

(1) An export or re-export that is subject to the EAR, regardless whether it is on the CCL or classified as EAR99;

(2) That is also subject to OFAC's Iranian Transactions Regulations; and

(3) That does not have authorization from OFAC.

The transaction in this case was export from the United States to Iran that made a temporary stop in the UAE.<sup>9</sup> Section 560.204 of OFAC's Iran Transactions Regulations provided at the times relevant to this case:

Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, the exportation from the United States to Iran or the Government of Iran, or the financing of such exportation, of any goods, technology, or services is prohibited.<sup>10</sup>

The facts of this case demonstrate that the export alleged in the amended charging letter was subject to the EAR because the ferrography equipment was of U.S. origin, was subject to Iranian Transactions Regulations because it was an export to Iran, and did not have authorization from OFAC. These facts establish a violation of EAR Section 746.7 ("No person may export or re-export items subject to both the EAR and OFAC's Iranian Transactions Regulations without prior OFAC authorization.")

#### Discussion

The four charges in this case are clearly proven. In charge 1, Jabal caused the good to be exported to Iran by ordering them from the U.S. supplier knowing that they were bound for Iran. Pursuant to EAR Section 734.2(b)(6), Jabal's intent that the goods ultimately go to Iran makes that an export to Iran under the EAR. There was no authorization for this export to Iran from OFAC. Consequently, the elements of this offense are proven.

Charge 2 alleges that Jabal, with knowledge of the illegal exportation of the goods as set out in charge 1, transferred them to Iran. EAR Section § 764.2(e) prohibits Jabal from taking this action with such knowledge. It is clear that Jabal knew that its customer was in Iran since the customer's representative, Mr. Massaoudi, was so closely connected to Jabal. Jabal's action of transferring the goods to Iran clearly proves charge 2.

<sup>9</sup> Pursuant to EAR Section 734.2(b)(6), an export that transits or transships one country for a new country or is intended for a new country is deemed to be an export to the new country.

<sup>10</sup> See also 15 CFR 742.8(a)(2) [export from the United States to any destination with knowledge that the items will be re-exported directly or indirectly in whole or in part to Iran is prohibited without a license from the Department of Treasury].

Under charge 3, Jabal lied to the U.S. supplier because if the U.S. supplier knew the true facts, it would be required to obtain an export license, notify the authorities, or absent a license terminate the deal. Any of these actions would have circumvented Jabal's attempt to supply its Iranian customer. So Jabal's lie was intended to evade the provisions of the EAR and establishes that charge 3 was proven.

Charge 4 was another important step in Jabal's circumvention of U.S. export controls. Jabal had to gain the expertise to use the equipment but could not gain that expertise in Iran for fear that the U.S. supplier would alert the authorities. Consequently, Jabal arranged the assembly and testing of the goods at a warehouse in order to gain the necessary information on use of the equipment without detection of the true nature of the transaction. Again, Jabal evaded U.S. export controls.

#### The Penalty

In the Under Secretary's order of remand, he directed the ALJ to reconsider the recommended penalty in light of any new findings of fact or conclusions of law.

The Bureau of Export Administration has requested that all of Jabal's export privileges be denied for at least 10 years. A 10-year denial period is the appropriate sanction for several reasons. Under Section 764.3 of the Regulations, the only realistic sanctions available to BXA for the violations charged in this proceeding are a civil monetary penalty and a denial of export privileges. Jabal is located overseas, has not responded to the allegations set forth in the amended charging letter, or this motion, and has not demonstrated any interest in resolving this matter, either through the hearing process or through settlement. It is unlikely that Jabal would pay a civil monetary penalty willingly and BXA's ability to collect such a judgment is doubtful, rendering any judgment involving a civil monetary penalty meaningless.

Moreover, Jabal's violations are willful, blatant, and the result of an unlawful scheme. Finally, Jabal sent the ferrograph equipment to Iran, an embargoed country. Under all of these circumstances, I recommend a penalty of a 10-year denial of export privileges.

#### Conclusion

For these reasons, I recommend that you issue a *Decision* and *Order* as follows:

Dated: April 1, 2002.

**Edwin M. Bladen,**

*Administrative Law Judge.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-428-832, A-560-815, A-841-805]

#### Postponement of Final Antidumping Duty Determinations; Carbon and Certain Alloy Steel Wire Rod from Germany, Indonesia and Moldova

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

**ACTION:** Notice of Postponement of Final Antidumping Duty Determinations of Carbon and Certain Alloy Steel Wire Rod from Germany, Indonesia and Moldova.

**SUMMARY:** The Department of Commerce (the Department) is postponing the final determinations in the antidumping duty investigations of carbon and certain alloy steel wire rod from Germany, Indonesia and Moldova.

**EFFECTIVE DATE:** May 13, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Robert James at 202-482-0649 (Germany), Michael Ferrier at 202-482-1394 (Indonesia) or Scott Lindsay at 202-482-0780 (Moldova), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (April 2001).

#### Postponement of Final Determinations and Extension of Provisional Measures

On April 10, 2002, the Department published the affirmative preliminary determinations for the investigation of carbon and certain alloy steel wire rod (steel wire rod) from Germany and Moldova, and a negative preliminary determination in the investigation of steel wire rod from Indonesia. See

*Notice of Preliminary Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Germany, 67 FR 17384, Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Indonesia, 67 FR 17374, and Carbon and Certain Alloy Steel Wire Rod from Moldova: Notice of Preliminary Determination of Sales at Less Than Fair Value 67 FR 17401 (April 10, 2002).*

Pursuant to section 735(a)(2) of the Tariff Act and section 351.210(b)(2)(ii) of the Department's regulations, on April 4, 2002, the respondent in the German case, Saarstahl AG (Saarstahl) requested the Department postpone the final determination in accordance with section 735(a)(2)(A) of the Tariff Act. Saarstahl also requested that the Department extend to six months any provisional measures imposed pursuant to section 733(d) of the Tariff Act. Similarly, on April 27, 2002, Moldova Steel Works requested the Department postpone the final determination in the Moldova case, agreeing to an extension of the provisional measures.

On April 11, 2002, pursuant to section 735(a)(2)(B) of the Tariff Act and section 351.210(b)(2)(i) of the Department's regulations, petitioners requested the Department postpone the final determination in the investigation of steel wire rod from Indonesia.<sup>1</sup>

Section 735(a)(2) of the Tariff Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative determination, a request for a postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

In accordance with 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determinations were affirmative with respect to Germany and Moldova, (2) the respondent requesting a postponement accounts for a significant proportion of exports of the subject merchandise from these countries, and (3) no compelling reasons for denial exist, we are granting

<sup>1</sup> The margin in the Indonesian case was de minimis.

Saarstahl's and Moldova Steel Works' requests for the postponement of the final determination in the cases involving Germany and Moldova. Furthermore, in accordance with 19 CFR 351.210(b)(i), because (1) our preliminary determination was negative with respect to Indonesia, (2) the petitioner requested a postponement and (3) no compelling reasons for denial exist, we are granting petitioners' request for a postponement in the Indonesian case.

We are postponing the final determinations in all three cases to no later than August 23, 2002, which is 135 days after the publication of the preliminary determination in the **Federal Register**. Where applicable, suspension of liquidation will be extended accordingly.

This notice of postponement is published pursuant to 19 CFR 351.210(g).

Dated: May 3, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### [A-560-802]

### Certain Preserved Mushrooms from Indonesia: Final Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of Final Results of Antidumping Duty Administrative Review.

**SUMMARY:** On March 7, 2002, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain preserved mushrooms from Indonesia. The review covers three manufacturers/exporters of the subject merchandise to the United States: PT Dieng Djaya and PT Surya Jaya Abadi Perkasa,<sup>1</sup> PT Indo Evergreen Agro Business Corp., and PT Zeta Agro Corporation. The period of review is February 1, 2000, through January 31, 2001.

No interested party submitted comments on the preliminary results.

<sup>1</sup> In accordance with 19 CFR 351.401(f), PT Dieng Djaya and PT Surya Jaya Abadi Perkasa were determined to be affiliated companies in the original less-than-fair-value investigation.

We have made no changes to the margin calculation. Therefore, the final results do not differ from the preliminary results. The final weighted-average dumping margin for the three manufacturer/exporters are listed below in the "Final Results of Review" section of this notice.

**EFFECTIVE DATE:** May 13, 2002.

### FOR FURTHER INFORMATION CONTACT:

Rebecca Trainor or Sophie Castro, AD/CVD Enforcement Group I, Office 2, Import Administration-Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4007, or 482-0588, respectively.

### SUPPLEMENTARY INFORMATION:

#### The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (April 2000).

#### Background

The review covers three manufacturers/exporters of the subject merchandise to the United States: PT Dieng Djaya and PT Surya Jaya Abadi Perkasa (Dieng/Surya), PT Indo Evergreen Agro Business Corp. (Indo Evergreen), and PT Zeta Agro Corporation (Zeta).

On March 7, 2002, the Department of Commerce published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on certain preserved mushrooms from Indonesia (67 FR 10366) (*Preliminary Results*).

We invited parties to comment on the preliminary results of the review. No interested party submitted comments. The Department has conducted this administrative review in accordance with section 751 of the Act.

#### Scope of the Order

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. "Preserved mushrooms" refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are