

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 6, 2000.

Troy H. Cribb,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-489-805]

Certain Pasta From Turkey: Preliminary Results of New Shipper Antidumping Duty Review

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

ACTION: Notice of preliminary results of new shipper antidumping duty review: Certain pasta from Turkey.

SUMMARY: In response to a request by a pasta producer and its affiliated exporter in Turkey, Beslen Makarna Gida Sanayi ve Ticaret A.S., and Beslen Pazarlarma Gida Sanayi ve Ticaret A.S., respectively (collectively "Beslen"), the Department of Commerce ("the Department") is conducting a new shipper review of the antidumping duty order on certain pasta from Turkey. The review covers sales during the period July 1, 1999 through December 31, 1999. We preliminarily determine that Beslen did not sell subject merchandise at less than normal value during the period of review.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 13, 2000.

FOR FURTHER INFORMATION CONTACT: Cindy Lai Robinson or James Terpstra, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3797, or 482-3965, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations refer to the regulations codified at 19 CFR part 351 (1999).

Case History

The Department published the antidumping duty order on certain pasta from Turkey on July 24, 1996 (61 FR 38545). On January 27, 2000, Beslen requested a new shipper review pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214.

On February 17, 2000, the Department initiated the new shipper review of

Beslen, and the notice of initiation was published on February 23, 2000 (65 FR 8949).

On February 17, 2000, we issued an antidumping questionnaire¹ to Beslen. Beslen submitted its sections A, B and C questionnaire response on March 27, 2000. The Department issued two supplemental section A through C questionnaires to Beslen on August 25 and September 22, 2000. Beslen submitted its responses to our supplemental questionnaires on September 18 and October 10, 2000, respectively.

On August 8, 2000, the Department published a notice postponing the preliminary results of this review until December 7, 2000 (65 FR 48477).

We verified the sales information submitted by Beslen from November 13 to 17, 2000.

Scope of the Review

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (or 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. Also excluded are imports of organic pasta from Turkey that are accompanied by the appropriate certificate issued by the Instituto Mediterraneo Di Certificazione, by Bioagricoop Scrl, or by QC&I International Services.

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, our written description of the scope is dispositive.

¹ Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the sales of the merchandise in all of its markets. Sections B and C of the questionnaire request comparison market sales listings and U.S. sales listings, respectively.

Scope Rulings

The Department has issued the following scope ruling to date:

On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances is within the scope of the antidumping and countervailing duty orders. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the antidumping and countervailing duty orders. See "Memorandum from John Brinkmann to Richard Moreland," dated May 24, 1999, in the case file in the Central Records Unit ("the CRU"), main Commerce building, room B-099.

Verification

As provided in section 782(i) of the Act, we verified sales information provided by Beslen. We used standard verification procedures, including on-site inspection of the manufacturer's facilities and examination of relevant sales and financial records. Our verification results are outlined in the verification report placed in the case file in the CRU.

Product Comparisons

In accordance with section 771(16) of the Act, the Department first attempted to match contemporaneous sales of products sold in the U.S. and comparison markets that were identical with respect to the following characteristics: (1) Pasta shape; (2) type of wheat; (3) additives; and (4) enrichment. Because Beslen sold identical merchandise in the U.S. and comparison markets, when comparing U.S. sales with comparison market sales, it was not necessary to make any adjustments for physical differences in the merchandise as permitted under section 773(a)(6)(C)(ii) of the Act.

Comparisons to Normal Value

To determine whether sales of certain pasta from Turkey were made in the United States at less than normal value ("NV"), we compared the export price ("EP") to the NV, as described in the "Export Price" and "Normal Value" sections of this notice. Because Turkey's economy experienced high inflation during the POR (over 60 percent), as is Department practice, we limited our comparisons to home market sales made during the same month in which the U.S. sale occurred and did not apply our "90/60 contemporaneity rule" (see, e.g., *Notice of Final Results and Partial Rescission of Antidumping Duty*

Administrative Review: Certain Pasta From Turkey, 64 FR 69493 (December 13, 1999) and *Certain Porcelain on Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 42496, 42503 (August 7, 1997)). This methodology minimizes the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred in the intervening time period between the U.S. and home market sales.

Export Price

For the price to the United States, we used EP in accordance with section 772(a) of the Act because the merchandise was sold by the producer or exporter outside the United States to the first unaffiliated purchaser in the United States prior to importation and constructed export price was not otherwise warranted based on the facts on the record. We based EP on the packed delivered prices to the first unaffiliated customer in the United States.

In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses including inland freight from plant to port of exportation, foreign handling fees, international freight, U.S. brokerage, U.S. duty, and U.S. inland freight. In addition, we increased the EP by the amount of the countervailing duties imposed that were attributable to an export subsidy, in accordance with section 772(c)(1)(C) of the Act.

Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Beslen's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) of the Act, because Beslen's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for Beslen.

Normal Value

We calculated NV based on ex-works or delivered prices to comparison market customers. We made deductions from the starting price for inland freight, discounts, and rebates according to 773(a)(6)(B)(ii) of the Act. We added U.S. packing costs and deducted comparison market packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act. In addition, we made

circumstance of sale adjustments for direct expenses, including imputed credit and advertising, in accordance with section 773(a)(6)(C)(iii) of the Act.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade ("LOT") as the U.S. EP sales, to the extent practicable. When there were no sales at the same LOT, we compared U.S. sales to comparison market sales at a different LOT.

Pursuant to section 351.412 of the Department's regulations, to determine whether comparison market sales were at a different LOT, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customers. If the comparison market sales were at a different LOT and the differences affected price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we made a LOT adjustment under section 773(a)(7)(A) of the Act.

Beslen reported 95 percent of comparison market sales to an unaffiliated distributor ("group 1"). The remaining 5 percent of comparison market sales were made to distributors, end-users, or affiliated customers (collectively, "group 2"). We found that the two home market groups differed significantly with respect to selling activities for sales process and marketing support. Based on our overall analysis, we found that the two home market groups constituted two different LOTs.

Beslen reported one EP sale to an unaffiliated retailer and, therefore, only had one level of trade for U.S. sales. This EP LOT differed considerably from the home market group 1 with respect to selling activities associated with sales process and marketing support, advertising, and freight and delivery, and from group 2 with respect to freight and delivery, and advertising. Consequently, we could not match EP sales to sales at the same LOT in the home market. In addition, we could not make a LOT adjustment because there was no way to measure whether the differences in the LOTs between the comparison market sales and the U.S. sale affected price comparability since there were no home market sales at the LOT of the export transaction. Therefore, we have matched EP sales to all sales in the home market and made no level of trade adjustment.

Currency Conversion

Because this proceeding involves a high-inflation economy, we limited our comparison of U.S. and home market sales to those occurring in the same month (as described above) and used daily exchange rates. *See Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey*, 63 FR 68429 (December 11, 1998).

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for the Turkish Lira. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones Service, as published in the Wall Street Journal.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the weighted-average dumping margin for Beslen is 0.00 percent.

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of these preliminary results.

Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of the subject

merchandise. Upon issuance of the final results of this new shipper review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (i.e., at or above 0.5 percent) the Department will issue appraisal instructions directly to the U.S. Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculated importer-specific assessment rates for the subject merchandise by aggregating the dumping margins for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer. Where appropriate, in order to calculate the entered value, we subtracted international movement expenses (e.g., international freight) from the gross sales value.

Cash Deposit Requirements

To calculate the cash-deposit rate for each producer and/or exporter included in this new shipper review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

Furthermore, the following deposit rates will be effective upon publication of the final results of this new shipper 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: (1) The cash deposit rate for Beslen will be zero; (2) 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; (3) if the exporter is not a firm covered in this review, 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 (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 51.49 percent, the "All Others" rate established in the LTFV investigation. *See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey*, 61 FR 38546 (July 24, 1996).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also 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 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.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 1, 2000.

Troy H. Cribb,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-489-805]

Certain Pasta From Turkey: Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review: certain pasta from Turkey.

SUMMARY: We determine that sales of the subject merchandise have not been made below normal value (NV).

EFFECTIVE DATE: December 13, 2000.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Cindy Lai Robinson, AD/CVD Enforcement, Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3965 or (202) 482-3797, respectively.

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