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Administrative Review 00/01
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MEMORANDUM TO: Faryar Shirzad
Assistant Secretary
for Import Administration

FROM: Bernard T. Carreau
Deputy Assistant Secretary
for Import Administration

RE: Certain Pasta from Turkey (Period of Review: July 1, 2000 through
June 30, 2001)

SUBJECT: Issues and Decisions for the Final Results of the Fifth Antidumping Duty
Administrative Review

Summary:

We have analyzed the case and rebuttal briefs submitted by interested parties. As a result of our analysis, we have made changes in the margin calculations. We recommend that you approve the positions we have developed in the Discussion of Interested Party Comments section of this memorandum. Below is the complete list of the issues in this review for which we received comments from the parties:

I. List of Issues:

1. Conversion of Filiz's Insurance Expense to Turkish Lira per Kilogram
2. Clerical Error in Packing Cost in Filiz's Cost of Production (COP) Database
3. Calculation of the Countervailing Duty (CVD) Field
4. Inclusion of the Brand of Pasta in Product Match Characteristics
5. Allowance of Certain Discounts on Filiz's Home Market Sales
6. Adjustment of Filiz's COP to Reflect Actual Cost of Vitamins
7. Revision of Filiz's COP to Reflect Verified Production Yields
8. Revision of Filiz's COP to Reflect Depreciation Revaluation
9. Clerical Errors Regarding Filiz's Foreign Exchange Gains and Losses

II. Background

On August 7, 2002, the Department of Commerce (the Department) published the preliminary results of this review. See Certain Pasta from Turkey: Notice of Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not Revoke Order in Part, 67 FR 51194 (August 7, 2002) (Preliminary Results). The period of review (POR) is July 1, 2000, through June 30, 2001. We invited parties to comment on our Preliminary Results. We received case briefs from the sole respondent in this review: Filiz Gida Sanayi ve Ticaret A.S. (Filiz). Petitioners¹ in this review, submitted a case brief as well. Filiz filed a rebuttal brief on September 26, 2002.

III. 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.

The Department has issued the following scope rulings to date:

(1) 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, Program Manager, to Richard Moreland, Deputy Assistant

¹The petitioners are New World Pasta Co., Dakota Growers Pasta Co., Borden Foods Corporation, and American Italian Pasta Co.

Secretary, Concerning Final Scope Ruling, dated May 24, 1999, in the case file in the Central Records Unit, main Commerce building, room B-099 (the CRU).

IV. Margin Calculations

We calculated the export price and normal value using the same methodology stated in the Preliminary Results, except as follows:

- For the home market insurance field (i.e., INSURH) reported by Filiz, in the preliminary results, the Department did not convert Filiz's reported figure, on the premise that this figure was reported in kilograms and therefore, it was not necessary to convert. We have corrected this error by converting this field from metric tons to kilograms for purpose of these final results. See Comment 1.
- The Department has corrected the packing cost reported in the COP database to reflect changes in the U.S. sales database. See Comment 2.
- The Department has deleted the discount field (i.e., UMER2DISH) reported in the margin calculation program. See Comment 5.
- The Department has deleted the brand field (i.e., BRANDH or BRANDU) reported in the control numbers in the affiliated party and margin calculation program. See Comment 4.

V. Discussion of Interested Party Comments

Comment 1: Conversion of Filiz's Insurance Expense to Turkish Lira per Kilogram

Filiz asserts that because the program generating the preliminary results did not account for the fact that the home market insurance expense was reported in Turkish Lira per metric-ton (TL/mt), rather than Turkish Lira per-kilogram (TL/kg), the Department overstated the transportation insurance expense in the INSURH field by a factor of one thousand. According to Filiz, it informed the Department at verification that this expense was reported in TL/mt. See Memorandum from Lyman Armstrong and Cindy Robinson, Financial Analysts, to James Terpstra, Program Manager, Concerning Verification of the Sales Response of Filiz Gida Sanayi ve Ticaret A.S., in the 2000/01 Administrative Review of the Antidumping Duty Order of Certain Pasta from Turkey, dated July 22, 2002 (Sales Verification) at page 10. For the final results, Filiz requests that the Department convert the INSURH field from mt to kg.

Petitioners agree with Filiz that the INSURH field should have been converted from TL/mt to TL/kg. Petitioners also state that the amounts reported in Filiz's home market database for January to June 2001 were overstated. According to petitioners, Filiz incurred this expense on a semi-annual basis and reported an average expense for July to December 2000 and for January to June 2001. See Sales

Verification at page 10. Petitioners state that the average amounts for January to June 2001 are substantially larger than the average amounts for July to December 2000 and may represent a total for the period rather than a average. Petitioners recommend that the Department convert INSURH to TL/kg, and change the insurance expense amount for January to June 2001 to an average amount instead of a total amount for these final results.

Filiz disagrees with petitioners and states that the amount reported for January to June 2001 is correct. Furthermore, Filiz argues that the Department verified the accuracy of this amount. See Sales Verification at Exhibit S11. Therefore, for these final results Filiz requests that the Department accept the reported figures, after the figures are converted to kilograms.

Department's Position:

We agree with Filiz. Based on information provided by Filiz at verification, the Department has determined that the INSURH field is reported in metric tons. Therefore, a conversion to kilograms is necessary. See Sales Verification at page 10 and Exhibit S11.

In addition, we agree with Filiz that the amount reported for January to June 2001 accurately reflects these expenses, and we agree that converting this figure to an average for the sixth month period is unnecessary. As Filiz stated at verification and in its questionnaire response, this expense is reported on a semi-annual basis because this expense was paid in installments. See Sales Verification at page 10 and Exhibit S11; and see also, Filiz's response to the Department's Section A Questionnaire (October 25, 2001) (Section A Response) at Exhibit 5. Furthermore, we verified the accuracy of these numbers and noted no discrepancies. See Sales Verification at page 10. Therefore, for these final results we are accepting the amount reported for INSURH and converting this figure from metric tons to kilograms. See Memorandum from Lyman Armstrong and Alicia Kinsey, Financial Analysts, to James Terpstra, Program Manager, Concerning Analysis Memorandum for Filiz Gida Sanayi ve Ticaret A.S.: Final Results of 2000-01 Administrative Review of the Antidumping Duty Order on Certain Pasta from Turkey, dated February 3, 2003 (Filiz's Final Calculation Memorandum).

Comment 2: Clerical Error in Packing Cost in Filiz's Cost of Production (COP) Database

Filiz states that it notified the Department at the outset of verification of a clerical error in the U.S. packing cost, which the Department verified and accepted in a revised U.S. sales database. See Filiz's Letter regarding amended home market and U.S. databases (July 11, 2002). While the Department used the revised packing cost submitted in the amended U.S. database in calculating the margin, the Department did not correct the packing cost in the COP database to reflect the correction in the U.S. sales database. Even though this is unlikely to affect the margin, Filiz requests that the Department correct its packing cost in the COP database as it did in the U.S. sales database.

Petitioners did not comment on this issue.

Department's Position:

We agree with Filiz that the Department should correct the packing cost in the COP database to reflect corrections in the U.S. sales database. Therefore, for the final results we have corrected the packing cost reported in the COP database. See Filiz's Final Calculation Memorandum.

Comment 3: *Calculation of the Countervailing Duty (CVD) Field*

Petitioners state that the Department increased the export price for Filiz's U.S. sale by the amount of the CVD paid that were attributable to an export subsidy. Petitioners believe the Department should not add the CVD amount to the export price. First, petitioners state that the terms of sale for Filiz's only U.S. sale were cost and freight, so U.S. duties and fees were not included in the starting price. Second, the U.S. Customs Entry Summary form that the Department obtained during verification shows that the producer did not incur the costs of the countervailing duties. Finally, the antidumping cash deposit was zero at the time of entry, which means that the Department's policy of adding CVD to U.S. price to avoid double-counting of AD/CVD duties is not applicable in this case. Petitioners ask the Department not to add an amount for countervailing duties to the export price for Filiz's U.S. sale.

Filiz counters petitioners' arguments. First, Filiz argues that petitioners err in stating that because CVD duties were not included in the starting price, the Department should not add the cost of countervailing duties to the U.S. price. Filiz argues that the CVD offset is to be applied unconditionally, regardless of whether it is included in the price. See section 772 (c)(1) of the Act. Second, Filiz claims that petitioners err in stating that the application of the CVD offset depends on whether the exporter incurs the costs of the countervailing duties. Filiz argues that there is no requirement that the exporter incur the expense of the countervailing duty, and that the CVD offset fulfills U.S. obligations under the WTO, and applies regardless of whether the exporter and importer are the same. See section 772 (c)(1) of the Act. Third, Filiz asserts that petitioners err in claiming that the amount of the AD cash deposit rate in effect at the time of entry affects whether the CVD offset is applied. Filiz reasons that since the offset applies to entries under the current review, it is impossible to know whether they are dumped at the time of entry. Filiz further reasons that the applicability of the CVD offset depends on whether the respondents are subject to both an AD and a CVD order, not on whether there is an AD duty to be offset, and that as long as a CVD order is in place, it has a role in respondent's price calculations. Ignoring that role would lead to double-counting AD and CVD duties. See Notice of the Antidumping Duty Order: Honey from Argentina, 66 FR 63672 (December 10, 2001) at 63673. Filiz concludes that petitioners' argument that Filiz is not entitled to a CVD offset is incorrect, and asks that the Department continue to apply the CVD offset.

Department's Position:

We agree with Filiz. The CVD offset is applied regardless of whether it is included in the starting price, and there is no requirement that the exporter incur the expense of paying the countervailing duties. See section 772 (c)(1) of the Act. We also agree with Filiz that petitioners are incorrect in their reasoning

that the AD cash deposit rate in effect at the time of entry affects whether the CVD offset should be applied. Petitioners cite no authority for their assertions.

In those cases in which we have an AD and a CVD order on the same merchandise, if the Department finds that a respondent received the benefits of an export subsidy program, it presumes that the subsidy contributed to lower-priced sales of subject merchandise in the market by the amount of any such export subsidy. Thus, subsidization and dumping are presumed to be related, and the imposition of duties against both would in effect constitute a “double-application” of duties. Section 772 (c)(1) of the Act therefore requires that the Department factor the affirmative subsidy determination into the AD calculations to prevent this “double-application” of duties. See Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet and Strip From India 67 FR 34899 (May 16, 2002) and Decision Memorandum at comment 1.

Filiz is subject to both a CVD and an AD order. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta From Turkey 61 FR 30309 (June 14, 1996) (Certain Pasta From Turkey) and Final Affirmative Countervailing Duty Determination: Certain Pasta from Turkey 61 FR 30366 (June 14, 1996). Accordingly, for our final results, we are continuing to add an amount for countervailing duties to the export price for Filiz’s U.S. sale.

Comment 4: *Inclusion of the Brand of Pasta in Product Match Characteristics*

Petitioners state that the Department should not rely on brand names as a product matching characteristic. Petitioners assert that the Department is compelled to establish foreign like products on the basis of the subject merchandise’s physical characteristics, and that “brand” is not a commercially significant physical characteristic. Petitioners assert that in Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta from Italy, 63 FR 42368 (August 7, 1998) (Certain Pasta from Italy), the Department found that different brands were not sufficient to establish different levels of trade. See Certain Pasta from Italy at 42372. Likewise, petitioners argue that the Department should find that brand names are not sufficient for making product comparisons. Petitioners further argue that differences between the brands presented during verification are not included in the product matching criteria established by the Department, and that information obtained at verification regarding wheat used for each brand undermines the distinctions Filiz is claiming between the Barilla and Filiz brands. See Memorandum from Lyman Armstrong and Cindy Robinson, Financial Analysts, to James Terpstra, Program Manager, Concerning Verification of the Cost Responses of Filiz Gıda Sanayi ve Ticaret A.Ş., in the 2000/01 Administrative Review of the Antidumping Duty Order of Certain Pasta from Turkey, dated July 22, 2002 (Filiz’s Cost Verification Report) at page 11. In addition, petitioners suggest that the Department did not intend to accept brand as a product matching criterion, and that the inclusion of brand in the product matching characteristics therefore represents a clerical error. Finally, regardless of whether the Department has accepted brand names as a product matching characteristic in prior reviews, each segment of a proceeding stands on its own record, and Filiz has not provided evidence that brand should be included as a product

characteristic in this review. Therefore, for the final results, petitioners request that the Department not rely on brand names as a product matching characteristic.

Filiz disagrees. According to Filiz, the Filiz and Barilla brand characteristics are shorthand for a set of physical characteristics that differentiate Barilla and Filiz brands, and these physical characteristics are sufficient to warrant use of brand as a product matching characteristic. Furthermore, Filiz states that the physical differences between the Filiz brand and the Barilla brand have been verified by the Department. See Filiz's Cost Verification Report at 5 and 11. Filiz asserts that petitioners err in suggesting that the same wheat may be used for both brands; Filiz states that the Department verified that Filiz always maintains strict differentiation between the wheat used in the production of the two brands. See Filiz's Cost Verification Report at 5 and 11. Filiz agrees with petitioners that each segment of a proceeding stands on its own record, but argues that determinations made in one segment should continue to be applied in the next, in the absence of circumstances requiring a change in the determination. Filiz asks the Department to continue using brand as a product matching characteristic.

Department's Position:

We agree with petitioners. In the less-than-fair-value investigation of certain pasta from Turkey, the Department considered evidence submitted by respondents and petitioners on the appropriate product match characteristics based on commercially significant physical characteristics. The Department established product matching characteristics based on that evidence. No party argued that "brand" was a physical characteristic that should be included in the model hierarchy. See Certain Pasta From Turkey at 30310. Furthermore, the Department has determined that brand names do not provide a basis for distinguishing pasta products. See Certain Pasta from Italy. With respect to Filiz's statement concerning the different product characteristics of the Filiz and Barilla brand, the information on the record is not adequate to establish that the reported differences in product characteristics are measurable or that they would result in more appropriate product matches, as contemplated in section 771(16) of the Act. The Department's verification of Filiz's COP data failed to provide evidence that the physical differences between brands should warrant a separate model match criterion. See Filiz's Cost Verification Report at 11 and Exhibit 12. In addition, Filiz failed to demonstrate that the differences in brand are commercially significant to the customer. See Filiz's Cost Verification Report at 11. Therefore, for our final results, we will not use brand names as a product match characteristic.

Comment 5: Allowance of Certain Discounts on Filiz's Home Market Sales

Petitioners state that the Department should not allow Filiz's extra discounts (EXTRADISH), because these discounts are fees (slotting, insert, catalog, and gondola) that the Department concluded should be indirect selling expenses in Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy, 61 FR 30326, 30352-5 (June 14, 1996) (Pasta from Italy). Petitioners also state that

the Department should not subtract Filiz's home market discount (UMER2DISH) from the home market price, since Filiz stated it was not applicable during the period of review.

Filiz states that the fees reported as discounts in field EXTRADISH were invoice-specific, and are distinct from fees provided as separate payments, which were considered selling expenses. According to Filiz, these fees were classified as discounts whenever they were provided as an invoice-discount and classified in their accounting system as a discount. See Filiz's response to the supplemental sections B-D of the questionnaire (March 4, 2002) (Filiz's Sections B-D) at 17. Filiz asserts that the Department verified that the reporting of these discounts was consistent with the company's accounting policies and normal business practices. Filiz claims that petitioners are off-point in citing Pasta from Italy. In that case, the discount was re-categorized as an indirect selling expense because the customer in question never purchased merchandise during the POR. See Pasta from Italy at 30355. Filiz states that the EXTRADISH discount is an ordinary, discretionary discount granted in the course of business, on an invoice-specific basis, and it ties in to Filiz's accounting system. Filiz argues that the reason why Filiz grants this discount is irrelevant. Filiz further argues that to convert a verified, invoice-specific discount to an indirect selling expense would distort the database such that it would no longer conform to Filiz's accounting system. Filiz asks the Department to continue to allow Filiz's extra discount for its final analysis. Filiz also concurs with petitioners that the Department should disregard the UMER2DISH field since this field contains no values.

Department's Position:

We agree with Filiz. Filiz's EXTRADISH discount was properly reported as a discount that was verified by the Department as consistent with Filiz's accounting policies, and was granted in accordance with Filiz's normal business practices. See Filiz's Sales Verification Report at 11-12. We agree with Filiz that petitioners' citation to Pasta from Italy regarding the Department's reclassification of certain expenses into indirect selling expenses, was off-point and not applicable to the current review. In Pasta from Italy, the Department did not treat the fees as a direct expense because the expense was granted to a customer who had no merchandise sold to it during the POR. In this case, the fees are subtracted from the invoice on both a customer and invoice specific basis, and are clearly direct selling expenses. See Filiz's Sections B-D at 17; see also, Filiz's Sales Verification Report at 11-12. Therefore, for our final results, we are continuing to treat Filiz's EXTRADISH discount as a discount in our margin calculation program. See Filiz's Final Calculation Memorandum.

We agree with petitioners and Filiz that the Department should disregard the UMER2DISH field since it contains no value. Therefore, for purposes of our final result we have deleted this field from our margin calculation program. See Filiz's Final Calculation Memorandum.

Comment 6: *Adjustment of Filiz's COP to Reflect Actual Cost of Vitamins*

Petitioners state that Filiz understated its cost of production by selectively excluding significant purchases of vitamins from its cost of production calculations, which affects the variable cost of manufacture and the productions costs for the U.S. sale. See Filiz's Cost Verification Report at 21. Petitioners argue that the Department should revise the cost of production for Filiz's U.S. sale to reflect the average cost of the vitamin purchase Filiz excluded from its reported COP data.

Filiz disagrees with petitioners and states that Filiz's reported vitamin cost does not require adjustment, since when all of the purchases of vitamins are examined, the difference between the reported unit enrichment cost and the actual cost, as well as the difference between the reported variable cost and the actual variable cost, are minuscule. See Filiz's Cost Verification Report at exhibit C18. Citing section 351.413 of the Department's regulations, Filiz asserts that the correction is minuscule and should be ignored.

Department Position:

We agree with Filiz. In reporting its vitamin cost, Filiz did not include one purchase of vitamins in the month of May 2001. See Filiz's Cost Verification Report at exhibit C18 and 21. This purchase of vitamins represented a small portion of the total purchases of vitamins for May 2001. See Filiz's Cost Verification Report at exhibit C18 and 21. The difference between the reported vitamin cost and the weighted-average vitamin cost for May 2001 is negligible. Therefore, for the final results, the Department has determined that Filiz's vitamin cost is accurate and does not require adjustment.

Comment 7: *Revision of Filiz's COP to Reflect Verified Production Yields*

Petitioners state that Filiz's yield loss in its cost of production data differs from the yield loss gathered by the Department during verification. Petitioners argue that since Filiz gave no information to confirm its overall yield loss percentage, the Department should adjust Filiz's cost of production data to reflect the verified yield loss percentage.

Filiz disagrees with petitioners. According to Filiz, petitioners looked narrowly at the data for yield production, using data from one product group in one month of the POR. Filiz asserts that if all data are included, the result supports the use of a four percent yield loss. See Filiz's Cost Verification Report at Exhibit C4. Filiz argues that the proposed revision to the cost of production data would reflect an aberrational yield loss percentage, and urges the Department to continue using the reported yield loss percentage for its final results.

Department's Position:

We agree with Filiz. Petitioners' suggested adjustment is based solely on the production of one pasta group for one month of the POR, and would be unrepresentative of Filiz's yield loss for all pasta produced by Filiz for the entire POR. See Filiz's Cost Verification Report at Exhibit C4. Therefore, for our final results, we have made no adjustments to Filiz's reported yield loss percentage.

Comment 8: *Revision of Filiz's COP to Reflect Depreciation Revaluation*

Petitioners argue that the Department should revise Filiz's reported cost of production to reflect revalued depreciation, which Filiz excluded. Petitioners state that it is the Department's practice to include the depreciation expense on revalued assets in the cost of production, as shown in Notice of Final Determination of Sales at Less-Than-Fair-Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products from France, 64 FR 73143, 73153 (December 29, 1999). Petitioners argue that for its final analysis, the Department should revise Filiz's reported cost of production to include revalued depreciation costs.

Filiz disagrees with petitioners. Filiz states that the purpose for not including its depreciation uplift was to avoid double-counting when the Department indexed the cost of production to account for Turkey's hyperinflation. Filiz maintains it is consistent with Department policy to either report its depreciation inclusive of the revaluation, which the Department would then exclude from its indexing, or, as is the case here, Filiz could report its depreciation exclusive of revaluation, and the Department would include the depreciation in the indexing. Filiz maintains this practice is consistent with Department hyperinflation methodologies, and the Department need not make a revision to Filiz's cost of production to reflect depreciation revaluation.

Department's Position:

We agree with Filiz. Filiz's depreciation expenses were stated in December 2000 and 2001 terms in accordance with Turkish law. In the ordinary course of business, Filiz adjusts its monthly depreciation expense according to Dogus Group instructions relating to the revaluation indices projected by the Turkish government at year-end. See Section A Response at Exhibit 1. Note 2.1 of the financial statements indicates that property, plant, and equipment were revalued on December 31, 2000, using the officially published index of the Turkish Ministry of Finance ("Ministry"). Specifically, each month's depreciation expense was originally reported in December 2000 and 2001 cost terms, and was then deflated to each month. Therefore, consistent with our established practice, we have not adjusted further Filiz's depreciation expense because the reported depreciation expense had already been adjusted for inflation when the assets were revalued based on the Ministry's index. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey,

62 FR 9737, 9748 (March 4, 1997); see also Notice of Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey, 62 FR 51629, 51633 (October 2, 1997).

Comment 9: *Clerical Errors Regarding Filiz's Foreign Exchange Gains and Losses*

Petitioners state that the Department should ensure that Filiz's cost data includes foreign exchange gains and losses, as there is nothing in Filiz's questionnaire response or verification exhibits to show that Filiz did include foreign exchange gains and losses in its reported cost of production. Petitioners ask that the Department require Filiz translate its chart of account and demonstrate that Filiz included its foreign exchange gains and losses in its reported cost of production, and allow petitioners to comment. Petitioners also ask the Department to revise Filiz's net foreign exchange gain and loss calculations to exclude foreign exchange gains and losses generated by accounts receivable. Petitioners allege that Filiz should have identified the sources of their foreign exchange gains and losses, so the Department could determine the amount to include in G&A expenses and net interest expenses, and the amount to exclude from foreign exchange gains and losses on accounts receivable. Petitioners also argue that the exchange gains and losses that Filiz classified as cash were mainly generated from bank loans, and so those exchange gains and losses should be included in Filiz's interest expense ratio.

Filiz disagrees with petitioners' claim that the Department is unable to determine whether Filiz's foreign exchange gains and losses are included in financial expenses. Filiz states it provided a full translation of every element of its financial expense, and that it provided the Department with its foreign exchange gains and losses for the POR, which the Department verified. Filiz concurs with petitioners that under the correct methodology foreign exchange gains and losses on accounts receivable are excluded from the cost of production, foreign exchange gains and losses on financing are included in interest expense, and foreign exchange gains and losses on accounts payable are in G&A. Filiz states that it may, on a net basis, even have slightly overstated its costs; therefore, Filiz maintains that the available evidence shows that no corrections should be made by the Department at this point in the review.

Department's Position:

We agree with Filiz, in part. First, petitioners claim that the Department is unable to determine whether Filiz's foreign exchange gains and losses are included in financial expenses because Filiz did not translate its chart of accounts. We disagree. Filiz did provide the Department with a translation of its Chart of Accounts. See Filiz's Cost Verification Report at Exhibit C25; see also Filiz's Sections B-D at Exhibit 10.

With regards to the Department's calculation of Filiz's foreign exchange gains and losses, it is the Department's normal practice to distinguish between exchange gains and losses from sales transactions and exchange gains and losses from purchase transactions. See Notice of Final Results of Antidumping

Duty Administrative Review: Circular Welded Non-Alloy Steel Pipe and Tube from Mexico, 62 FR 37014, 37026 (July 10, 1997). The Department normally includes in its calculation of COP and constructed value (CV) foreign exchange gains and losses resulting from transactions related to a company's manufacturing operations (e.g., purchase of inputs). See Notice of Final Determination of Sales Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Ship from the Republic of Korea, 56 FR 16305, 16313 (April 22, 1991). We usually do not consider foreign exchange gains and losses arising from sales transactions to relate to the manufacturing activities of a company. Accordingly, we find that Filiz properly excluded foreign exchange gains and losses from its cost calculation. See Cost Verification at Exhibit C25.

With regards to petitioners' comments that Filiz should include foreign exchange gains and losses generated from accounts payable during the period of review, we agree. See Filiz's Sections B-D at Exhibit 15. However, the Department finds, in accordance with Section 351.413 of the Department's regulations, that the amounts omitted from the general and administrative expenses are too small to warrant a correction. See Filiz's Final Calculation Memorandum. Accordingly, for these final results we have accepted Filiz's general and administrative expense as reported and made no adjustments.

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results and the final weighted-average dumping margin in the Federal Register.

Agree _____

Disagree _____

Faryar Shirzad
Assistant Secretary
for Import Administration

Date

