DEPARTMENT OF COMMERCE

International Trade Administration
[9–489–805]

Certain Pasta From Turkey: Notice of Final Results of the 14th Antidumping Duty Administrative Review

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

SUMMARY: On April 29, 2011, the Department of Commerce (the Department) published the preliminary results of the 14th administrative review for the antidumping duty order on certain pasta from Turkey (pasta). The review covers one exporter: Marsan Gida Sanayi ve Ticaret A.S. (Marsan). The period of review (POR) is July 1, 2009, through June 30, 2010.

As a result of our analysis of the comments received, the final results remain the same as the Preliminary Results. The Department continues to find 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 6, 2003, “automatic assessment” clarification was intended to address, we continue to find it appropriate in this case to instruct Customs and Border Protection (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 of 51.49 percent. See Preliminary Results, 76 FR at 23977–78.

DATES: Effective Date: November 4, 2011.


SUPPLEMENTARY INFORMATION:

Background

On April 29, 2011, the Department published the preliminary results of administrative review of the antidumping duty order on certain pasta from Turkey, and we invited parties to comment on the Preliminary Results. On May 27, 2011, Marsan submitted a case brief, and on June 9, 2011, petitioners submitted a rebuttal brief. On June 27, 2011, the Department held a public hearing.

Scope of the 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 200239.20 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.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum which is hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

1 See Certain Pasta From Turkey: Notice of Preliminary Results of Antidumping Duty Administrative Review, 76 FR 23974 (April 29, 2011) (Preliminary Results).
3 See New World Pasta Company, American Italian Pasta Company, and Dakota Growers Pasta Company (collectively, petitioners).
4 On June 3, 2011, petitioners requested an extension until June 9, 2011, to file its rebuttal brief. On June 6, 2011, the Department granted the extension.
56989, 56989–56990 (September 17, 2010).


See Antidumping Duties: Countervailing Duties, 62 FR 27296, 27393 [May 19, 1997].

Duty Assessment

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.22(b)(1). The Department will issue appropriate appraisement instructions for the company subject to this review directly to CBP 15 days after the date of publication of these final results of review.

We 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. As a result, in such circumstances, we normally instruct 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.7

The Department 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.8 However, because Birlik does not have its own rate, we shall instruct CBP to liquidate entries at the “all-others” rate from the investigation of 51.49 percent,9 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 Tariff Act of 1930, as amended (the Act): (1) 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 (or its predecessor-in-interest) 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.10 These cash deposit requirements 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 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 double antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective orders (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/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 sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 26, 2011.

Paul Piquado,
Assistant Secretary for Import Administration.

Appendix I

List of Comments in the Issues and Decision Memorandum

Comment 1: Whether Marsan is affiliated with Birlik/Bellini.
Comment 2: Whether the review covered Marsan and its affiliates.
Comment 3: Whether the application of the reseller policy was unlawful.

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DEPARTMENT OF COMMERCE

International Trade Administration

[570–932]

Certain Steel Threaded Rod From the People’s Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: On May 9, 2011, the Department of Commerce (“Department”) published the Preliminary Results of the first administrative review of the antidumping duty order on certain steel threaded rod (“steel threaded rod”) from the People’s Republic of China