

and words "\$5,000 on any single transaction." and adding, in its place, the figure and words "\$25,000. A repair program means the aggregate amount of the proposed contracts which are contemplated in a property analysis by the Loan Guaranty activity."; paragraph (b) is amended by removing figure "\$5,000" and adding, in its place, the figure "\$25,000"; and is amended by removing the title "Chief Benefits Director" and adding, in its place, the title "Under Secretary for Benefits"; the second sentence in paragraph (c) is amended by removing the title "Chief Benefits Director" and adding, in its place, the title "Under Secretary for Benefits"; paragraph (d) is amended by removing the figure "\$200" and adding, in its place, the figure "\$500"; the first sentence in paragraph (e) is amended by removing the word "listed" and adding, in its place, the word "assigned" and by removing the words "with him/her"; the second sentence in paragraph (e) is amended by removing the figure "\$200" and adding, in its place, the figure

"\$500" and by removing the words "his/her" and adding, in their place, the word "the"; the third sentence in paragraph (e) is amended by removing the figure "\$200" and adding, in its place, the figure "\$500".

871.103 [Removed]

4. Section 871.103 is removed.

871.105 [Removed]

5. Section 871.105 is removed.

871.106 [Amended]

6. Section 871.106, paragraph (b) is amended by removing the words "his/her" and adding, in their place, the word "the subcontractor's".

Subpart 871.2—[Amended]

7. Section 871.200 is revised to read as follows:

871.200 Scope of subpart.

This subpart establishes policy and procedures for the vocational rehabilitation and counseling program as it pertains to contracts for training

and rehabilitation services, approval of institutions (including rehabilitation facilities), training establishments, and employers under Chapter 31, Title 38, United States Code, contracts for counseling services under Title 38, United States Code, Chapters 30, 31, 32, 35, and 36; Title 10, United States Code, Chapters 106 and 107; and Public Law 102-16, Veterans Education and Employment Amendments.

871.201-3 [Amended]

7. Section 871.201-3 is amended by removing the words "Veterans Health Services and Research Administration" and adding, in their place, the words "Veterans Health Administration."

871.207 [Amended]

8. Section 871.207, paragraph (b)(2) is amended by removing the words "Veterans Administration" and adding, in their place, the words "Department of Veterans Affairs".

[FR Doc. 94-3287 Filed 2-11-94; 8:45 am]

BILLING CODE 8320-01-P

Notices

Federal Register

Vol. 59, No. 30

Monday, February 14, 1994

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 AGRICULTURE

Cooperative State Research Service

Special Research Grants Program, Aquaculture Research; Solicitation of Applications; Correction

AGENCY: Cooperative State Research Service, USDA.

ACTION: Notice of correction of application submission deadline.

SUMMARY: In notice document 94-1730 in the issue of Thursday, January 27, 1994 (59 FR 3974), two different dates were given as the application submission deadline. This notice corrects all application submission deadline dates to read April 18, 1994 as follows:

On page 3976 in the second column in the third paragraph, the regular mail postmarked date was specified as March 14, 1994. The date should be changed to April 18, 1994. On the same page and same column in the fourth paragraph, the hand-delivered proposal submission date was specified as March 14, 1994. The date should be changed to April 18, 1994.

Dated: February 8, 1994.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 94-3313 Filed 2-11-94; 8:45 am]

BILLING CODE 3410-22-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-508-604]

Industrial Phosphoric Acid From Israel; Final Results of Antidumping Duty Changed Circumstances Review

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

ACTION: Notice of final results of antidumping duty changed circumstances review.

SUMMARY: On November 5, 1993, the Department of Commerce published the preliminary results of its changed circumstances review concerning its examination of whether Rotem Fertilizers, Ltd. (Rotem) is the successor to Negev Phosphates, Ltd. (Negev). The review covers one manufacturer/exporter of this merchandise to the United States, Negev, and its merger with Rotem. We have now completed this review and determine that, for purposes of applying the antidumping duty law, Rotem is the successor to Negev and, as such, is subject to the revocation which applied to Negev.

EFFECTIVE DATE: February 14, 1994.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

On November 5, 1993, the Department of Commerce (the Department) published in the *Federal Register* the preliminary results of its antidumping duty changed circumstances review on industrial phosphoric acid from Israel (58 FR 59010). We have now completed this changed circumstances review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are shipments of industrial phosphoric acid (IPA). This product is currently classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule (HTS). The written description remains dispositive.

The review covers one manufacturer/exporter of this merchandise to the United States, Negev, and its merger with Rotem.

Successorship

In December 1991, Rotem and Negev, two companies within the Israeli Chemicals, Ltd. (ICL) group, merged to become one corporate entity, Rotem. Subsequent to the merger, Negev was revoked from the antidumping duty

order. (See Final Results of Antidumping Duty Administrative Review and Revocation In Part of the Antidumping Duty Order (57 FR 10008; March 23, 1992).) Before the merger, Rotem was not a producer of the subject merchandise and was never reviewed under this order.

Negev notified the Department in a March 30, 1992 letter that the company had merged with Rotem. The merger, which was finalized December 31, 1991, was effective retroactively to January 1, 1991. During verification, the Department examined Rotem's sales and found no evidence of industrial phosphoric acid sales prior to the merger. In the March 30, 1992 letter, Negev also identified Rotem as its successor and requested that the Department issue a determination applying Negev's revocation to Rotem. Rotem began to ship the subject merchandise to the United States on January 1, 1992. Its shipments have entered under the "all other" rate applicable to companies that had never been reviewed under the order.

The Department has determined that Rotem is the successor to Negev for purposes of applying the antidumping duty law. For a complete discussion of the basis for this decision see *Industrial Phosphoric Acid From Israel; Preliminary Results of Antidumping Duty Changed Circumstances Review*, November 5, 1993, (58 FR 59010).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioners, FMC Corporation and Monsanto, and from Rotem, the manufacturer/exporter covered by this review.

Comment 1: Petitioners argue that the legal test for determining successorship with respect to an antidumping duty order is that "the Department will consider the acquiring company to be a successor if its resulting operation is essentially similar to that of its predecessor." Brass Sheet and Strip from Canada: Preliminary Results of Antidumping Duty Administrative Review, (57 FR 5128, 5129; February 12, 1992). Petitioners maintain that after the merger, Rotem's operation was not essentially similar to either that of Rotem or the former Negev because, after the merger, Rotem became a fully integrated producer of both fertilizer

and industrial grade acid, as well as a producer of rock phosphate. Thus, the newly merged operations of Rotem constitute a company with a more integrated and expanded phosphoric acid production.

Petitioners also claim that in the preliminary results of the changed circumstances review, the Department failed to consider Rotem as a new business entity because the Department was only looking at industrial phosphoric acid. Petitioners argue that the proper legal standard for determining successorship is whether the "resulting operation" of the acquiring company is essentially similar to its predecessor. See Brass Sheet and Strip preliminary results. Therefore, the merged Rotem should be examined with respect to its overall operations, not just its operations with respect to the subject merchandise. Petitioners argue that since Rotem's operations are not the same as they were prior to the merger with respect to all types of merchandise, Rotem should not be treated as a successor to Negev.

In response to petitioners' argument that Rotem has become an integrated producer of phosphoric acid, respondent claims that Negev's production of the subject merchandise was in fact fully integrated before the merger. Although the merger further integrated the production of fertilizer grade acid, no changes have occurred with regard to the production of the subject merchandise.

Department's Position: We disagree with petitioners' assertion that the proper legal standard for determining successorship is whether the acquiring company is similar to its predecessor with respect to its overall operations. In the preliminary results for Brass Sheet and Strip, the Department found that "concerning production and sales of brass sheet and strip," the acquiring company was operating essentially as the same business entity as its predecessor. See Brass Sheet and Strip from Canada; Preliminary Results of Antidumping Duty Administrative Review, (57 FR 5128, 5129; February 12, 1992). Moreover, in the final results for Brass Sheet and Strip, the Department agreed that since respondent's business operation was essentially the same as that of its predecessor "with regard to the production of brass sheet and strip," the acquiring company was essentially the same operation as its predecessor. See Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review, (57 FR 20460, 20462; May 13, 1992). Thus, in this review, the Department has applied the same standard for determining

successorship as the standard which was applied in the preliminary and final results of Brass Sheet and Strip.

Insofar as no explicit legal standard for determining successorship is provided by the statute or the Department's regulations, the Department has discretion in deciding how to determine whether one company is a successor to another for purposes of the antidumping duty law. In Brass Sheet and Strip, the Department examined the described factors in terms of the operations which produce the subject merchandise. This has continued to be our approach in the instant review. The operation producing the subject merchandise is the appropriate level at which to focus our analysis because under the antidumping duty laws, we are examining pricing practices with respect to the subject merchandise. For example, in this case, the antidumping duty order applies only to industrial phosphoric acid and reviews are conducted only on sales of this merchandise. Thus it follows that an inquiry into the validity of a claim of successorship to a respondent company should focus on that company's sales and production of the merchandise encompassed by the order.

Comment 2: Petitioners claim that when examining the four elements for determining successorship: (1) Management, (2) production facilities, (3) supplier relationships, and (4) customer base, Rotem's operations are not a continuation of Negev's operations.

With regard to management, petitioners argue that with the resulting changes in the board of directors and the production management, there is a new and different management team in charge. Petitioners claim that there has not been a continuation of the former Negev management in the new Rotem.

Petitioners also claim that since Rotem acquired Negev's production facilities, Rotem's total production facilities are much more extensive than Negev's were. As a result of the merger, Rotem is a larger full-service phosphate and related products producer and is not the same company that Negev was before the merger.

Petitioners further maintain that supplier relationships have also changed as a result of the merger. The former Negev obtained important raw material inputs from Rotem, which was then a separate company. Since the merger, raw material input for the production of the subject merchandise is now supplied by captive internal production, which petitioners argue constitutes a significant change in supplier relationships.

As a result of the merger, petitioners also argue that Rotem now has a much larger and more diverse customer base than Negev had. Furthermore, prior to the merger, Rotem, as a fertilizer producer, had no customers in the United States and made no sales to the United States. Therefore, the merger opened up an entirely new market for Rotem.

In contrast, the respondent maintains that the petitioners have presented no arguments that had not already been taken into account in the preliminary results. Therefore, the Department has no grounds for reversing the preliminary determination.

With regard to changes in management, the respondent maintains that personnel changes as the result of the merger are minimal. Furthermore, respondent argues that sales staff for the subject merchandise remained the same and most of management, including top management in the company, retained their positions.

Respondent claims that when addressing changes in production facilities, petitioners focus, as when addressing other factors to determine successorship, on the production of non-subject merchandise. Prior to the merger, Negev and Rotem formed a part of the same parent company. These two companies were both located at the same plant site and shared some infrastructure. Moreover, products that were transferred from one company to another were transferred on special intra-company terms. According to the respondent, these elements demonstrate that there was no change in production facilities with regard to the subject merchandise.

Respondent argues that petitioners' premise regarding supplier relationships is completely erroneous. Respondent maintains that the raw material inputs obtained by Negev from Rotem are not essential or even necessary in the production of the subject merchandise. Furthermore, when these raw materials were obtained from Rotem prior to the merger, they were purchased under an intra-company pricing formula determined by the parent company. Therefore, there has been no change in suppliers.

With regard to customer base, respondent claims that the customer base for the subject merchandise did not change. Respondent argues that petitioners are focusing on sales of non-subject merchandise, as illustrated by their example of sales to new customer groups such as the farming community. According to the respondents, the farming community does not have a

need for the subject merchandise, industrial phosphoric acid.

Department's Position: We do not agree with petitioners' assertion that Rotem's operations are not essentially similar to Negev's operations prior to the merger in terms of: (1) Management, (2) production facilities, (3) supplier relationships, and (4) customer base, with regard to sales and production of the subject merchandise.

With regard to executive personnel, Negev and Rotem's board of directors consists of seven and five members, respectively. The president and three members of the board of directors, including the chairman of the board, are the same for both Negev and Rotem. Therefore, Rotem's five member board of directors includes three members that were also on Negev's board.

An examination of production management shows that production management was consolidated after the merger. Before the merger, there were two site managers and two operations managers, one set for Negev operations and the other for Rotem operations. Now there is one site manager and one operations manager for Rotem's industrial phosphoric acid and fertilizer acid facilities. After the merger, Negev's former vice-president became a Rotem executive vice-president. The Negev plant manager prior to the merger left the company, and Rotem's plant manager became the plant manager for both the Rotem and Negev plant facilities. Negev's former industrial phosphoric acid site manager remained with Rotem for about six months after the merger and was then replaced by Rotem's operations manager whose responsibilities became the management of both industrial phosphoric acid and fertilizer acid facilities. See Verification of the Questionnaire Response—

Antidumping Duty Order on Industrial Phosphoric Acid from Israel—Changed Circumstances Review; October 6, 1993.

The Department has considered these changes in Rotem's management and finds that the differences are minimal. The changes in Rotem's personnel are well within the normal range of personnel changes that one would expect over time within the same operation. For example, in the final results of Brass Sheet and Strip, the Department found one company to be the successor of another despite the fact that the successor company had replaced the two top managers at the acquired plant. See Brass Sheet and Strip Final Results of Antidumping Duty Administrative Review, (57 FR 20462; May 13, 1992).

With regard to production facilities, we agree with respondents that

petitioners improperly focus on the production of non-subject merchandise to support their claim that Rotem's total production is more extensive and diverse. Rotem did not alter production or the production facilities of the subject merchandise at the time of the merger. Moreover, the subject merchandise continued to be manufactured in the former company's plant facilities. Furthermore, eleven months after the merger, the Department verified that Rotem had not altered production or production facilities for the subject merchandise subsequent to the merger.

When reviewing supplier relationships, petitioners argue that as a result of the merger, Rotem now has a captive source of supply for certain raw material inputs necessary for production of the subject merchandise. During verification, the Department carefully examined supplier relationships for all raw material inputs in the production of the subject merchandise and found that the source of supplies for these inputs did not change after the merger. As respondents point out, before the merger Negev purchased raw material inputs from Rotem at intra-company prices and, after the merger, Rotem continued to supply these inputs.

Finally, in their discussion of changes in customer base, petitioners submit that as a result of the merger, Rotem has a larger and more diverse customer base. As in their evaluation of other factors, petitioners focus on the inclusion of Rotem's customers for non-subject merchandise. As stated in our response to comment one, the appropriate focus of our analysis is the subject merchandise. We agree with the respondents that the customer base for Rotem's sales of the subject merchandise did not change after the merger.

Finally, as requested, Rotem has submitted an agreement as set forth at § 353.25(a)(2)(iii) to be reinstated in the order should the Secretary conclude under § 353.22(f) that the company, subsequent to revocation, sold industrial phosphoric acid at less than foreign market value.

In conclusion, after reviewing all comments, the Department determines that Rotem is the successor to Negev.

Final Results of Review

After reviewing the comments received, we determine that Rotem is successor to Negev and, accordingly, is not subject to the antidumping duty order. We will instruct customs to liquidate all entries of this merchandise produced by Rotem, exported to the United States and entered, or withdrawn from warehouse, for

consumption, on or after January 1, 1991. In addition, the Department will instruct the Customs Service to terminate suspension of liquidation on entries from Rotem and to liquidate, without regard to antidumping duties, merchandise exported by Rotem on or after January 1, 1991.

This changed circumstances review and notice are in accordance with section 751(b)(1) of the Act (19 U.S.C. 1675(b)(1)) and 19 CFR 353.22(f).

Dated: February 8, 1994.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94-3393 Filed 2-11-94; 8:45 am]

BILLING CODE 3510-DS-P

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Notice of Decision of Panel

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of panel.

SUMMARY: By a decision dated January 28, 1994, the Binational Panel reviewing the redetermination on remand of the final affirmative material injury determination made by the U.S. International Trade Commission respecting Certain Softwood Lumber Products from Canada (Secretariat File No. USA-92-1904-02) affirmed in part and remanded in part the redetermination to the Commission for further action. A copy of the complete panel decision is available from the Binational Secretariat.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other 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.