

Dated: August 3, 1998.

**Eileen M. Albanese,**

*Director, Office of Exporter Services.*

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## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

#### Action Affecting Export Privileges; Jack Allen Baugher; Order Denying Permission To Apply For or Use Export Licenses

In the Matter of: Jack Allen Baugher, 10503 Tieton Drive, Yakima, Washington 98908.

On December 19, 1997, Jack Allen Baugher (Baugher) was convicted in the United States District Court for the Eastern District of Washington, on two counts of violating the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)) (IEEPA) and two counts of violating Section 38 of the Arms Export Control Act (currently codified at 22 U.S.C.A. § 2778 (1990 & Supp. 1998)) (AECA). Specifically, Baugher was convicted of knowingly and willfully exporting and causing to be exported electronic stun guns to Mexico and the Philippines, without obtaining the required export licenses from the Department of Commerce, and of knowingly and willfully exporting and causing to be exported liquid pepper to Mexico and the Philippines, without obtaining the required written authorization from the State Department.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act),<sup>1</sup> provides that, at the discretion of the Secretary of Commerce,<sup>2</sup> no person convicted of violating the IEEPA or the AECA, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR Parts 730-774 (1998)) (the Regulations), for a period of

up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Section 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating the IEEPA or the AECA, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Baugher's conviction for violating the IEEPA and the AECA, and following consultations with the Acting Director, Office of Export Enforcement, I have decided to deny Baugher permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of eight years from the date of his conviction. The eight-year period ends on December 19, 2005. I have also decided to revoke all licenses issued pursuant to the Act in which Baugher had an interest at the time of his conviction.

Accordingly, it is hereby

#### Ordered

I. Until December 19, 2005, Jack Allen Baugher, 10503 Tieton Drive, Yakima, Washington 98908, may not, directly or indirectly, participate in any way, in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in

any other activity subject to the Regulations.

II. No person may do, directly or indirectly, any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts or acquires such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Baugher by affiliation, ownership, control, or position or responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in the effect until December 19, 2005.

VI. A copy of this Order shall be delivered to Baugher. This Order shall be published in the **Federal Register**.

<sup>1</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 CFR 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR, 1995 Comp. 501 (1996)), August 14, 1996 (3 CFR 1996 Comp. 298 (1997)), and August 13, 1997 (62 FR 43669, August 15, 1997), continued the Export Administration Regulations in effect under the IEEPA.

<sup>2</sup> Pursuant to appropriate delegations of authority, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercise the authority granted to the Secretary by Section 11(h) of the Act.

Dated: August 3, 1998.

**Eileen M. Albanese,**

*Director, Office of Exporter Services.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-428-803]

#### Industrial Nitrocellulose From Germany; 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 of industrial nitrocellulose from Germany.

**SUMMARY:** On April 9, 1998, the Department of Commerce published its preliminary results of administrative review of the antidumping duty order on industrial nitrocellulose from Germany for the period July 1, 1996, through June 30, 1997 (63 FR 17364). The Department of Commerce has now completed its administrative review in accordance with section 751(a) of the Tariff Act of 1930. For information on the assessment of antidumping duties for the reviewed company, and for all non-reviewed companies, see the Final Results of Review section of this notice. This review covers imports of industrial nitrocellulose from one producer, Wolff Walsrode AG.

We gave interested parties an opportunity to comment on our preliminary results. We have based our analysis on the comments received and have changed the results from those presented in the preliminary results of review.

**EFFECTIVE DATE:** August 13, 1998.

**FOR FURTHER INFORMATION CONTACT:** Todd Peterson or Zev Primor, AD/CVD Enforcement Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-4195, and 482-4114, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On April 9, 1998, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of the administrative review of the antidumping duty order on

industrial nitrocellulose from Germany for the period July 1, 1996, through June 30, 1997 (63 FR 17364). The Department has now completed this administrative review, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

#### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to the regulations as stated in 62 FR 27296, May 19, 1997.

#### Scope of the Review

Imports covered by this review are shipments of industrial nitrocellulose (INC) from Germany. INC is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. INC is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content of greater than 12.2 percent. INC is currently classified under Harmonized Tariff Schedule (HTS) subheading 3912.20.00. White the HTS item number is provided for convenience and Customs purposes, the written description remains dispositive as to the scope of the product coverage. The review period is July 1, 1996 through June 30, 1997.

#### Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the respondent, Wolff Walsrode (Wolff) and the petitioner, Hercules Incorporated.

**Comment 1:** Respondent argues that the Department used Wolff's budgeted operating result from its financial statement rather than its actual operating result in calculating Wolff's constructed export price (CEP) profit ratio. Petitioner did not comment.

**Department's Position:** The Department agrees with respondent that Wolff's actual operating result should be used in calculating Wolff's constructed export price profit ratio because the actual operating result is the more accurate than the budgeted operating results. The Department has corrected this error.

**Comment 2:** Respondent argues that the Department inadvertently included all contemporaneous home market sales in the computer program's calculation of weighted-averaged normal values rather than selecting the sales during the most contemporaneous month as required by section 351.414(e)(2)(i) of the Department's regulations. Petitioner argues that this error only affects five U.S. sales and would be corrected in all but one instance when the Department corrects the product coding, as requested by the respondent. See comment six.

**Department's Position:** The Department has utilized respondent's computer programming language as outlined in their case brief for the final results. The Department notes that the computer program does calculate the weighted-average normal values during the most contemporaneous month as required by section 351.414(e)(2)(i). However, while the revised programming altered variable names, it did not change the results of the program.

**Comment 3:** Respondent argues that the Department inadvertently failed to add U.S. freight revenue in calculating the net CEP price. Petitioner did not comment.

**Department's Position:** The Department agrees with the respondent and has corrected this error.

**Comment 4:** Respondent argues that the Department inadvertently failed to deduct the CEP offset from the normal value of home market sales matched to U.S. CEP sales with no commissions. Respondent also argues that the Department failed to deduct the commission offset from normal value of home market sales matched to U.S. sales with commissions. Petitioner did not comment.

**Department's Position:** The Department agrees with respondent and has corrected these programming errors.

**Comment 5:** Respondent argues that the Department should calculate one assessment rate for transmittal to the U.S. Customs Service because Customs cannot readily determine whether a particular importation is an EP or CEP sale. Petitioner agrees with respondent, but wants to ensure that the entire amount of antidumping duty calculated by the Department is collected by Customs.

**Department's Position:** The Department agrees with respondent that in this instance there should be one rate per importer and has corrected this error.

**Comment 6:** Petitioner contends that the Department incorrectly used the SAS function, COMPRESS, in the