

Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 63-2003]

Foreign-Trade Zone 119—Minneapolis, MN; Application for Subzone Expansion and Permanent Authority—Subzone 119B; Wirsbo Company Plant, Apple Valley, Minnesota (Polyethylene Tubing)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Metropolitan Area Foreign Trade Zone Commission (Minneapolis, Minnesota), grantee of FTZ 119, requesting authority to expand the boundary of Subzone 119B, at the Wirsbo Company plant in Apple Valley, Minnesota, and requesting that the authority for subzone status be extended on a permanent basis. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on December 12, 2003.

Subzone 119B was approved by the Board in 1993 with temporary authority granted for the manufacture of polyethylene tubing at Wirsbo's manufacturing plant (135,000 sq.ft./10.5 acres) in Apple Valley, Minnesota (Board Order 640, 58 FR 30143, 5-26-93). Activity at the facility (180 employees) includes product development, manufacturing, testing, warehousing, and distribution of cross-linked polyethylene (PEX) tubing for residential and commercial indoor/outdoor hydronic radiant heating systems. The plant produces up to 300 million feet of tubing under FTZ procedures annually.

The applicant is now requesting authority to expand the subzone boundaries to include an additional site located at 2300 West Highway 13, Burnsville (Dakota County), Minnesota, about nine miles northwest of the

existing subzone site. The proposed Site 2 would include a 22-acre parcel containing a 413,000 square foot facility (125 employees) used for warehousing and distribution of production materials and finished tubing. The applicant also requests removal of the time restriction on FTZ manufacturing authority pursuant to Board Order 640, which authorized the manufacture of PEX tubing under FTZ procedures for an initial three-year period, subject to extension.

Foreign-sourced materials used in the manufacture of tubing (about 35 percent of total purchases) include: polyethylene (HDPE) resins (7.1% duty rate). The company also admits certain parts and materials used in constructing the radiant heating systems. Such warehouse distribution items include: thermostats, brass and copper fittings, aluminum pipe, polyethylene pipe, various polymers and resins in primary form, plastic foil, insulation, packaging materials, other articles of plastic and rubber, polyester tape, fittings, fasteners, mounting tracks, valves, transformers, fuses, relays, junction boxes, metal fittings, flow meters, regulators (duty rates: free-8.6%).

FTZ procedures exempt Wirsbo from Customs duty payments on the foreign resin used in export tubing production (1% of shipments). On its domestic shipments and exports to NAFTA markets, the company is able to choose the duty rate that applies to finished PEX tubing (3.1%) for the foreign-origin resin noted above. Duties would continue to be paid on the warehouse items entered from the subzone for U.S. distribution. The request indicates that the savings from FTZ procedures will continue to help improve the facilities' international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is February 20, 2004. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to March 8, 2004).

A copy of the application will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, Franklin Court Building—Room 4100W, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC 20005.

Dated: December 12, 2003.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 03-31476 Filed 12-19-03; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; In the Matter of: ABO (USA) INC., 2653 NW 20th Street, Miami, FL 33142, Respondent

Order

The Bureau of Industry and Security, United States Department of Commerce ("BIS") having notified ABO (USA) Inc. ("ABO") of its intention to initiate an administrative proceeding against ABO pursuant to § 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730-774 (2003)) ("Regulations"), and section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. sections 2401-2420 (2000)) ("Act"),¹ based on the proposed charging letter issued to ABO that alleged ABO committed two violations of the Regulations. Specifically, the charges are:

1. One Violation of 15 CFR 764.2(d)—Conspiracy—Conspiracy to Export Night Vision Scopes to Japan without the Required Licenses: Beginning in 1995 and continuing into 1997, ABO

¹ 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 issued on 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 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., 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)), has continued the Regulations in effect under IEEPA.

conspired and acted in concert with others, known and unknown, to violate the former regulations and Regulations. The goal of the conspiracy was to evade Department of Commerce export licensing requirements relating to night vision scopes and to export night vision scopes from the United States to Japan without the required Department of Commerce licenses. To accomplish the conspiracy, the conspirators, including ABO, took actions in furtherance of the conspiracy, including falsifying invoices and shipping documents and disassembling the night vision scopes before exporting them from the United States to Japan to avoid detection by U.S. authorities, including the Department of Commerce.

2. One Violation of 15 CFR 764.2(a)—Engaging in Prohibited Conduct—Export of Night Vision Scopes Without the Required Licenses. On or about February 28, 1997, ABO exported or caused to be exported items subject to the Regulations, specifically night vision scopes, models Night Ranger 150 and Night Ranger 250; from the United States to Japan without the required Department of Commerce license. An export license was required for the export of the Night Vision scopes, which were classified under ECCN 6A002.c on the Commerce Control List, from the United States to Japan by § 742.6 of the regulations.

BIS and ABO having entered into a Settlement Agreement pursuant to Section 766.18(a) of the regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

It is therefore ordered:

First, that a civil penalty of \$20,000 is assessed against ABO, which shall be paid to the U.S. Department of Commerce within 30 days from the date of the entry of this Order. Payment shall be made in the manner specified in the attached instructions.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (21 U.S.C. 3701–3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, ABO will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third, that for a period of two years from the date of this Order, ABO (USA) Inc., 2653 NW 20th Street, Miami, FL 33142, its successors or assigns, and when acting for or on behalf of ABO, its

officers, representatives, agents or employees (“denied person”) 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 to any destination other than Canada, 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 relating to any destination other than Canada;

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 to any destination other than Canada, 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 to any destination other than Canada, that is subject to the regulations, or in any other activity subject to the Regulations.

Fourth, that no person may, directly or indirectly, do any of the following:

A. Export or reexport other than to Canada, 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 to any destination other than Canada, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire 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 to any destination other than Canada;

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 to any destination other than Canada; 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 to any destination other than Canada, 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 to any destination other than Canada. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

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

Sixth, that 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.

Seventh, that, as authorized by § 766.18(c) of the regulations, the \$20,000 civil penalty set forth above shall be suspended in its entirety for one year from the date of this Order, and shall thereafter be waived, provided that during the period of suspension, ABO has committed no violation of the Act or any regulation, order or license issued thereunder.

Eighth, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 15th day of December 2003.

Julie L. Myers,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 03–31411 Filed 12–19–03; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–813]

Final Court Decision and Amended Final Results of Antidumping Duty Administrative Review: Canned Pineapple Fruit From Thailand

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