

Mastromauro S.p.A. (“Riscossa”), Rummo S.p.A. Molino e Pastificio (“Rummo”), and Rustichella d’Abruzzo S.p.A. (“Rustichella”).²

Scope of the Order

Imports covered by this order are shipments of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, 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 order 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. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, by Associazione Italiana per l’Agricoltura Biologica, by Codex S.r.L., by Bioagricert S.r.L., or by Istituto per la Certificazione Etica e Ambientale. Effective July 1, 2008, gluten free pasta is also excluded from this order. *See Certain Pasta From Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part*, 74 FR 41120 (August 14, 2009). The merchandise subject to this order is currently classifiable under items 1902.19.20 and 1901.90.9095 of the *Harmonized Tariff Schedule of the United States (“HTSUS”)*. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Partial Rescission of the 2009–2010 Administrative Review

On September 13, 2010, the Department announced its intention to select mandatory respondents based on U.S. Customs and Border Protection (“CBP”) data.³ On October 10, 2010, the Department selected Garofalo and

Tomasello as mandatory respondents.⁴ On November 12, 2010, counsel for Afeltra, Agritalia, Di Martino, Felicetti, Labor, PAM, Erasmo, P.A.P., Riscossa, Rustichella, and Zara (collectively “certain non-mandatory respondents”) requested that the Department extend the deadline to withdraw from the instant review for 45 days. On November 24, 2010, the Department declined to modify the 90-day deadline for parties to withdraw their requests for review. *See* the Department’s letter to counsel for the certain non-mandatory respondents, dated November 24, 2010. On November 29, 2010, Di Martino, Felicetti, and Zara withdrew their requests for a review.

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. The instant review was initiated on August 31, 2010. *See Initiation Notice*. Di Martino, Felicetti, and Zara’s withdrawal of their requests for a review falls within the 90-day deadline. No other party requested an administrative review of these particular companies. Therefore, in accordance with 19 CFR 351.213(d)(1), and consistent with our practice, we are rescinding this review of the antidumping duty order on certain pasta from Italy, in part, with respect to Di Martino, Felicetti, and Zara.⁵ The instant review will continue with respect to Agritalia, Erasmo, Indalco, Labor, Tomasello, PAM, P.A.P., Afeltra, Fabianelli, Garofalo, Riscossa, Rummo, and Rustichella.

Assessment

The Department will instruct CBP to assess antidumping duties on all appropriate entries. For the companies for which this review is rescinded, Di Martino, Felicetti, and Zara, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period July 1, 2009, through June 30, 2010, in accordance with 19 CFR 351.212(c)(1)(i).

⁴ *See* Memorandum from Christopher Hargett to Melissa Skinner titled “Selection of Respondents for Individual Review,” dated October 10, 2010.

⁵ *See e.g., Certain Lined Paper Products From India: Notice of Partial Rescission of Antidumping Duty Administrative Review and Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 21781 (May 11, 2009); *see also Carbon Steel Butt-Weld Pipe Fittings from Thailand: Rescission of Antidumping Duty Administrative Review*, 74 FR 7218 (February 13, 2009).

The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping 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 duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective orders (“APOs”) of their responsibility concerning the disposition of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: April 25, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–10426 Filed 4–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–805]

Certain Pasta From Turkey: Notice of Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to a request from petitioners¹ to conduct an administrative review of Marsan Gida Sanayi ve Ticaret A.S. (Marsan), the

¹ New World Pasta Company, American Italian Pasta Company, and Dakota Growers Pasta Company (collectively, petitioners).

² *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Initiation of Administrative Review*, 75 FR 53274, (August 31, 2010) (“*Initiation Notice*”).

³ *See* Memorandum from Christopher Hargett to Melissa Skinner titled “Customs and Border Protection Data for Selection of Respondents for Individual Review,” dated September 13, 2010.

Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on certain pasta (pasta) from Turkey. The period of review (POR) is July 1, 2009, through June 30, 2010. As discussed below, we preliminarily find that Marsan was not a producer of subject merchandise during the POR. In addition, because the producer of subject merchandise, Birlik Paz. San. ve Tic. A.S. (Birlik), had knowledge that the pasta it produced and sold to Marsan was destined for the United States, we preliminarily determine that Marsan had no reviewable entries during the POR.

Interested parties are invited to comment on these preliminary results. We intend to issue the final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

DATES: *Effective Date:* April 29, 2011.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Cindy Robinson, 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 and (202) 482-3797, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on pasta from Turkey. 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) (*Amended Final Determination*). On July 1, 2010, we published in the **Federal Register** the notice of "Opportunity to Request Administrative Review" of this order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 75 FR 38074 (July 1, 2010). On July 30, 2010, we received a request from petitioners to review Marsan, in accordance with 19 CFR 351.213(b)(1). On August 31, 2010, we published the notice of initiation of review of Marsan (successor-in-interest to Gidasa Sabanci gida Sanayi ve Ticaret ("Gidasa")). See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Initiation of Administrative Review*, 75 FR 53274 (August 31, 2010); see also *Certain Pasta from Turkey: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 74 FR

26373 (June 2, 2009) (determining that Marsan is the successor-in-interest to Gidasa in the antidumping duty proceeding).

The Department disregarded sales that failed the cost test during the most recently completed segment of the proceeding in which this company participated.² Therefore, pursuant to section 773(b)(2)(A)(ii) of the Act, we had reasonable grounds to believe or suspect that sales by this company of the foreign like product under consideration for the determination of normal value in this review were made at prices below the cost of production. Thus, we initiated a cost investigation of Marsan at the time we initiated the antidumping review.

On September 15, 2010, we sent the antidumping duty questionnaire for Sections A through D to Marsan. Marsan submitted its response to the initial questionnaire for Sections A through D on November 12, 2010. From December 3, 2010, to February 15, 2011, supplemental questionnaires were issued to Marsan, and responses were submitted to the Department from December 10, 2010, to March 9, 2011. In its response to Section D, Marsan submitted cost information on behalf of Birlik. On April 12, 2010, the Department extended the time limit for the preliminary results of this proceeding until no later than May 4, 2011.³

Period of Review

The POR covered by this review is July 1, 2009, through June 30, 2010.

Scope of Review

Imports covered by this review are shipments of 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 provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Whether Marsan Is Affiliated With the Producer

Marsan asserts that it is affiliated with the producer of subject merchandise, Birlik, part of the larger Ulker group business structure, because a principal shareholder of MGS Marmara Gida San. ve Tic. A.S. (MGS), Marsan's holding company, is also a shareholder in BIM Birlesik Magazalar (BIM). BIM is owned 12 percent by Ulker Biskuvi, which is also an Ulker group company. See November 12, 2010, questionnaire response at 9. Marsan argues that, under the Department's rules for affiliation, because the owner of Marsan is affiliated with the Ulker group, Marsan is also affiliated with the Ulker group.

Marsan states that prior to November 2008, it owned and operated the Hendek facility in Hendek, Turkey and produced pasta at that facility. On November 4, 2008, Marsan leased the entire Hendek facility to Birlik. Under the lease agreement, Marsan contracted with Birlik to produce PIYALE pasta (Marsan's brand) until November 2009. Marsan argues that, although it retained ownership of the assets in the Hendek facility as of November 2008, Birlik took over the pasta production and became Marsan's sole supplier. See January 24, 2011, questionnaire response at 7. In December 2009, Marsan sold the durum wheat milling equipment and the pasta production equipment to the company Olkusan (renamed Bellini in April 2010), which is also an Ulker group company. See November 12, 2010, questionnaire response at 5. Marsan continued ownership of the Hendek facility buildings and silos as well as the soft wheat milling equipment, which Marsan had continued to lease to Birlik until June 1, 2010. In June 2010, Marsan leased all of its assets in the Hendek facility to Bellini. Bellini then contracted with Birlik for Birlik to continue pasta production. See *id.*

Marsan asserts that the Ulker group exercised control-in-fact over Marsan because Marsan increasingly lost its independence, first by selling the durum mill and pasta plant to Olkusan/

² The administrative review covering the period July 1, 1998, through June 30, 1999, was the most recently completed review for Marsan's predecessor. See *Notice of Final Results of Antidumping Duty Administrative Review: Certain Pasta from Turkey*, 64 FR 69493 (December 13, 1999).

³ See *Certain Pasta From Turkey: Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 20312 (April 12, 2011).

Bellini (an Ulker group company). Marsan further asserts that the Ulker group exercises full operational and strategic control over Birlik with respect to the brands sold by Birlik, Birlik's customers (Birlik is a supplier only to Marsan and to Ulker group companies), and Birlik's product line. Marsan argues that because, it is co-dependent on Birlik, the Ulker group effectively exercises considerable control over Marsan's domestic sales activities. See November 12, 2010, questionnaire response at 12.

Marsan surmises that even if there were no intertwining of activities, the mere fact of cross-ownership between the owner of MGS and the Ulker Group, coupled with the potential for mutual influence inherent in the sole supplier/customer relationship between Marsan and Birlik/Bellini, compels the conclusion that the parties are affiliated for antidumping purposes.

The Department preliminary finds that Marsan and Birlik are not affiliated under section 771(33) of the Act. Pursuant to section 771(33) of the Act, an affiliated person may be: (A) a family member; (B) an officer or director of an organization; (C) partners; (D) employers and their employees; (E) any person or organization directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and that organization; (F) two or more persons who directly or indirectly control, are controlled by, or are under common control with, any person; and (G) any person who controls any other person and such other person.

To determine affiliation between companies, the Department must find at least one of the criteria above is applicable to the respondent. As defined by section 771(33) of the Act, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person. Section 351.102(b)(3) of the Department's regulations provides that in finding affiliation based on control, the Department will, among other factors, consider (i) corporate or family groupings; (ii) franchise or joint venture agreements; (iii) debt financing; and (iv) close supplier relationships. In determining whether control exists, the Department does not require evidence of the actual exercise of control by one party over another party. Rather, we focus upon one party's ability to control the other.⁴ In the present case, we do

⁴ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27297–98 (May 19, 1997) (*Final Rule*).

not find the existence of an affiliation, as defined by the statute, between Marsan and Birlik. First, the evidence on the record shows that there is no direct cross-ownership between Marsan and Birlik. The only ownership the parties have in common is that the majority owner of Marsan's parent company and Birlik's parent company each own shares in BIM, a third party. See *id.*, at 9. Thus, nothing about this ownership creates affiliation pursuant to section 771(33) of the Act. Due to the proprietary nature of this issue, see Preliminary Results Memorandum to Melissa G. Skinner, Office Director, AD/CVD Operations 3 from the Team regarding Marsan's Affiliation, dated April 4, 2011.

We preliminarily find that Marsan's argument of affiliation based on control and a close supplier relationship between Marsan and Birlik do not meet the standards for affiliation based on a close supplier relationship, within the meaning of section 771(33)(G) of the Act. Section 771(33)(G) of the Act defines an affiliated party as "any person who controls any other person and such other person." Section 771(33) of the Act states further that "a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person."

The Statement of Administrative Action (SAA) defines a close supplier relationship as one where "the supplier or buyer becomes reliant upon another."⁵ To establish a close supplier relationship, the party must demonstrate that the "relationship is so significant that it could not be replaced."⁶ The Department's regulations at 19 CFR 351.102(b), states that such a relationship must have the potential to impact decisions concerning the production, pricing or cost of the subject merchandise or foreign like product. In *Stainless Steel Wire Rod*, for instance, the Department found a close supplier relationship between two companies based on the fact that the purchaser, whose operations were almost exclusively dependent upon finishing unfinished stainless steel wire rod (also known as black coil), was not able to obtain

⁵ SAA accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, vol. 1 at 838 (1994); see also *Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 1139, 1142–43 (January 7, 2000), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 42669 (July 11, 2000).

⁶ *Id.*

suitable black coil from sources other than the supplier in question.⁷

The information on the record of this case does not support Marsan's argument of affiliation based on control and a close supplier relationship between Marsan and Birlik. The record indicates that during the POR, Marsan and Birlik entered into a lease and contract production agreement. Under the terms of the agreement, Marsan leased its Hendek pasta production facility to Birlik for a fee, and Birlik produced and sold PIYALE pasta (Marsan's brand) to Marsan. See November 12, 2010, questionnaire response at 5–6, and Exhibit 2. Although Birlik acts as Marsan's sole supplier under the terms of the contract production agreement, Birlik produces pasta for other companies in the Ulker group. See *id.* See also January 24, 2011, questionnaire response at 7.

Although Marsan argues that the Ulker group exercises full operational and strategic control over Birlik with respect to its product line and its customers, there is no record evidence that Birlik determined the types of pasta it produces for Marsan or that Marsan was fully inhibited to purchase pasta from other suppliers. Nothing in the contract production agreement between Marsan and Birlik indicates that either party could control the pricing of the other party. See November 12, 2010, questionnaire response at Exhibit 2. To the extent that the production agreement between Marsan and Birlik can be considered an exclusive sales contract, the Department has previously recognized such a commercial arrangement to be "common" in that it is typically made at arm's length and does not normally indicate control of one party over the other.⁸ Moreover, the Court of International Trade has held that, even where there are exclusive sales contracts, the Department has properly found that such contracts alone were insufficient to support an affiliation finding.⁹

Because there is no evidence on the record that indicates that Birlik or any other company in the Ulker group had the ability to control Marsan or that a

⁷ *Stainless Steel Wire Rod from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 59739, 59739–59740 (October 11, 2006), unchanged in *Stainless Steel Wire Rod from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 72 FR 6528 (February 12, 2007) (*Stainless Steel Wire Rod*).

⁸ See *Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 70 FR 38872 (July 6, 2005), and accompanying Issues and Decision Memorandum at Comment 11.

⁹ See *Hontex Enterprises, Inc. v. United States*, 342 F. Supp. 1225, 1243 (Ct. Int'l Trade 2004).

close supplier relationship exists, we preliminarily determine that there is no affiliation between Marsan and Birlik.

Whether the Producer Had Knowledge of Destination

Marsan states that, should the Department find that Marsan and the Ulker group are not related, then Marsan would not be the proper respondent because it is not the manufacturer. See November 12, 2010, questionnaire response at 12.

Marsan explains that after it confirms the pro-forma invoice, the order information is entered into the computer system, and Birlik has access to this module of Marsan's computer system. Birlik then produces the merchandise, loads it onto the container, and prepares the "Shipping Advice" on Marsan's letterhead, which accompanies the merchandise from the Hendek facility to the port of export. See March 1, 2011, questionnaire response at 2. Marsan states that Birlik knows that the pasta sold to Marsan for exportation to the United States is destined for the United States. See *Id.*, at 4. Marsan also states that Birlik is familiar with the brands that Marsan exports to the United States, and that Marsan informs Birlik of the destinations for its export orders. See *id.*

The Department's review of information on the record shows that Marsan did not produce the subject merchandise and it was not the first party in the transaction chain to have knowledge that the merchandise was destined for the United States. The record also shows that the shipments of the merchandise at issue were produced by Birlik and that Birlik had knowledge of the destination of the exports. Therefore, it is appropriate to apply the reseller policy, as follows:

As described in the October 15, 1998, *Federal Register* notice, automatic liquidation at the cash-deposit rate required at the time of entry can only apply to a reseller which does not have its own rate if no administrative review has been requested, either of the reseller or of any producer of merchandise the reseller exported to the United States. If the Department conducts a review of a producer of the reseller's merchandise where entries of the merchandise were suspended at the producer's rate, automatic liquidation will not apply to the reseller's sales. If, in the course of an administrative review, the Department determines that the producer knew, or should have known, that the merchandise it sold to the reseller was destined for the United States, the reseller's merchandise will be liquidated at the producer's assessment rate which the Department calculates for the producer in the review. If, on the other hand, the Department determines in the administrative review that

the producer did not know that the merchandise it sold to the reseller was destined for the United States, the reseller's merchandise will not be liquidated at the assessment rate the Department determines for the producer or automatically at the rate required as a deposit at the time of entry. In that situation, the entries of merchandise from the reseller during the period of review will be liquidated at the all others rate if there was no company-specific review of the reseller for that review period.¹⁰

The Court of International Trade upheld the Department's reseller policy in *Parkdale Int'l, Ltd. v. United States*, 508 F. Supp. 2d 1338, 1343-44 (Ct. Int'l Trade 2007) (*Parkdale*). In its decision, the Court described the Department's reseller policy, including the producer's knowledge of whether its product was destined for the United States as a critical factor in determining the appropriate dumping duty rate:

If a review is requested for a reseller, Commerce will cease to assume that the producer was aware of the reseller's entries, and set a rate specific to the reseller if Commerce determines it was unaffiliated with a producer. If someone requests a review of a producer, Commerce will determine whether the producer in question was aware of the ultimate destination of sales to a given reseller. If Commerce discovers that the producer was aware of the destination of a sale to a reseller, Commerce will find that the producer set the price of sale into the United States and assess antidumping duties accordingly. If, however, Commerce finds that a producer is unaware of the ultimate destination of the sales to a reseller, it can no longer rely on its prior assumption to apply the producer's assessment rate calculated during the administrative review.

Id. at 1343-44. In affirming the Department's reseller policy, the Court held that the policy permissibly filled a gap in the Department's automatic assessment regulation, 19 CFR 351.212(c), which the Court described as applying "only to entries that are not covered by the request for review; it says nothing about entries that were covered by the request for review, but are not within the scope of the final results of the review." *Id.* at 1353. The Court further explained:

To require Commerce to adhere to a producer's cash deposit rate in liquidating entries, even after it discovers that the assumption upon which the use of that rate was based is false, would not result in the rate the reseller should have received, *i.e.*, the "proper rate." * * * Under the *Reseller Policy*, Commerce has chosen to apply the rate the reseller would have been assigned had Commerce initially known that the

reseller, rather than the producer, was the first party in the commercial chain to know of the destination of the merchandise. Use of the all others rate most closely adheres to Commerce's policy of setting antidumping duty rates based on the first entity in the commercial chain that has knowledge of the destination of the subject merchandise. Thus, the all others rate is the "proper rate."

Id.

In light of the principles affirmed in *Parkdale* and our preliminary findings that Birlik and not Marsan was the producer of the subject pasta and that Birlik had knowledge that the pasta was destined for the United States, we preliminarily find that application of the reseller policy is appropriate and that liquidation of entries corresponding to pasta produced by Birlik should not occur at the cash deposit rate applicable to Marsan at the time of entry.

Preliminary Results of Review

As noted above, we preliminarily determine that Marsan was not the first party in the transaction chain to have knowledge that the merchandise was destined for the United States, and thus Marsan is not considered the exporter of subject merchandise during the POR for purposes of this review. In accordance with the 1997 regulations concerning no shipment respondents, the Department's practice had been to rescind the administrative review.¹¹ As a result, in such circumstances, we normally instruct U.S. Customs and Border Protection (CBP) to liquidate any entries from the no-shipment company at the deposit rate in effect on the date of entry. However, in our May 6, 2003, "automatic assessment" clarification, we explained that, where respondents in an administrative review demonstrate that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the all-others rate applicable to the proceeding. See *Assessment of Antidumping Duties*.

The Department preliminarily finds that Marsan had no shipments to the United States during the POR for which it was the first party with knowledge of U.S. destination. Because "as entered" liquidation instructions do not alleviate the concerns which the May 2003, clarification was intended to address, we find it appropriate in this case to instruct CBP to liquidate any existing entries of merchandise produced by Birlik and exported by Marsan at the rate applicable to Birlik, *i.e.*, the all others rate from the investigation. See, *e.g.*, *Certain Frozen Warmwater Shrimp from India: Partial Rescission of*

¹⁰ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954, 23954 (May 6, 2003) (*Assessment of Antidumping Duties*).

¹¹ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27393 (May 19, 1997).

Antidumping Duty Administrative Review, 73 FR 77610, 77612 (December 19, 2008). In addition, the Department finds that it is more consistent with the May 2003 clarification not to rescind the review in these circumstances but, rather, to complete the review with respect to Marsan and issue appropriate instructions to CBP based on the final results of the review. *See Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989, 56989–56990 (September 17, 2010). *See also the Assessment Rates* section of this notice below.

Disclosure

The Department will disclose these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Comments

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice. *See* 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue, and (2) a brief summary of the argument. Parties are requested to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. *See* 19 CFR 351.309(c)(2). Additionally, parties are requested to provide their case brief and rebuttal briefs in electronic format (*e.g.*, Microsoft Word, pdf, etc.). Interested parties, who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in case and rebuttal briefs. The Department will issue the final results of this review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Assessment Rates

The Department intends to issue appropriate assessment instructions

directly to CBP 15 days after the publication of the final results of this review.

Normally, the Department instructs CBP to liquidate any entries from the no-shipment producer at the deposit rate in effect on the date of entry. However, in this case, because there was only a request for review of the reseller and not the producer, we intend to liquidate entries at the producer's rate. However, because Birlık does not have its own rate, we intend to instruct CBP to liquidate entries at the "all others" rate from the investigation of 51.49 percent, in accordance with the reseller policy.

Cash Deposit Requirements

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of certain pasta from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act for Marsan, and for previously reviewed or investigated companies, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (2) if the exporter is not a firm covered in these reviews, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (3) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the LTFV conducted by the Department, the cash deposit rate will be 51.49 percent, the all-others rate established in the LTFV. *See Amended Final Determination*. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and 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 countervailing duties occurred and the subsequent assessment of double antidumping and countervailing duties.

These preliminary results of review are issued and published in accordance

with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: April 22, 2011.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–10434 Filed 4–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–904]

Certain Activated Carbon From the People's Republic of China: Preliminary Results of the Third Antidumping Duty Administrative Review, and Preliminary Rescission in Part

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

SUMMARY: The Department of Commerce ("Department") is conducting the third administrative review of the antidumping duty order on certain activated carbon from the People's Republic of China ("PRC") for the period April 1, 2009, through March 31, 2010. The Department has preliminarily determined that sales have been made below normal value ("NV") by the respondents examined in this administrative review. If these preliminary results are adopted in our final results of this review, the Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the period of review.

DATES: *Effective Date:* April 29, 2011.

FOR FURTHER INFORMATION CONTACT: Bob Palmer or Katie Marksberry, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–9068 or (202) 482–7906, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department received timely requests from Petitioners¹ and certain PRC and other companies, in accordance with 19 CFR 351.213(b), during the anniversary month of April, to conduct a review of certain activated carbon exporters from the PRC. On May 28, 2010, and June 30, 2010, the

¹ Collectively, Norit Americas Inc. ("Norit") and Calgon Carbon Corporation.