion to Terminate the Panel Review by the complainants and pursuant to Rule 78(a) of the *Rules of Procedure for Article 1904 Binational Panel Review*, this panel review is terminated as of October 12, 2007.

**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 and terminated pursuant to these Rules.

Dated: October 19, 2007.

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

## International Trade Administration

**Antidumping Methodologies in Proceedings Involving Certain Non-Market Economies: Market-Oriented Enterprise; Request for Comment**

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

**SUMMARY:** The Department of Commerce ("the Department") requests public comment on whether it should consider granting market-economy treatment to individual respondents in antidumping proceedings involving the People's Republic of China ("China"), the conditions under which individual firms should be granted market-economy treatment, and how such treatment might affect our antidumping calculation for such qualifying respondents.

**DATES:** Comments must be submitted by November 26, 2007.

**ADDRESSES:** Written comments (original and six copies) should be sent to David Spooner, Assistant Secretary for Import Administration, U.S. Department of Commerce, Central Records Unit, Room 1870, 14th Street and Constitution Ave., NW., Washington, DC, 20230.

**FOR FURTHER INFORMATION CONTACT:** Lawrence Norton, Senior International Economist, or Anthony Hill, Senior International Economist, Office of Policy, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC, 20230; telephone 202-482-1579 or 202-482-1843, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

In antidumping proceedings involving non-market economy ("NME") countries, it is the Department's usual practice to calculate the normal value for allegedly dumped merchandise being imported into the United States by valuing the NME producer's factors of production using, to the extent possible, prices from a market economy that is at a comparable level of economic development and that is also a significant producer of comparable merchandise. See section 773(c)(4) of the Tariff Act of 1930, as amended ("the Act"). Specifically, section 773(c)(1) of the Act provides for the use of factors of production to determine normal value if two conditions are met:

(A) the subject merchandise is exported from an NME country; and

(B) the administering authority finds that available information does not permit the normal value of the subject merchandise to be determined as is done for respondents in market economy countries.

In all past NME proceedings involving China, the Department has found that both conditions of section 773(c)(1) are met and has calculated the normal value based on prices and costs from a surrogate country, in accordance with sections 773(c)(3) and (4) of the Act.

The Department recently affirmed China's NME status. See Memorandum for David M. Spooner, Assistant Secretary for Import Administration, Antidumping Duty Investigation of Certain Lined Paper Products from the People's Republic of China's Status as a Non-Market Economy (August 30, 2006) ("August 30th Memorandum") (on file in the Central Records Unit {"CRU"}, Room-B-099, on the record of case number A-570-901). In conducting this review of China's NME status in accordance with section 771(18)(B) of the Act, the Department concluded that, while China has enacted significant and sustained economic reforms, the Chinese government has preserved a significant role for the state in the economy. The Department concluded that the limits the Chinese government has placed on the role of market forces are sufficient to preclude China's designation as a market economy under the U.S. antidumping law.

Notwithstanding China's continued designation as an NME, the August 30th Memorandum noted that China has undertaken numerous positive reforms. These are discussed more fully in the Department's March 29, 2007 memorandum, *Countervailing Duty Investigation of Coated Free Sheet ("CFS") Paper from the People's Republic of China - Whether the Analytical Elements of the Georgetown Steel Opinion are Applicable to China's Present-day Economy*, (March 29, 2007) ("Georgetown Steel Memorandum") (on file in the CRU on the record of case number C-570-907). The Georgetown Steel Memorandum notes that China's economy has evolved significantly over time and its present-day economy "features both a certain degree of private initiative as well as significant government intervention, combining market processes with continued state guidance." *Id.* at 7. Further, the Department found that while private industry now dominates many sectors of the Chinese economy and entrepreneurship is flourishing, China's economy is best characterized as one in which constrained market mechanisms