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December 24, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh *CM*
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Certain Pasta from Turkey:
Preliminary Results of New Shipper Review

SUMMARY

In response to a request from respondent Bessan Makarna Gida San. Ve Tic. A.S. (Bessan), the Department of Commerce (the Department) is conducting a new shipper review of the antidumping duty (AD) order on certain pasta (pasta) from Turkey. The review covers exports of the subject merchandise to the United States produced by Bessan. The period of review (POR) is July 1, 2013, through January 31, 2014.

We preliminarily find that Bessan did not sell subject merchandise at prices below normal value (NV) during the POR. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to liquidate entries of merchandise produced by Bessan without regard to antidumping duties.

BACKGROUND

The Department published the AD order on pasta from Turkey on July 24, 1996.¹ On July 31, 2014, Bessan requested a new shipper review of the *Order*, in accordance with 19 CFR 351.214, for the period July 1, 2013, through December 31, 2013. On March 10, 2012, the Department published in the *Federal Register* a notice of initiation of this AD new shipper review.² This AD new shipper review covers the POR July 1, 2013, through January 31, 2014.³

¹ See *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Turkey*, 61 FR 38545 (July 24, 1996) (*Order*).

² See *Certain Pasta From Turkey: Notice of Initiation of Antidumping Duty New Shipper Review*, 79 FR 13275 (March, 10, 2014) (*Initiation Notice*).

³ Although Bessan submitted documentation regarding the volume of its shipment and the date of their first sale to an unaffiliated customer in the United States, our Customs query shows that Bessan's shipment entered the United States shortly after the semi-annual anniversary month. Under 19 CFR 351.214(f)(2)(ii), when the sale of the subject merchandise occurs within the normal POR, but the entry occurs after the normal POR, the POR may be



Based on our analysis of the information on the record, including information found in the CBP entry query,⁴ the Department issued its standard antidumping questionnaire (the Antidumping Questionnaire) to Bessan on March 20, 2014. Bessan submitted its response to sections A, B, and C of the Antidumping Questionnaire on April 29, 2014 (Bessan's Sections A, B, and C Response). On May 22, 2014, we issued a supplemental questionnaire to Bessan requesting additional information. Bessan responded to this supplemental questionnaire on June 12, 2014 (Bessan's June 12, 2014 SQR).

On June 11, 2014, the petitioner, American Italian Pasta Company (Petitioner) alleged that Bessan made comparison market sales of certain pasta at prices below the cost of production (COP) during the POR. On July 16, 2014, we initiated a sales-below-cost investigation to determine whether Bessan's home market sales of pasta were made at prices below the COP during the POR. Also on July 16, 2014, we issued a supplemental questionnaire to Bessan requesting additional information and requesting that Bessan respond to section D of the Antidumping Questionnaire (regarding Bessan's COP).

Bessan responded to our July 16, 2014, supplemental questionnaire on August 13, 2014 (Bessan's August 13, 2014, SQR). Bessan also responded to section D of the Antidumping Questionnaire on August 13, 2014 (Bessan's Section D Response). Petitioner submitted comments on Bessan's responses on September 8, 2012. On September 11, 2014, we issued a supplemental questionnaire to Bessan requesting additional information. Bessan responded to our September 11, 2014, supplemental questionnaire on September 26, 2014 (Bessan's September 26, 2014, SQR). On October 8, 2014, we issued a supplemental Section B-D questionnaire to Bessan requesting additional home market sales and COP information. On October 9, 2014, we issued a supplemental Section B questionnaire to Bessan requesting additional home market sales information. Bessan responded to the Section B portions of these supplemental questionnaires on October 27, 2014, and to the Section D portions of these supplemental questionnaires on October 28, 2014. On November 12, 2014, we issued a supplemental Section D questionnaire to Bessan requesting additional COP information. Bessan responded to this supplemental questionnaire on November 21, 2014.

SCOPE OF THE ORDER

The merchandise covered by this order is 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,

extended unless it would be likely to prevent the completion of the review within the time limits set by the Department's regulations. The preamble to the Department's regulations also states that both the entry and the sale should occur during the POR, and that under "appropriate" circumstances the Department has the flexibility to extend the POR. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27319-27320 (May 19, 1997). In this instance, Bessan's shipment entered during the month following the end of the normal POR. Accordingly, we extended the POR to cover the period June 1, 2013 through January 31, 2014 (*See Initiation Notice*, 79 FR 13275).

⁴ *See* Memorandum from Tyler Weinhold to the file, entitled "Antidumping Duty New Shipper Review of Certain Pasta from Turkey (BESSAN MAKARNA GIDA SAN VE TIC A.S.): U.S. Customs and Border Protection Data Query Results," September 22, 2014.

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.

METHODOLOGY

Bona Fide Sales Analysis

Consistent with the Department's practice, the Department investigated the *bona fide* nature of the sale made by Bessan during the POR. In evaluating whether a sale in a new shipper review is commercially reasonable, and therefore *bona fide*, the Department considers, *inter alia*, such factors as: (1) the timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arm's-length basis.⁵ Accordingly, the Department considers a number of factors in its *bona fide* sale analysis, "all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise."⁶

The Department preliminarily finds that the sale of subject merchandise made by Bessan was on a *bona fide* basis. Specifically, the Department preliminarily finds that: (1) the timing of the sales by itself does not indicate that the sale might not be *bona fide*; (2) record evidence indicates that the prices and quantities of the sales are commercially reasonable and not atypical of normal business practices of pasta exporters; (3) Bessan did not incur any extraordinary expenses arising from the transactions; (4) it is unclear how much profit or loss was incurred in the resale of subject merchandise by Bessan unaffiliated U.S. customers for a profit; and (5) the new shipper sales were made between Bessan and its unaffiliated U.S. customers at arm's length.⁷ Therefore, the Department preliminarily finds that Bessan's sales of subject merchandise to the United States are *bona fide* for the purposes of this new shipper review.⁸

Fair Value Comparisons

Pursuant to section 773(a)(1)(B)(ii) of the Tariff Act of 1930, as amended (Act) and 19 CFR 351.414(c)(1) and (d), to determine whether Bessan's sales of subject merchandise from Turkey

⁵ See, e.g., *Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1250 (CIT 2005).

⁶ See *Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (CIT 2005) (citing *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002)).

⁷ See, e.g., Bessan's April 29, 2014, Section C Response at VI-12 to VI-38 and Bessan's June 12 Response at 29 to 32.

⁸ See Memorandum from Tyler Weinhold to Richard Weible, Director Office VI, "Bona Fide Sales Analysis of Beşsan Makarna Gıda San. Ve Tic. A.Ş. (Bessan) in the Antidumping Duty New Shipper Review of Certain Pasta from Turkey" dated December 24, 2014 (*Bona Fides Memo*).

were made in the United States at less than NV, we compared the EP to NV as described in the “Export Price” and “Normal Value” sections of this decision memorandum.

Product Comparisons

In accordance with section 771(16) of the Act, we compared products produced by Bessan and sold in the United States and home market on the basis of the comparison product which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are: 1) shape of product; 2) wheat species; 3) milling form; 4) protein content; 5) additives and 6) enrichment.⁹

When making product comparisons in accordance with section 771(16) of the Act, we considered sales of all products sold in the home market as described in the “Scope of the Order” section of this notice, above, which were made in the ordinary course of trade. We compared U.S. sales to home market sales which were contemporaneous with the U.S. sale, in accordance with 19 CFR 351.414(f). If contemporaneous sales of identical home-market merchandise were reported, we made comparisons to the monthly weighted-average home-market prices for all such sales. If home market sales of identical merchandise were made in the same month as the U.S. sale, we compared U.S. sales to home market sales of identical merchandise made in the same month as the U.S. sale. If no such sales were reported, we compared U.S. sales to home market sales of identical merchandise in the most contemporaneous month in which such sales were made. We considered home market sales to be contemporaneous with U.S. sales if the home market sales were made within the period including the month of the U.S. sale, the two months after the U.S. sale, and the three months before the U.S. sale.

Where there were no contemporaneous sales of identical merchandise in the comparison market made in the ordinary course of trade, we compared U.S. sales to the next most similar product on the basis of the characteristics listed above, that were sold in the same month as the U.S. sales or the month which was most contemporaneous with the U.S. sales, in accordance with 19 CFR 351.414(f).

Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1) the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In antidumping investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department’s examination of this question in the context of reviews conducted pursuant to section 751 of the Act, the Department nevertheless finds that the issue arising under 19 CFR

⁹ See, e.g., Letter from the Department to Bessan, dated March 20, 2014 (Antidumping Questionnaire) at Appendix V.

351.414(c)(1) in reviews is, in fact, analogous to the issue in antidumping investigations.¹⁰ In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.¹¹ The Department finds the differential pricing analysis used in these and other recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this new shipper review.¹² The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department’s additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip codes) and are grouped into regions based upon standard definitions published by the United States Census Bureau. Time periods are defined by the quarter within the period of review being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* test is applied when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the

¹⁰ See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012).

¹¹ See, e.g., *Xanthan Gum From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Notice of Affirmative Final Determination of Sales at Less Than Fair Value: Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan*, 79 FR 19869 (April 10, 2014).

¹² See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2011–2012*, 78 FR 40692 (July 8, 2013); *Certain Activated Carbon From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 26748 (May 8, 2013), and accompanying Decision Memorandum; *Certain Steel Threaded Rod From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 78 FR 21101 (April 9, 2013), and accompanying Decision Memorandum; *Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review*, 78 FR 17637 (March 22, 2013), and accompanying Decision Memorandum.

Cohen's *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen's *d* coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of EPs (or CEPs) that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of EPs (or CEPs) that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold. Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

In this review, in which there are only two U.S. sales, we do not have enough sales data to establish usable comparison and test groups. The Department finds that these circumstances do not support consideration of an alternative to the average-to-average method. Accordingly, for

these preliminary results, the Department determines to use the average-to-average method in making comparisons of EP and NV for Bessan.

Date of Sale

Section 351.401(i) of the Department's regulations states that, normally, the Department will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.

Bessan reported the commercial invoice date for all U.S. sales. Bessan reported that for both U.S. sales and home market sales material terms of sale could and often did change between receipt of purchase orders and the shipment date. Bessan also reported that shipment always precedes the issuance of the invoice for home market and U.S. sales, and sometimes by as much as two days.¹³ Consistent with the Department's past practice, we use the shipment date as the date of sale where the shipment date occurs before the invoice date because the price and quantity are fixed at the time of shipment.¹⁴ Accordingly, despite our normal practice of using invoice date as the date of sale in accordance with Section 351.401(i) of the Department's regulations, we used shipment date as the date of sale in both markets.

U.S. Price

A. Export Price

Bessan reported that subject merchandise was sold prior to importation outside the United States to the first unaffiliated purchaser in the United States. Therefore, we based the U.S. price on EP, as defined in section 772(a) of the Act, for such sales. Bessan's EPs are based on prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight and brokerage and handling in the country of manufacture.

¹³ See, e.g., Bessan's response to the Department's May 22, 2014, supplemental questionnaire, dated June 12, 2014, at pages 6-11.

¹⁴ See, e.g., *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 18074, 18079-80 (April 10, 2006), unchanged in *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 72 FR 4486 (January 31, 2007), and the accompanying Issues and Decision Memorandum at Comments 4 and 5; see also *Seamless Refined Copper Pipe and Tube From Mexico: Preliminary Results of Antidumping Duty Administrative Review; 2010-2011*, 77 FR 73422 (December 10, 2012), and the accompanying Preliminary Issues and Decision Memorandum at 7, unchanged in *Seamless Refined Copper Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 35244 (June 12, 2013).

Normal Value

A. Home Market Viability as Comparison Market

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Bessan's home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(B) of the Act and 19 CFR 351.404(b)(2).¹⁵ Based on this comparison, we determined that Bessan had a viable home market during the POR. Consequently, we based NV on home market sales to unaffiliated purchasers made in the usual quantities in the ordinary course of trade.

B. Calculation of NV Based on Comparison Market Prices

We calculated NV based on prices to unaffiliated customers in the home market. We adjusted the starting price for billing adjustments, discounts (other discounts), and foreign inland freight, pursuant to section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (for differences in U.S. and home market imputed credit expenses) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. When applicable, we also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other. Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of (1) the amount of the commission paid in the U.S. market, or (2) the amount of indirect selling expenses incurred in the comparison market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same method.

C. Cost of Production Analysis

We initiated a sales-below-cost investigation on July 16, 2014. Accordingly, we performed a cost test to determine whether any of Bessan's reported home market sales were made at prices below the COP, in accordance with section 773(b)(2)(i) of the Act. To conduct this analysis, we used the COP data set Bessan submitted to calculate normal value for price-to-price comparisons.

1. Calculation of COP

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative and financial expenses, in accordance with section 773(b)(3) of the Act. We examined the cost data and determined that our quarterly cost method is not warranted. Except as noted below, we relied on the COP data submitted by

¹⁵ See Preliminary Analysis Memorandum.

Bessan in its questionnaire response for the COP calculation. We have adjusted Bessan's reported general and administrative expenses by disallowing a portion of the Other Operating Income used to offset those expenses.¹⁶

2. Test of Comparison Market Sales Prices

As required under section 773(b)(1)(A) and (B) of the Act, we compared the weighted average of the COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net comparison market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, billing adjustments, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, we disregarded below-cost sales when they were made in substantial quantities and where prices would not permit the recovery of all costs within a reasonable period of time, *i.e.*, where 20 percent or more of a respondent's sales of a given product were at prices less than the COP.¹⁷ We did not disregard below-cost sales that were not made in "substantial quantities," *i.e.*, where less than 20 percent of sales of a given product were at prices less than the COP.

Our cost test for Bessan revealed that home market sales of certain models were sold at prices below the COP within an extended period of time, at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales to determine NV.¹⁸

D. LOT Analysis

To the extent practicable, we determine NV using home market sales made at the same level of trade (LOT) as the U.S. sales. Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for U.S. and comparison market sales (*i.e.*, NV based on either comparison market or third country prices), we consider the starting prices before any adjustments. If the home-market sales are at a different LOT from that of a U.S. sale and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and home-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. To determine whether home market sales are at a different LOT

¹⁶ See Memorandum from Frederick Mines, Accountant, to Neal Halper, Director, Office of Accounting, regarding "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - Bessan" dated December 24, 2014. See also Preliminary Analysis Memorandum.

¹⁷ See section 773(b)(2)(D) of the Act.

¹⁸ See Preliminary Analysis Memorandum.

than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

1. Analysis of Home Market LOT

In the current review, Bessan reported two LOTs in the home market, the home market “trader/wholesaler” LOT (LOT 2), and the home market “retailer (markets)” LOT (LOT 4).¹⁹ We obtained information from Bessan regarding the marketing process and selling functions along the chain of distribution between the producer and the customer in the home market.²⁰ Our analysis indicates the selling functions performed for home market retailer (markets) customers are performed at a similar degree of intensity and are similar in number to the selling functions performed for home market trader/wholesaler customers. For example, in comparing Bessan’s selling activities, Bessan reported that all of the selling functions performed in the home market trader/wholesaler channel of distribution are also performed in the home market retailer (markets) channel of distribution (*i.e.*, sales negotiation, credit risk management, customer service, logistics, inventory maintenance, packing, freight/delivery, collection, sales promotion, direct sales personnel, technical support, and guarantees). Further, Bessan did not report differences in the level of intensity between these selling functions. Accordingly, we preliminarily determine that Bessan’s home market sales through the trader/wholesaler and retailer (markets) channels of distribution were made at the same LOT.

2. Analysis of United States Levels of Trade

Bessan reported a single LOT for its U.S. sales, the EP LOT.²¹ We obtained information on Bessan’s marketing process and selling functions along the chain of distribution between the producer-exporter (Bessan) and the customer in the United States.²²

3. Level of Trade Determination

We then compared Bessan’s home market LOT to its EP LOT. Our analysis indicates the selling functions performed for home market customers are performed at a similar degree of intensity and are similar in number to the selling functions performed the EP channel of distribution. For example, in comparing Bessan’s selling activities, Bessan reported that four of the selling functions performed in the home market distributor and end user channels of distribution are also performed in the EP channel of distribution (*i.e.*, packing, order input/processing, direct sales personnel, and “provide guaranties”). Bessan did not report differences in the level of intensity between these selling functions among the U.S. EP, home market trader/wholesaler, or home market retailer (markets) channels of distribution. Bessan reported that the advertising, sales promotion, inventory maintenance, sales/marketing support, and “provide cash discounts,”

¹⁹ See letter from Bessan to the Secretary of Commerce, “Response of BESSAN to the Sections B and C of the Second Supplemental Questionnaire for AD New Shipper Review Involving Certain Pasta from Turkey,” August 13, 2014, (Bessan’s August 13, 2014, Section B and C Supplemental Questionnaire Response) at question 14.

²⁰ See letter from Bessan to the Secretary of Commerce, “Response of BESSAN to the Sections A, B and C Questionnaire for AD New Shipper Review Involving Certain Pasta from Turkey,” April 29, 2014, (Bessan’s April 29, 2014, Section A-C Response) at VI-9, VI-10, Exhibit A-6, and Exhibit A-8.

²¹ See Bessan’s August 13, 2014, Section B and C supplemental Questionnaire Response at question 14.

²² See Bessan’s April 29, 2014, Section A-C Response at VI-9, VI-10, Exhibit A-6, and Exhibit A-8.


selling functions were only performed in the home market channels of distribution, and not in the U.S. EP channel of distribution. However, the "pay commissions" selling function was only performed in the U.S. EP channel of distribution and not in the home market channels of distribution. Therefore, while there are differences, there is no clear indication that the U.S. EP LOT is either more or less advanced than the home market LOT. Accordingly, we preliminarily determine Bessan's home market and EP sales were made at the same LOT and no LOT adjustment is warranted for the EP sales.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve.


CONCLUSION

We recommend applying the above methodology for these preliminary results.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

29 DECEMBER 2014
(Date)