

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-373 (Final) and 731-TA-769-775 (Final)]

Stainless Steel Wire Rod¹ From Germany, Italy, Japan, Korea, Spain, Sweden, and Taiwan

Determinations

On the basis of the record² developed in the subject investigations, the United States International Trade Commission determines,³ pursuant to section 705(b) of the Tariff Act of 1930 (the Act) (19 U.S.C. 1671d(b)), that an industry in the United States is materially injured by reason of imports from Italy of stainless steel wire rod, provided for in subheading 7221.00.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be subsidized by the Government of Italy and the European Union.

Also, the Commission determines,⁴ pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured by reason of imports from Italy, Japan, Korea, Spain, Sweden, and Taiwan of stainless steel wire rod that have been

¹ For purposes of these investigations, stainless steel wire rod is defined as stainless steel products that are hot-rolled or hot-rolled annealed and/or descaled rounds, squares, octagons, hexagons, or other shapes, in coils, that may also be coated with a lubricant containing copper, lime or oxalate. Stainless steel wire rod is made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. Stainless steel wire rod is manufactured only by hot-rolling or hot-rolling, annealing, and/or pickling and/or descaling, is normally sold in coiled form, and is of solid cross section. Most stainless steel wire rod sold in the United States is round in cross-sectional shape, annealed and pickled, and later cold-finished into stainless steel wire or small-diameter bar. The most common size for stainless steel wire rod is 5.5 millimeters (0.217 inch) in diameter, which represents the smallest size that normally is produced on a rolling mill and is the size that most wire-drawing machines are set up to draw. The range of stainless steel wire rod sizes normally sold in the United States is between 0.20 inch and 1.312 inches in diameter. Stainless steel wire rod grades SF20T and K-M35FL are excluded from the scope of these investigations; additionally, grades Kanthal A-1, Kanthal AF, Kanthal A, Kanthal D, Kanthal DT, Alkrothal 14, Alkrothal 720, and Nikrothal 40 are excluded from the investigation concerning Sweden. Stainless steel wire rod is provided for in subheading 7221.00.00 of the Harmonized Tariff Schedule (HTS) with a 1998 column 1-general tariff rate of 2.8 percent *ad valorem*, applicable to products of each of the subject countries.

² The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

³ Commissioners Carol T. Crawford and Thelma J. Askey dissenting and Commissioner Jennifer A. Hillman not participating.

⁴ Commissioners Carol T. Crawford and Thelma J. Askey dissenting and Commissioner Jennifer A. Hillman not participating.

found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Further, the Commission determines, pursuant to sections 735(b) and 771(24) of the Act (19 U.S.C. 1673d(b) and 1677(24)), that an industry in the United States is not threatened with material injury by reason of imports from Germany of stainless steel wire rod that have been found by the Department of Commerce to be sold in the United States at LTFV.^{5 6 7 8}

Background

The Commission instituted these investigations effective July 30, 1997, following receipt of a petition filed with the Commission and the Department of Commerce by counsel on behalf of AL Tech Specialty Steel Corp., Dunkirk, NY; Carpenter Technology Corp., Reading, PA; Republic Engineered Steels, Inc., Massillon, OH; Talley Metals Technology, Inc., Hartsville, SC; and the United Steelworkers of America, AFL-CIO/CLC. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by the Department of Commerce that imports of stainless steel wire rod from Italy were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and imports of stainless steel wire rod from Germany, Italy, Japan, Korea, Spain, Sweden, and Taiwan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 23, 1998 (63 FR 13872). The hearing was held in Washington, DC, on July 22, 1998, and all persons who requested the opportunity were permitted to appear in person or by counsel.

⁵ Pursuant to 19 U.S.C. § 1677(24)(A)(i) and (iv), the Commission also finds that subject imports from Germany account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period preceding the filing of the petition, but (Commissioner Carol T. Crawford dissenting) that there is a potential that such imports from Germany will imminently account for more than 3 percent of total import volume of all such merchandise.

⁶ Commissioner Carol T. Crawford finds subject imports from Germany to be negligible.

⁷ Chairman Lynn M. Bragg finds a threat of material injury by reason of subject German imports.

⁸ Commissioner Jennifer A. Hillman not participating.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on September 8, 1998. The views of the Commission are contained in USITC Publication 3126 (September 1998), entitled Stainless Steel Wire Rod From Germany, Italy, Japan, Korea, Spain, Sweden, and Taiwan: Investigations Nos. 701-TA-373 (Final) and 731-TA-769-775 (Final).

By order of the Commission.

Issued: September 10, 1998.

Donna R. Koehnke,

Secretary.

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98-43; Exemption Application No. D-10547, et al.]

Grant of Individual Exemptions; Individual Retirement Accounts (the IRAs) for Marcia A. Hendrichsen, Larry L. Hendrichsen, Lawrence D. Hendrichsen, Located in Burlington, IA; William H. Napier, George Rashid, Jr., Jake E. Rashid, Carl A. Saunders, and John C. Schuldt, Located in Fort Madison, IA (Collectively, the Participants), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The

applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Individual Retirement Accounts (the IRAs) for Marcia A. Hendrichsen, Larry L. Hendrichsen, Lawrence D. Hendrichsen, Located in Burlington, Iowa; William H. Napier, George Rashid, Jr., Jake E. Rashid, Carl A. Saunders, and John C. Schuldt, Located in Fort Madison, Iowa (Collectively, the Participants)

[Prohibited Transaction Exemption 98-43; Exemption Application Number: D-10547]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale (the Sale) of certain membership units (the Units) in the Catfish Bend Casinos, L.C., by the IRAs to the Participants, disqualified persons with respect to the IRAs, provided that the following conditions are met:

(a) The Sale of the Units by each IRA is a one-time transaction for cash;

(b) The terms and conditions of each Sale are at least as favorable to each IRA as those obtainable in an arm's length transaction with an unrelated party;

(c) Each IRA receives the fair market value of the Units at the time of each Sale; and

(d) Each IRA is not required to pay any commissions, costs or other expenses in connection with each Sale.

For a more complete statement of the facts and circumstances supporting the Department's decision to grant this exemption, refer to the notice of the proposed exemption published on Thursday, August 6, 1998 at 63 FR 42076.

For Further Information Contact: Mr. James Scott Frazier of the Department, telephone (202) 219-8881. (This is not a toll-free number).

R & J Hoffmann, Inc. Profit Sharing Plan (the Plan) Located in Fremont, California

[Prohibited Transaction Exemption 98-44; Exemption Application No. D-10572]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) the loan (the Loan) of \$53,240 by the Plan to R & J Hoffmann, Inc. (the Employer), a disqualified person with respect to the Plan; and (2) the personal guarantee of the Loan by Richard and Angela Hoffmann (the Hoffmanns), provided the following conditions are satisfied: (a) the terms of the Loan are at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party; (b) the Loan does not exceed 25% of the assets of the Plan; (c) the Loan is secured by a second mortgage on certain real property (the Property) which has been appraised by a qualified independent appraiser to have a fair market value not less than 150% of the amount of the Loan plus the balance of the first mortgage which it secures; (d) the Hoffmanns have also personally guaranteed the Loan; (e) in the event that the fair market value of the Property is no longer adequate to secure all outstanding loans, additional property will be pledged to the Plan to secure the Loan at an amount equal to at least 150% of the outstanding principal balance of all loans secured by the Property; and (f) the Hoffmanns are the only Plan participants to be affected by the Loan.²

For a more complete statement of the facts and representations supporting the

Department's decision to grant this exemption refer to the notice of proposed exemption published on July 20, 1998 at 63 FR 38859.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

Kilpatrick Investment Company Employee's Pension Plan (the Plan); Located in Oklahoma City, Oklahoma

[Prohibited Transaction Exemption 98-45; Application No.: D-10607]

Exemption

The restrictions of sections 406(a) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of 4975(c)(1)(A) through (E) of the Code, shall not apply to the past sale (the Sale) of improved real property (the Property) by the Plan to the Kilpatrick Investment Company (the Company), a party in interest with respect to the Plan provided the following conditions were met at the time of the Sale: (1) the terms of the Sale were at least as favorable as those the Plan could have obtained in an arm's length transaction with an unrelated party; (2) the fair market value of the Property was determined by an independent and qualified real estate appraiser; (3) the Sale price was equal to the greater of: (a) the fair market value of the Property at the time of the Sale, or (b) \$134,600 (which represents the price the Plan originally paid for the Property plus the holding costs incurred by the Plan during the Plan's ownership of the Property); and (4) the Plan paid no commissions or expenses associated with the Sale.

Effective Date: If granted, this proposed exemption will be effective as of April 15, 1998.

For a more complete statement of facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 8, 1998 at 63 FR 36957.

For Further Information Contact: Allison Padams Lavigne of the Department, telephone (202) 219-8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions

¹ Because each IRA has only one participant, there is no jurisdiction under 29 CFR § 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

² Since the Hoffmanns are the sole owner of the Employer and the only participants in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 10th day of September, 1998.

Ivan Strasfeld,

*Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
Department of Labor.*

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D-10379, et al.]

Proposed Exemptions; John Taylor Fertilizers Company Profit Sharing Plan (the Plan)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of

proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N-5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section

102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

John Taylor Fertilizers Company Profit Sharing Plan (The Plan) Sacramento, California

[Application No. D-10379]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975 (c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the Plan of an undivided 16.28% interest (Leasehold Interest) in a certain leasehold (Leasehold) of a professional office complex (Office Complex) located in Sacramento, California, to John Taylor Fertilizers Company (the Company), a party in interest with respect to the Plan, provided that the following conditions are satisfied:

(A) All terms of the transaction are at least as favorable to the Plan as those which the Plan could obtain in an arm's-length transaction with an unrelated party;

(B) The sale is a one-time transaction for cash;

(C) The Plan pays no commissions or other expenses relating to the sale;

(D) The purchase price is the greater of: (1) the fair market value of the Leasehold Interest as determined by a qualified, independent appraiser, or (2) the original acquisition cost, plus all costs attributable to holding the Leasehold Interest through the date of the sale;

(E) The Plan receives rental income due and owing to the Plan through the date of the sale.