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## Czech Republic

**Post:** Prague

### **FAS Prague saved USD 100 000 Almond Shipment from Destruction**

**Report Categories:**

Export Accomplishments - Other

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**Report Highlights:**

On January 22, 2013, the California Almond Board notified FAS Prague that a shipment of U.S. almonds had been detained at the Customs Office warehouse in the Czech Republic due to the product exceeding the worldwide safe threshold for aflatoxin levels. Czech authorities had instructed the \$100,000 consignment be destroyed but FAS Prague's intervention and facilitation resulted in the consignment's return to the U.S.

## **Executive Summary:**

In January 2013, Czech Health Authorities detained a container of California almonds due to detection of aflatoxin at levels above the legal threshold and ordered its destruction. FAS intervened, addressed satisfactorily the concerns of food safety authority, resulting in its removal of the consignment detention order to allow for re-export to the United States. However, disagreement with the Customs Warehouse in Rudna, near Prague, over the storage fee assessment delayed the re-export process until the Czech importer and German broker could settle on payment responsibilities on the outstanding fees. The Czech Customs Law established a fee schedule that contains a quirk resulting with trebling of charges on long-term storage at government facilities.

## **General Information:**

On January 22, 2013, the California Almond Board notified FAS Prague and FAS Warsaw of a border rejection of a shipment of U.S. almonds due to aflatoxin detection. The shipment was held in detention by the Customs Office warehouse in Rudna near Prague, Czech Republic.

FAS Prague engaged the Czech importer and the Czech Customs Office in Rudna, learned that the shipment had been rejected for exceeding the EU tolerance for aflatoxin and had been ordered destroyed absent official confirmation the consignment would be accepted if allowed re-export to its origin, the United States.

FAS Prague contacted the Almond Board of California (ABC) to obtain FDA's approval per terms of the VASP program. FDA's approval is in the form of a generic letter that states a consignment detained by European authorities on the basis of aflatoxin testing could be returned to the United States. The letter described the procedure for initiating a return, and authorized the Almond Board of California to relay such information to European Authorities for VASP shipments. The letter also included the eVASP identification of a shipment.

The importer requested a second aflatoxin test which, on initial reading showed the product as safe for consumption. This reading proved a misinterpretation however. When placed into context with the total amount of almonds and properly interpreted, the second result showed an aflatoxin concentration almost identical with the original test result. When the second test result exceeded the world established tolerance for aflatoxin, control of the matter reverted to the Czech Agricultural and Food Inspection Authority (CAFIA) headquarters, based in Brno, as regional offices, such as in Prague, lacked necessary decision making authority in this situation. For the importer, this shift in oversight authority also meant the clock for reviewing the case by the government's health body restarted over.

CAFIA found the FDA letter supplied by the ABC too general, insufficient in specificity and did not show a direct linkage to the detained consignment. The importer was advised that due to insufficient confirmation of the shipment's acceptability on return to the United States, the consignment would need to be destroyed.

FAS Prague intervened again, consulted FAS Brussels on EU legislation related to the VASP program,

and gained Czech authority consideration of USDA providing shipment information to augment the FDA letter, a procedure allowable under the VASP program legislation.

Meanwhile FAS Warsaw began work begun by FAS Prague with the Almond Board of California, the U.S. almond supplier, the California offices of the Agricultural Marketing Service (AMS), Food and Drug Administration (FDA) and the European handler to compile the relevant data sought by the Czech authorities. USDA's regional Agricultural Attaché provided the VASP legislation obtained by FAS Prague, and a letter providing the missing shipment-related data sought by Czech health authorities. The information provided the basis for the health authority to remove the detention order necessary for the consignment to be returned to the United States. On March 8, 2013, the Czech importer received official notification from the health authority of the consignment's release.

The storage fee issue came to light when the Czech importer sought release of the shipment. The Czech Customs Office had held the commodity at the government's Rudna warehouse facility. Czech legislation (Customs Act no. 13/1993) defined the fee rate, 20 percent of commodity value for storage in excess of three months. Officials recognized the glitch in the legislation which omitted the option for monthly rate or flat percent of value offered on storage incremental of up to three months but held no legal authority to adjust the invoice.

The almond's degraded condition, due to improper storage and treatment (fumigation, etc) in the government warehouse, caused additional tension between the German trader and the Czech importer as they negotiated on storage payment responsibility and product release. FAS Warsaw consulted the Almond Board of California regarding the Customs Law and possible solutions. The consignment was returned to Germany, treated to bring the mycotoxin level within U.S. standards, and re-exported to the United States.

U.S. origin almonds have steadily grown in popularity among the Czech processing and snack food sectors. In 2012 U.S. almonds direct sales to the Czech Republic exceeded \$16 million. In 2011, this U.S. almond trade stood at \$15.43 million, and up from the 2008 level of \$11.89 million. FAS Prague and FAS Warsaw see this commodity as having significant growth potential in the region due to rising interest in healthy diets laced with tree nuts and dried fruit. At the current level of interest the market for U.S. almonds is foreseen to top \$22.3 million within five years.

FAS Prague and FAS Warsaw used the opportunity provided by this event to enhance working relations with both the Czech Health Authority and the Customs Agency, the latter whom we had dealt with infrequently. The extra time and effort extended to provide information about the EU approved U.S. VASP program, the central role the Almond Board of California with the program's implementation, and the responsibilities of the three US government agencies involved in resolution of this matter (FDA, and USDA's AMS and FAS) seemed genuinely appreciated. The two Czech authorities proved very professional in their work and we believe now that if future issues arise they will be receptive to our fact-finding overtures and our efforts to help resolve such trade matters.

