

## DEPARTMENT OF COMMERCE

## Bureau of Industry and Security

[Docket No. 03-BIS-06]

In the Matter of Arian  
Transportvermittlungs GmbH

On Tuesday, May 18, 2004, the **Federal Register** published the May 12, 2004 Decision and Order issued by the Under Secretary of Commerce, Bureau of Industry and Security (BIS), United States Department of Commerce in the above-referenced matter (69 FR 28120). However, the April 8, 2004 Recommended Decision and Order of the Administrative Law Judge (ALJ) was inadvertently not published with the Order of the Under Secretary. The Recommended Decision and Order of the ALJ shall hereby be published in the **Federal Register**.

Dated: June 7, 2004.

**Kenneth I. Juster,**

*Under Secretary of Commerce for Industry and Security.*

In the Matter of: Arian  
Transportvermittlungs GmbH,  
Morsestrasse 1, D-50769 Köln,  
Germany, Respondent.*Recommended Decision and Order*

On May 15, 2003, the Bureau of Industry and Security, United States Department of Commerce (BIS or Agency), issued a charging letter initiating this administrative enforcement proceeding against Arian Transportvermittlungs GmbH (Arian). The charging letter alleged that Arian committed two violations of the Export Administration Regulations (currently codified at 15 CFR Parts 730-774 (2003)) (the Regulations),<sup>1</sup> issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) (the Act).<sup>2</sup>

Specifically, the charging letter alleged that on or about June 17, 1999,

Arian re-exported computers and software, items subject to the Regulations and classified under Export Control Classification Numbers 4A994 and 5D002, from Germany to Iran without obtaining a license from BIS as required by Section 746.7 of the Regulations. BIS alleged that, by re-exporting the computers and software, Arian committed one violation of Section 764.2(a) of the Regulations.

The charging letter also alleged that in connection with the reexport, Arian caused the transport of computers and software to Iran with knowledge that a violation of the Regulations would occur in connection with those items. BIS alleged that, by causing the re-export of items with knowledge that a violation of the Regulations would occur, Arian committed one violation of Section 764.2(e) of the Regulations.

The record provides that BIS mailed its May 15, 2003 Charging Letter to Mr. Mehdi Moghimi, Managing Director for Arian Transportvermittlungs GMBH located at Bremerhavener Str. 23, 50835 Cologne, Germany. On May 28, 2003, the ALJ Docketing Center notified the parties of the assignment of a case docket number for this matter. This letter was subsequently returned to the ALJ Docketing Center as being undeliverable. On July 18, 2003, BIS provided a new address for Mr. Moghimi and Arian Transportvermittlungs GmbH at Morsestrasse 1, D-50769 Köln, Germany.

On March 11, 2004, BIS filed a Motion for Default Order (Motion) in this matter stating that Arian had failed to file an Answer to its Charging Letter as required by 15 CFR 766.3(b)(1). On March 15, 2004, this matter was assigned to the Undersigned. In its Motion, BIS states that it sent notice of the issuance of the Charging Letter to Arian by registered mail and submits Government Exhibit 1, showing a registered mail receipt dated July 15, 2003 addressed to Arian in Köln, Germany. BIS also submits Government Exhibit 2 showing that Arian received this notice on July 22, 2003. The record is devoid of any response or Answer filed by Arian. Under section 766.3(b)(1), the notice of issuance of a charging letter is required to be served on a respondent by mailing a copy by registered or certified mail addressed to the respondent at the respondent's last known address. The Agency's actions as stated above constitute proper service on Arian.

Section 766.6(a) of the Regulations provides, in pertinent part, that "[t]he respondent must answer the charging letter within 30 days after being served

with notice of issuance of the charging letter[.]” Since service was effected on July 22, 2003, Arian's answer to the Charging Letter was due no later than August 21, 2003. As of this date, Arian has not filed an Answer to the Charging Letter.

The default procedures set forth in Section 766.7 state “[f]ailure of the respondent to file an answer within the time provided constitutes a waiver of the respondent's right to appear \* \* \* ” and “\* \* \* on BIS's motion and without further notice to the respondent, shall find the facts to be as alleged in the charging letter \* \* \* .” Based on the above, the facts as alleged in the Charging Letter are hereby held to constitute the findings of fact in this matter and thereby establish that Arian committed one violation of Section 764.2(a) of the Regulations and one violation of Section 764.2(e) of the Regulations.

Section 764.3 of the Regulations sets forth the sanctions BIS may seek for violations of the Regulations. The applicable sanctions as set forth in the Regulations are a civil monetary penalty, suspension from practice before the Department of Commerce, and denial of export privileges. See 15 CFR 764.3 (2003).

Because Arian violated the Regulations by causing the re-export of items that were subject to the Regulations with knowledge that a violation of the Regulations would occur, BIS requests that Arian's export privileges be denied for ten years.

BIS has proposed this sanction because Arian's actions in committing a knowing violation of the Regulations evidences a disregard for U.S. export control laws. Further, BIS indicates that Iran is a country against which the United States maintains an economic embargo because of Iran's support for international terrorism.

Finally, BIS states that imposition of a civil penalty in this case may be ineffective, given the difficulty of collecting payment against a party outside of the United States. In light of these circumstances, BIS proposes that the appropriate sanction to be assessed is the denial of Arian's export privileges for ten years.

Given the foregoing, I recommend that the Under Secretary enter an Order denying Arian's export privileges for a period of ten years. Such a denial order is consistent with penalties imposed in recent cases under the Regulations involving shipments to Iran. See, *In the Matter of Jabal Damavand General Trading Company*, 67 FR 32009 (May 13, 2002) (affirming the recommendations of the Administrative

<sup>1</sup> The violations charged occurred in 1999. The Regulations governing the violations at issue are found in the 1999 version of the Code of Federal Regulations (15 CFR Parts 730-774 (1999)). The 2003 Regulations establish the procedures that apply to this matter.

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706 (2000)) (IEEPA). On November 13, 2000, the Act was reauthorized and it remained in effect through August 30, 2001. Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2003 (68 FR 47833, August 11, 2003), continues the Regulations in effect under IEEPA.

Law Judge that a ten year denial was appropriate where violations involved shipments of EAR99 items to Iran) and *In the Matter of Abdulmir Mahdi*, 68 FR 57406 (October 3, 2003) (affirming the recommendations of the Administrative Law Judge that a twenty year denial was appropriate where violations involved shipments of EAR99 items to Iran as a part of a conspiracy to ship such items through Canada to Iran).

Accordingly, I am referring this Recommended Decision and Order to the Under Secretary for review and final action for the agency, without further notice to the Respondent, as provided in Section 766.7 of the Regulations.

Within 30 days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order affirming, modifying, or vacating the Recommended Decision and Order See 15 CFR 766.22(c).

Done and dated this 8th day of April, at New York, NY.

**Walter J. Brudzinski,**

*Administrative Law Judge.*

[FR Doc. 04-13275 Filed 6-10-04; 8:45 am]

BILLING CODE 3510-DT-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-830; A-274-804]

#### **Carbon and Certain Alloy Steel Wire Rod From Mexico and Trinidad and Tobago: Extension of Preliminary Results of 2002/2003 Antidumping Duty Administrative Reviews**

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

**EFFECTIVE DATE:** June 14, 2004.

**FOR FURTHER INFORMATION CONTACT:** Tipten Troidl at (202) 482-1767, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

#### **Time Limits**

##### *Statutory Time Limits*

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary results of a review within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to

complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days and for the final results to 180 days (or 300 days if the Department does not extend the time limit for the preliminary results) from the date of the publication of the preliminary results.

#### *Background*

On November 28, 2003, the Department published a notice of initiation of the administrative reviews of the antidumping duty orders on carbon and certain alloy steel wire rod from Mexico and Trinidad and Tobago, covering the period April 10, 2002 to September 30, 2003 (68 FR 66799). The preliminary results are currently due no later than July 2, 2004.

#### *Extension of Preliminary Results of Reviews*

The Department received sales-below-cost allegations concerning all five respondents in these cases. We are in the process of analyzing those allegations. Furthermore, we are in the process of working out sales and cost verification schedules with respondents. We therefore determine that it is not practicable to complete the preliminary results of these reviews within the original time limits, and we are extending the time limits for completion of the preliminary results until no later than October 30, 2004.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: June 7, 2004.

**Holly A. Kuga,**

*Acting Deputy Assistant Secretary, Import Administration.*

[FR Doc. 04-13329 Filed 6-10-04; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-848]

#### **Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind, in Part**

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

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC) in response to

requests from the Crawfish Processors Alliance and its members (together with the Louisiana Department of Agriculture & Forestry, and Bob Odom, commissioner), and the Domestic Parties (collectively, the Domestic Interested Parties) and from exporters Hubei Qianjiang Houhu Cold & Processing Factory (Hubei Houhu), Shouzhou Huaxiang Foodstuffs Co., Ltd. (Shouzhou Huaxiang), Qingdao Jinyongxiang Aquatic Foods Co., Ltd. (Qingdao JYX) and North Supreme Seafood. The period of review (POR) is from September 1, 2002 through August 31, 2003.

We preliminarily determine that sales have been made below normal value (NV). The preliminary results are listed below in the section titled "Preliminary Results of Review." If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess the *ad valorem* margins against the entered value of each entry of the subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. See the "Preliminary Results of Review" section of this notice.

**EFFECTIVE DATE:** June 14, 2004.

**FOR FURTHER INFORMATION CONTACT:** Scot Fullerton or Matthew Renkey, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1386 or (202) 482-2312, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Department published in the **Federal Register** an antidumping duty order on freshwater crawfish tail meat from the PRC on September 15, 1997. See *Notice of Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Freshwater Crawfish Tail Meat from the People's Republic of China*, 62 FR 48218 (September 15, 1997). Based on timely requests from various interested parties, the Department initiated an administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC for the period of September 1, 2002 through August 31, 2003 covering 30 companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 68 FR 60910 (October 24, 2003) (*Notice of Initiation*).

On May 13, 2004, based on the Domestic Interested Parties' timely withdrawal of their requests for review of a number of companies, as well as