

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-475-818]

Certain Pasta From Italy: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision

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

SUMMARY: On July 22, 2011, the United States Court of International Trade ("CIT") sustained the Department of Commerce's ("the Department's") results of redetermination as applied to Atar, S.r.L. ("Atar") pursuant to the CIT's order granting the Department's voluntary remand request in *Atar, S.r.L. v. United States*, 08-00004, (November 10, 2009) ("Remand Order"). See Final Remand Determination, Court No. 08-00004, filed May 6, 2010 ("Remand Results"), and *Atar, S.r.L. v. United States*, Court No. 08-00004, Slip Op. 11-87 (July 22, 2011). The Department is notifying the public that the final CIT judgment in this case is not in harmony with the Department's final determination and is amending the final results of the administrative review of the antidumping duty order on certain pasta from Italy covering the period of review ("POR") of July 1, 2005, through June 30, 2006, with respect to Atar.

DATES: *Effective Date:* August 1, 2011.

FOR FURTHER INFORMATION CONTACT: Christopher Hargett, 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) 482-4161.

SUPPLEMENTARY INFORMATION:**Background**

On December 11, 2007, the Department published its final results of the administrative review for pasta from Italy for the period from July 1, 2005, through June 30, 2006. See *Certain Pasta from Italy: Notice of Final Results of the Tenth Administrative Review and Partial Rescission of Review*, 72 FR 70298 (December 11, 2007) ("*Final Results*").

Atar appealed the *Final Results* to the CIT arguing, among other things, that the Department should not have rescinded the review with respect to Atar. On October 23, 2009, the Department requested a voluntary remand "to allow the Department to

reconsider its rescission of the administrative review with respect to Atar." See Memorandum in Response to Plaintiff's Motion for Judgment upon the Agency Record at 4. On November 10, 2009, the CIT granted the Department's request for a remand to reconsider its rescission of the administrative review with respect to Atar. See Remand Order.

On May 6, 2010, the Department issued its final results of remand redetermination in which it determined to issue final results of review with respect to Atar rather than rescind the review. See Remand Results. On July 22, 2011, the CIT affirmed the Department's Remand Results. See *Atar, S.r.L. v. United States*, Court No. 08-00004, Slip Op. 11-87 (July 22, 2011). *Timken Notice*

Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("CAFC") in *Timken Co. v. United States*, 893 F.2d 337 (CAFC 1990) ("*Timken*"), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (CAFC 2010), pursuant to section 516A(c) of the Tariff Act of 1930, as amended ("the Act"), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's judgment on July 22, 2011, sustaining the Department's Remand Results with respect to Atar constitutes a decision of that court that is not in harmony with the Department's *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision with respect to Atar, we determine that Atar was not the producer of pasta which it sold to the United States and that the actual pasta producers knew the goods were destined for the United States. Therefore, the appropriate assessment rate for entries during the period July 1, 2005, through June 30, 2006, is the rate applicable to each producer (*i.e.*, either the relevant producer-specific rate or all others rate).

In the event the CIT's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise exported during

the POR by Atar using the revised assessment rates calculated by the Department in the Remand Results.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: August 2, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE**International Trade Administration**

[A-351-841]

Polyethylene Terephthalate Film, Sheet, and Strip From Brazil: Preliminary 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 polyethylene terephthalate film, sheet, and strip (PET film) from Brazil. This administrative review covers one respondent, Terphane, Inc. (Terphane) and the period of review (POR) is November 1, 2009 through October 31, 2010. Since Terphane did not respond to the Department's requests for information, we have assigned Terphane a margin based on adverse facts available (AFA). If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise made 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:* August 8, 2011.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-2657 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION: