UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

C-489-806
2012 (Third) Sunset Review
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DATE: December 28, 2012

MEMORANDUM TO: Lynn Fischer Fox
Deputy Assistant Secretary
for Policy and Negotiations

FROM: Gary Taverman
Senior Advisor
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Countervailing Duty Order on Certain Pasta from Turkey

Summary

We are conducting an expedited sunset review of the countervailing duty order covering certain pasta from Turkey. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues raised in the substantive responses:

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
2. Net Countervailable Subsidy Likely to Prevail

History of the Order

On June 14, 1996, the Department of Commerce ("the Department") published its final determination in the countervailing duty ("CVD") investigation of pasta from Turkey. *See Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") from Turkey*, 61 FR 30366 (June 14, 1996). The Department determined that benefits that constituted subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the "Act"), were being provided by the Government of Turkey ("GOT") to Turkish manufacturers, producers, and exporters. The Department found the following net subsidies for these Turkish companies:

Manufacturers/Producers/Exporters	Net Countervailable Subsidy (percent)
Filiz Gida Sanayi ve Ticaret ("Filiz")	3.87
Maktas Makarnacilik ve Ticaret ("Maktas")	13.12
Oba Makarnacilik Sanayi ve Ticaret ("Oba")	15.82
All Others	9.70

The following seven programs were found to confer countervailable subsidies in the investigation:

(1) Pre-Shipment Export Loans;
(2) Pasta Export Grants;
(3) Free Wheat Program;
(4) Payments for Exports on Turkish Ships/State Aid for Exports Program;
(5) Incentive Premium on Domestically Obtained Goods;
(6) Resource Utilization Support Fund (GIP); and
(7) Tax Exemption Based on Export Earnings.

Following notification of an affirmative injury determination by the International Trade Commission ("ITC"), the Department published the countervailing duty order in the Federal Register on July 24, 1996. *See Notice of Countervailing Duty Order: Certain Pasta ("Pasta") From Turkey*, 61 FR 38546 (July 24, 1996) ("CVD Order").

The Department has completed three administrative reviews since the issuance of the CVD Order. *See Certain Pasta from Turkey: Final Results of Countervailing Duty Administrative Review*, 66 FR 64398 (December 13, 2001) ("1999 Administrative Review"); *Certain Pasta from Turkey: Final Results of Countervailing Duty Administrative Review*, 71 FR 52774 (September 7, 2006) ("2004 Administrative Review"); and *Certain Pasta from Turkey: Final Results of the Countervailing Duty Administrative Review; 2010*, 77 FR 69792 (November 21, 2012) ("2010 Administrative Review").

On June 1, 2001, the Department initiated its first five-year sunset review of the CVD Order pursuant to section 751(c) of the Act. *See Notice of Initiation of Five-Year ("Sunset") Reviews*, 66 FR 29771 (June 1, 2001). On October 5, 2001, the Department determined that revocation of the CVD Order would be likely to lead to continuation or recurrence of countervailable subsidies. *See Final Results of Expedited Sunset Reviews: Certain Pasta From Italy and Turkey*, 66 FR 51015 (October 5, 2001). The ITC determined that revocation of the CVD Order would likely lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Consequently, the Department continued the CVD Order on November 16, 2001. *See Continuation of Countervailing and Antidumping Duty Orders: Pasta from Italy and Turkey, and Clad Steel Plate from Japan*, 66 FR 57703 (November 16, 2001).

On October 2, 2006, the Department initiated its second five-year sunset review of the CVD Order. *See Notice of Initiation of Five-Year ("Sunset") Reviews*, 71 FR 57921 (October 2, 2006). On February 5, 2007, the Department determined that revocation of the CVD Order would likely lead to continuation or recurrence of countervailable subsidies. *See Certain Pasta From Turkey: Final Results of Expedited Five-Year ("Sunset") Review of the Countervailing Duty Order*, 72 FR 5269 (February 5, 2007). The ITC determined that revocation of the CVD Order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time and, thereafter, the Department continued the CVD Order on October 12, 2007. *See Certain Pasta from Turkey and Italy: Continuation of Countervailing Duty and Antidumping Duty Orders*, 72 FR 58052 (October 12, 2007).

On May 24, 1999, the Department determined in a final scope ruling that pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the CVD Order, effective October 26, 1998. *See Notice of Scope Rulings*, 65 FR 41957, 41958 (July 7, 2000).

The Department conducted three changed circumstances reviews since the issuance of the CVD Order. On July 14, 2003, the Department determined that Gidasa Sabanci Gida Sanayi ve Ticaret A.S.. ("Gidasa") is the successor-in-interest to Maktas Makarnacilik ve Ticaret A.S. *See Notice of Final Results of Changed Circumstances Antidumping and Countervailing Duty Administrative Reviews: Certain Pasta From Turkey*, 68 FR 41554 (July 14, 2003). On January 8, 2004, the Department determined that Tat Konserve Sanayi A.S. is the successor-in-interest to Pastavilla Makarnacilik Sanayi ve Ticaret A.S ("Pastavilla"). *See Notice of Final Results of Changed Circumstances Antidumping and Countervailing Duty Administrative Reviews: Certain Pasta from Turkey*, 69 FR 1280 (January 8, 2004). On October 21, 2009, the Department determined that Marsan Gida Sanayi ve Ticaret A.S. ("Marsan") was not the successor to Gidasa for the purposes of cash deposit rates. *See Certain Pasta from Turkey: Final Results of Countervailing Duty Changed Circumstances Review*, 74 FR 54022 (October 21, 2009). Marsan appealed to the Court of International Trade ("CIT"), but the Department's Changed Circumstances determination was upheld. *See Marsan Gida Sanayi ve Ticaret A.S. v. United States*, No. 09-00483, Slip Op. 11-20 (CIT Feb. 16, 2011).

As a result of our findings in the investigation and the various reviews, the CVD Order remains in effect for all Turkish pasta producers and exporters.

Background

On September 4, 2012, the Department published the notice of initiation of the third sunset review of the CVD Order, pursuant to section 751(c) of the Act. *See Initiation of Five-Year ("Sunset") Review*, 77 FR 53867 (September 4, 2012).

On September 19, 2012, the Department received a notice of intent to participate from A. Zerega's Sons, Inc., American Italian Pasta Company, Dakota Growers Pasta Company, Inc., New World Pasta Company, and Philadelphia Macaroni Company (collectively, "domestic interested parties") within the deadline specified by 19 CFR 351.218(d)(1)(i). Domestic interested parties claimed interested party status under section 771(9)(C) of the Act as manufacturers of a domestic like product in the United States.

The Department received adequate substantive responses to the notice of initiation from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We also received a substantive response from the GOT. However, we did not receive substantive responses from any other respondent interested parties with respect to the sunset review. According to the Department's regulations at 19 CFR 351.218(e)(1)(ii)(C)(2), when there are inadequate responses from respondent interested parties, we "{n}ormally will conduct an expedited sunset review and, not later than 120 days after the date of publication in the Federal Register of the notice of initiation, issue final results of review based on the facts available in accordance with {19 CFR} 351.308(f) (*see* section 751(c)(3)(B) of the Act and {19 CFR} 351.221(c)(5)(ii)).” It is the Department’s practice that a government’s response alone normally is not sufficient to conduct a full sunset review. *See, e.g.*, *Certain Pasta From Turkey: Final Results of Expedited Five-Year (‘‘Sunset’’) Review of the Countervailing Duty Order*, 72 FR 5269 (February 5, 2007), and *Certain Carbon Steel Products From Sweden: Final Results of Expedited Sunset Review of Countervailing Duty Order*, 65 FR 18304 (April 7, 2000). Consistent with our regulations and practice, the Department determines that the GOT’s substantive response, without responses from any other respondent interested parties, is inadequate for purposes of conducting a full review and, consequently, we are conducting an expedited (120-day) sunset review of the CVD Order.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether revocation of the CVD Order would likely lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that in making this determination the Department shall consider 1) the net countervailable subsidy determined in the investigation and any subsequent reviews, and 2) whether any changes in the programs which gave rise to the net countervailable subsidy have occurred that are likely to affect the net countervailable subsidy.

Pursuant to section 752(b)(3) of the Act, the Department shall provide to the ITC the net countervailable subsidy likely to prevail if the order was revoked. In addition, consistent with section 752(a)(6) of the Act, the Department shall provide to the ITC information concerning the nature of the subsidy and whether the subsidy described is in Article 3 or Article 6.1 of the 1994 World Trade Organization Agreement on Subsidies and Countervailing Measures (“ASCM”).

Below we address the substantive responses and rebuttals of the interested parties.

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy

Domestic interested parties argue in their substantive response that the Department should determine that revocation of the CVD Order would lead to a continuation or recurrence of countervailable subsidies. Domestic interested parties argue that a number of countervailable subsidy programs continue to exist today and cite to the Department’s finding of three new countervailable programs in the 2010 Administrative Review as an example. Domestic interested parties claim that although the Department has found numerous subsidy programs to be “not used,” there is no evidence that these programs have been terminated. Domestic interested parties contend that given the continuation of subsidy programs, the Department should find that there is a strong likelihood that subsidies will continue if the CVD Order is revoked.

Domestic interested parties further emphasize that although seven programs have been found to be terminated by the Department, the record in the investigation refutes the notion that the GOT is likely to permanently eliminate the subsidies found to benefit Turkish pasta producers or exporters. Domestic interested parties contend that although the GOT claims the Pasta Export Grants program was terminated for pasta exports after January 1, 1995, this program was reinstated by the GOT with a new subsidy formula in September 1995. Domestic interested parties conclude that this example demonstrates that the GOT continues to subsidize its pasta industry, and even if such programs are eliminated temporarily, they may be reinstated in the future.

In its substantive response, the GOT contends that termination of the CVD Order will not lead to a continuation or recurrence of a countervailable subsidy because Turkish pasta exports into the United States have decreased by 36 percent from 2007 to 2011. The GOT claims that it has implemented significant changes regarding its subsidy programs since the original investigation, and that the subsidy programs that contributed significantly to the net countervailable subsidy rate in the investigation have been eliminated. According to the GOT, the Department recognized in its second sunset review of the order that the following programs have been eliminated: Free Wheat Program; Payments for Exports on Turkish Ships/State Aid for Export Program; Tax Exemption Based on Export Earnings Program; Advanced Refund of Tax Savings Program; Incentive Premium on Domestically Obtained Goods; and Resource Utilization Support Fund (GIP). The GOT further argues that it submitted evidence in the 2010 administrative review that the Pasta Export Grants program has been terminated and that three programs that the Department found countervailable in the 1999 administrative review have been eliminated or deemed ineffective (the Resource Utilization Support Fund (KKDF) Tax Exemption on Export-Related Loans; Banking and Insurance Transaction (BIST) Tax Exemption on Export-Related Loans; and VAT Support for Domestic Machinery and Equipment Purchases). Finally, the GOT states that no Turkish producer or exporter has used the Pre-Shipment Export Loans program since the 1999 administrative review. The GOT asserts that lack of net subsidy rates above *de minimis* since the 1999 administrative review further supports termination of the CVD Order.

In their rebuttal comments, domestic interested parties challenge the GOT’s argument that the use of subsidies by the Turkish pasta industry has declined since the imposition of the CVD Order. Domestic interested parties cite to the Department’s prior sunset review determination to claim that while certain programs have been terminated, this does not detract from the fact that several subsidy programs remain available to the Turkish pasta producers or exporters. Domestic interested parties claim that two export programs, Pasta Export Grants and Pre-Shipment Export Loans, which were a major source of subsidization in the investigation and subsequent administrative reviews, exist today. Domestic interested parties also state that since the 2010 administrative review is the first review to be conducted since the 1999 administrative review, there is no evidence that Turkish producers and exporters did not benefit from subsidization during the non-reviewed periods.

Domestic interested parties further affirm that the GOT ignores the existence of subsidy programs that were found not used, but are still relevant to the Department’s analysis of continued subsidization of the Turkish pasta industry. Domestic interested parties insist that although the CVD Order may have caused certain companies to refrain from using subsidies after the imposition of the CVD Order, this does not mean that the subsidies are unlikely to be used if the CVD Order were revoked.

Department's Position

The Department makes its determination of whether revocation of an order is likely to lead to continuation or recurrence of a countervailable subsidy on an order-wide (country-wide) basis, although company-specific rates are reported to the ITC. *See Statement of Administrative Action* ("SAA") accompanying the URAA, H.R. Doc. No. 103-316, Vol. I (1994) at 879 and House Report, H.R. Rep. No. 103-826 (1994) ("House Report") at 56. The SAA adds that continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies. *See id*. Furthermore, the presence of programs that have not been used, but also have not been terminated without residual benefits or replacement programs, is also probative of the likelihood of continuation or recurrence of a countervailable subsidy. *See, e.g., Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Final Results of Full Sunset Review of Countervailing Duty Order*, 75 FR 75455 (December 3, 2010), and accompanying Issues and Decision Memorandum. Where a subsidy program is found to exist, the Department will normally determine that revocation of the CVD order is likely to lead to continuation or recurrence of a countervailable subsidy regardless of the level of subsidization. *See id.*

In this instance, subsidies to Turkish producers and exporters of pasta continue to exist. These include subsidy programs from the investigation that have not been terminated and newly identified subsidies in the 2010 administrative review. Specifically, the subsidy programs that have been found to benefit Turkish producers and exporters of pasta that remain in place are: Pre-Shipment Export Loans; Pasta Export Grants; residual benefits under the VAT Support Program;[1] Deduction from Taxable Income for Export Revenue; Law 5084: Incentive for Employers' Share in Insurance Premiums; and Export Subsidy Program for Agricultural Products. Additionally, numerous programs have been found "not used" which could be used if the order were sunset.

While the GOT claims a decrease in shipments of Turkish pasta into the United States, the alleged decline in exports may be due to the discipline of the CVD Order and, in any case, is not relevant to our analysis. Similarly, the Department acknowledges that net countervailable subsidy rates have been *de minimis* since the 1999 administrative review. Again, this may well reflect the discipline of the CVD Order, and does not provide a basis for finding no likelihood of

[1] This "VAT Support Program" differs from the "VAT Support for Domestic Machinery and Equipment Purchases" discussed below. The "VAT Support Program," was found countervailable in *Certain Welded Carbon Steel Pipe and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review*, 65 FR 49230, 49231 (August 11, 2000). Although the "VAT Support Program" was terminated (*see* 1999 Administrative Review Issues and Decision memorandum at "VAT Support for Domestic Machinery and Equipment Purchases" and *Final Negative Countervailing Duty Determination: Carbon and Certain Alloy Steel Wire Rod from Turkey*, 67 FR 55815 (August 30, 2002) ("Wire Rod from Turkey") and accompanying Issues and Decision Memorandum at 31), the Department found in 1999 Administrative Review that Pastavilla received residual benefits.

a continuation or recurrence of subsidies in the light of continued availability of subsidy programs.

The GOT further claims in its substantive response that it placed evidence on the record in the 2010 administrative review showing that the Pasta Export Grants program, the Resource Utilization Support Fund (KKDF) Tax Exemption on Export-Related Loans, Banking and Insurance Transaction (BIST) Tax Exemption on Export-Related Loans; and the VAT Support for Domestic Machinery and Equipment Purchases programs were terminated or ineffective. With respect to the latter three programs, the GOT cited to *Wire Rod from Turkey* as support.

We agree with the GOT that the Resource Utilization Support Fund (KKDF) Tax Exemption on Export-Related Loans, the Banking and Insurance Transaction (BIST) Tax Exemption on Export-Related Loans, and the VAT Support for Domestic Machinery and Equipment Purchases[2] programs do not support finding a likelihood or continuation of countervailable subsidies. This is because these three programs were found not countervailable in *Wire Rod from Turkey*. *See Wire Rod from Turkey* Issues and Decision Memorandum at Comment 3 (re VAT Support for Domestic Machinery and Equipment Purchases) and Comment 6 (re the two tax exemption programs). However, the Department has made no finding that the Pasta Export Grants Program has been terminated.

Finally, the GOT states that the Pre-Shipment Export Loans program has not been used since the 1999 administrative review. As stated in the SAA, where a company has a long track record of not using a program, including during the investigation, the Department normally will determine that the mere availability of the program does not, by itself, indicate likelihood of continuation or recurrence of a countervailable subsidy. *See* SAA at 888-889. However, because the Pre-Shipment Export Loans program was found to have been used in the investigation and in the 1999 administrative review, the Department determines that this does not meet the threshold for a "long track record" of non-use. Consequently, we continue to find this program available to Turkish producers and exporters of pasta.

Given the continued existence of numerous programs found to provide countervailable benefits, the Department finds that a countervailable subsidy is likely to continue or recur in the event that the CVD Order were revoked.

2. Net Countervailable Subsidy Likely to Prevail

<u>Interested Party Comments</u>

Domestic interested parties rely on the SAA and the Department's *Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders:*

[2] This program has been referred to variously as "VAT Support for Domestic Machinery and Equipment Purchases" and "VAT Exemption for Imported and Locally Purchased Machinery and Equipment" (*see*, 1999 Administrative Review Issues and Decision Memorandum at "VAT Support for Domestic Machinery and Equipment Purchases") and "VAT Exemption on Machinery and Equipment Program" (*see Wire Rod from Turkey* Issues and Decision Memorandum at Comment 3).

Policy Bulletin, 63 FR 18871 (April 16, 1998) to argue that the Department should rely on the net countervailable subsidy rates from the original investigation, taking into account all new subsidy programs that have been identified since the original investigation. Domestic interested parties note that because no additional programs have been terminated since the prior sunset review, the Department should find that net countervailable subsidies likely to prevail to be the same as in the second sunset review:

Manufacturers/Exporters	Net Countervailable Subsidy (%)
Filiz	3.03
Makta	4.49
Oba	14.48
All Others	10.25

Department's Position

The Department normally will provide the ITC the net countervailable subsidy that was determined in the investigation as the subsidy rate likely to prevail if the order is revoked, because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place. *See* SAA at 890, and the House Report at 64. Section 752(b)(l)(B) of the Act provides, however, that the Department will consider whether any change in the program which gave rise to the net countervailable subsidy determination in the investigation or subsequent reviews has occurred that is likely to affect the net countervailable subsidy. Therefore, although the SAA and House Report provide that the Department normally will select a rate from the investigation, this rate may not be the most appropriate if, for example, the rate was derived (in whole or part) from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review. *See Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Final Results of Expedited Second Sunset Review*, 75 FR 6210 l (October 7, 2010) and accompanying Issues and Decision Memorandum.

In determining company-specific, net countervailable subsidy rates likely to prevail, the Department has started with the rates found in the original investigation. We have added to those rates the rates from the subsidy programs newly identified in the 1999 and 2010 administrative reviews: VAT Support Program; Deduction from Taxable Income for Export Revenue; Law 5084: Incentive for Employers' Share in Insurance Premiums; and Export Subsidy Program for Agricultural Products. Therefore, we are adjusting the rates from the investigation to account for these additional subsidies.

As explained above, the Department determined that the Resource Utilization Support Fund (KKDF) Tax Exemption on Export Related Loans, Banking and Insurance Transaction (BIST) Tax Exemption on Export-Related Loans, and the VAT Support for Domestic Machinery and Equipment Purchases programs were not countervailable in *Wire Rod from Turkey*. Therefore, we are not including the rates for these programs in the net countervailable subsidy rates likely to prevail.[3]

Finally, where the Department has found that a program was terminated with no residual benefits and no likelihood of reinstatement or replacement, the Department normally will adjust the net countervailable subsidy rate determined in the original investigation to reflect the change. As noted in the second sunset review of this CVD Order, the GOT terminated the following programs: Free Wheat Program; Payments for Exports on Turkish Ships/State Aid for Export Program; Tax Exemption Based on Export Earnings; Advance Refund on Tax Savings; Incentive Premium on Domestically Obtained Goods; and Resource Utilization Support Fund (GIP). Therefore, we have subtracted the rates calculated for these programs for each company in this sunset review. *See* Memorandum to the File concerning "Calculation of Net Countervailable Subsidy Likely to Prevail for Final Results of Expedited Sunset Review of the Countervailing Duty Order on Certain Pasta from Turkey" from Mahnaz Khan to Susan Kuhbach, dated January 4, 2013. The Department has not found any programs to be terminated since the second sunset review.

As a result, the Department has found that net subsidy levels for Turkish producers and exporters of pasta included in this review are all above *de minimis*. Consistent with section 752(b)(3) of the Act, the Department will provide the ITC the net countervailable subsidy rates shown in the section entitled "Final Results of Review."

<u>Nature of the Subsidies</u>

Consistent with section 752(a)(6) of the Act, the Department is providing the following information to the ITC concerning the nature of the subsidies, and whether any of the subsidies are a subsidy as described in Article 3 or Article 6.1 of the ASCM. We note that Article 6.1 of the ASCM expired effective January 1, 2000.

Article 3

In the instant review, there are four programs that fall under Article 3 of the ASCM which states that the following subsidies shall be prohibited: (a) subsidies contingent, in law or in fact whether solely or as one of several other conditions, upon export performance, and (b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

1) *Pre-Shipment Export Loans*

The Export Credit Bank of Turkey provides short-term pre-shipment export loans to exporters through intermediary commercial banks. The program was commenced in March 1989 in order to meet the financing needs of exporters and overseas contractors. Loans are made available to certified exporters who commit to a certain value of exports within a specified time period.

[3] The Department erroneously included these two programs in the 2010 administrative review as programs "not used" and as new subsidy programs in the second sunset review.

Generally, loans are extended for a period of three to nine months, covering between 10 and 100 percent of the Free on Board value of the committed export value.

2) *Pasta Export Grants*

During 1994, the Central Bank of Turkey provided cash grants and government promissory notes or bonds to exporters of pasta. According to the GOT, the purpose of the program was to develop Turkey's export potential. In order to receive the grants, exporters were required to submit applications (including proof of exportation and payment from the customer) to the local office of the Central Bank. The exporter received a specified percentage of the Free on Board U.S. dollar price, subject to a cap.

3) *Deduction from Taxable Income for Export Revenue*

Pursuant to Article 40 of Income Tax Law 193, dated January 6, 1961, which was amended by Law 4108 on June 2, 1995, the GOT allows taxpayers engaged in overseas activities related to exports, construction, maintenance, assembly and transportation to claim a lump sum deduction from gross income in an amount not to exceed 0.5 percent of the taxpayer's foreign-exchange earnings. There is no application or approval process for this program. Instead, a company claiming the deduction records an expense in its marketing, selling and distribution expense account equal to the amount of the deduction for which it is eligible. When submitting its tax return, the company reports its total sales less the amount of the expense it recorded in its accounting records.

4) *Export Subsidy Program for Agricultural Products*

Under this program, the GOT issues payments to companies exporting certain agricultural products, such as flowers, vegetables, fruit, olive oil, meats and chocolates. The eligible products, terms of the rebates and other regulations for this program for January 1, 2010, through December 31, 2010, are specified by Article 5 and Article 7 of Communiqué 2010/5, issued by the Money-Credit and Coordination Council. According to the GOT, this Communiqué has its legal basis in Council of Minister's Decree No. 94/6401. The program is administered by the Ministry of Economy, General Directorate of Export.

5) *VAT Support Program*

Companies engaging in a wide variety of investment projects such as expanding or modernizing their production facilities, improving infrastructure, undertaking research and development, etc., can obtain an Investment Incentive Certificate for the project from the GOT. This certificate makes the company eligible for certain benefit programs as specified on each certificate. In order to receive a certificate, the company must commit to a certain level of investment and deposit a certain amount of money with the GOT, and smaller investments and deposits are required for companies in areas designated as "priority development regions." The VAT Support Program allows a company to rebate the full VAT on domestically produced machinery and equipment, if the Investment Incentive Certificate was issued before August 1, 1998.

Article 6.1

There could be subsidies described in Article 6.1 of the ASCM if the amount of the subsidy exceeds five percent, if they constitute debt forgiveness or are subsidies to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record of this review for the Department to make such a determination. We, however, are providing the ITC with the following program descriptions:

1) *Pre-Shipment Export Loans* (see above)

2) *Pasta Export Grants* (see above)

3) *Deduction from Taxable Income for Export Revenue* (see above)

4) *Export Subsidy Program for Agricultural Products* (see above)

5) *Law 5084: Incentive for Employers' Share in Insurance Premiums*

The Social Security Institution of the GOT administers the Incentive for the Employer's Share in Insurance Premiums Program (Insurance Premiums Program) pursuant to Article 2 and Article 4 of Law 5084. According to the GOT, this program provides an incentive for companies to invest in any of 49 disadvantaged provinces. For companies that establish their facilities in a disadvantaged province, the GOT will cover up to 80 percent of the employer's share of social security premiums for employees working in the province. If the company's facility is located in an industrial zone within a disadvantaged province, the GOT will pay 100 percent of the employer's share.

Final Results of Review

As a result of this review, the Department finds that revocation of the CVD order on pasta from Turkey would likely lead to continuation or recurrence of net countervailable subsidies at the rates listed below:

Manufacturers/Producer/Exporter	Net Countervailable Subsidy (%)
Filiz Gida Sanayi ve Ticaret	1.63
Maktas Makarnacilik ve Ticaret/ Gidasa Gida San.Tic.A.S.	13.09
Oba Makarnacilik Sanayi ve Ticaret	13.08
All Others	8.85

Recommendation

We recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the *Federal Register* and notify the ITC of our findings.

AGREE __________   DISAGREE_________

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Lynn Fischer Fox
Deputy Assistant Secretary
  for Policy and Negotiations

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Date