



DEPARTMENT OF COMMERCE

International Trade Administration

(A-489-805)

Certain Pasta from Turkey; 2010-2011; Final Results of Antidumping Duty Administrative Review

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 certain pasta (pasta) from Turkey. The period of review (POR) is July 1, 2010, through June 30, 2011, and covers TAT Makarnacilik Sanayi ve Ticaret A.S. (TAT), and Marsan Gida Sanayi ve Ticaret A.S. (Marsan) and its claimed affiliates Birlik Pazarlama Sanayi ve Ticaret A.S. (Birlik), Bellini Gida Sanayi A.S. (Bellini), and Marsa Yag Sanayi ve Ticaret A.S. (Marsa Yag). Based on our analysis of the comments received, we have not made any changes in the margin calculation for Marsan. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled “Final Results of Review.”

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Stephanie Moore (Marsan, Birlik, Bellini, and Marsan Yag), Victoria Cho (TAT) or Robert James, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3692, (202) 482-5075, or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 2012, the Department published the Preliminary Results,¹ and invited interested parties to comment. On October 19, 2012, Marsan Gida Sanayi ve Ticaret A.S., (Marsan) filed a case brief, and the petitioners² filed a case brief with respect to TAT. On October 24, 2012, petitioners filed a rebuttal brief. On December 21, 2012, the Department issued a post-preliminary analysis decision memorandum of the targeting dumping allegation with respect to Marsan.³ At that time, we invited parties to comment on the Department's analysis in addressing the petitioners' targeted dumping allegation in this review. The Department did not receive any comments on its post-preliminary decision memorandum.

Period of Review

The POR covered by this review is July 1, 2010, through June 30, 2011.

Scope of the Order

The merchandise covered by this order are certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions. Excluded from the scope of this review are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is

¹ See Certain Pasta From Turkey: Notice of Preliminary Results of the 2010–2011 Antidumping Duty Administrative Review, 77 FR 46694 (August 6, 2012) (Preliminary Results).

² New World Pasta Company, Dakota Growers Pasta Company & American Italian Pasta Company (petitioners).

³ See Memorandum to Lynn Fischer Fox, Acting Assistant Secretary for Import Administration, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations titled "2010/2011 Review of the Antidumping Duty Order on Certain Pasta (pasta) from Turkey: Post-Preliminary Analysis Memorandum, dated December 21, 2012.

provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in Appendix I to this notice and addressed in the Issues and Decision Memorandum, dated concurrently with, and hereby adopted by, this notice.⁴ The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce Building, as well as electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and is available to all parties in the CRU. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/frn/index.html>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

⁴ See Issues and Decision Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, titled "Final Results of the Antidumping Duty Administrative Review: Certain Pasta from Turkey; 2010 - 2011," dated February 4, 2013.

Final Results of Review

As a result of this review, we determine that the following weighted-average dumping margins exist for the period July 1, 2010, through June 30, 2011:

Manufacturer/Exporter	Weighted-Average Dumping Margin (percent)
TAT	0.00
Birlik ⁵	0.00
Bellini ⁶	0.00
Bellini/Marsan ⁷	0.00

Disclosure

In accordance with 19 CFR 351.224(b), we will disclose calculation memorandums used in our analysis to parties to these proceedings within five days of the date of publication of this notice.

Assessment

Pursuant to section 751(a)(2)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

For assessment purposes, the Department applied the assessment rate calculation method

⁵ The Department has found Marsan not to be affiliated with Birlik or Bellini, prior to June 2, 2011. Birlik ceased operation of the pasta production facility in October 2010 and at the same time Bellini took over operation of the pasta production facility from Birlik. See the Issues and Decision Memorandum, Preliminary Results, and Memorandum to Melissa Skinner, Office Director, Office 3 from the Team, titled "Whether to Treat Marsan and its Claimed Affiliates as a Single Entity for Margin Calculation Purposes," dated July 30, 2012 (Affiliation/Collapsing Memo).

⁶ See id.

⁷ As indicated in the Issues and Decision Memorandum, Preliminary Results, and Affiliation/Collapsing Memo, the Department has treated Bellini and Marsan as a single entity for the last month of the POR.

adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012).

We calculated such rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales for which entered value was reported. If an importer-specific assessment rate is zero or de minimis (i.e., less than 0.50 percent) or the exporter has a weighted-average dumping margin that is zero or de minimis, the Department will instruct CBP to assess that importer's entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2).

The Department clarified its "automatic assessment" regulation on May 6, 2003.⁸ This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the country-specific all-others rate established in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice of final results of the administrative review for all shipments of subject merchandise entered or withdrawn from warehouse, for consumption, on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for the companies subject to this review, the cash deposit rate will be the respective rates established in the final results of this review, as listed above; (2) for previously reviewed or investigated companies not listed above that have their own rates, the

⁸ See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previously completed segment conducted under this proceeding by the Department, the cash deposit rate will be 51.49 percent, the all-others rate, established in the LTFV investigation.⁹ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent increase in antidumping duties by the amount of antidumping and/or countervailing duties reimbursed.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

⁹ See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Turkey, 61 FR 38545 (July 24, 1996).

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

Dated: February 4, 2013.

Appendix I -- Issues in Issues and Decision Memorandum

Marsan

- Comment 1: Whether Marsan was affiliated with Ulker/Bellini/Birlik throughout the POR
- Comment 2: Whether the Department should assign a deposit rate to Eksper Gida
- Comment 3: Whether the Department should assign a deposit rate to Bellini
- Comment 4: Whether the Department should have calculated a weighted-average cost for Birlik and Bellini
- Comment 5: Whether the Department erred in increasing Bellini's cost of manufacture

TAT

- Comment 6: The commercial reasonableness of TAT's U.S. sales
- Comment 7: Alleged SAS errors in the Preliminary Results
- Comment 8: TAT's liquidation instructions

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