

A-489-807
New Shipper Review
POR: 4/1/06 - 9/30/06
Public Document
AD/CVD/IA/2: I. Itkin

DATE: October 31, 2007

TO: Stephen J. Claeys
Acting Assistant Secretary
for Import Administration

THROUGH: James Maeder
Director, Office 2

FROM: The Team

SUBJECT: Issues and Decision Memorandum for the New Shipper Review on
Certain Steel Concrete Reinforcing Bars from Turkey – April 1,
2006, through September 30, 2006

Summary

We have analyzed the comments of the interested parties in the 2006 new shipper review of the antidumping duty order covering certain steel concrete reinforcing bars (rebar) from Turkey regarding Ege Celik Endustrisi ve Ticaret A.S./Ege Dis Ticaret A.S. (Ege Celik). As a result of our analysis of the comments received from interested parties, we have made no changes to our margin calculations. This memorandum covers a single issue raised by the parties – whether an antitrust finding by the Turkish Government’s Competition Board has an impact on the Department’s analysis with respect to Ege Celik.

We recommend that you approve the position described in the “Discussion of the Issues” section of this memorandum, which confirms that Ege Celik is entitled to a new shipper review and that there is no basis to reject its reported sales or costs data.

Background

On September 10, 2007, the Department of Commerce (the Department) published the preliminary results of the new shipper review of the antidumping duty order on rebar from Turkey covering Ege Celik. See Notice of Preliminary Results of New Shipper Review of the Antidumping Duty Order on Certain Steel Concrete Reinforcing Bars from Turkey, 72 FR 51598 (Sep. 10, 2007) (Preliminary Results). The period of review (POR) is April 1, 2006, through September 30, 2006.

We invited parties to comment on our preliminary results of these reviews. Based on our analysis of the comments received, we have not changed the results from those presented in the preliminary results.

Margin Calculations

We calculated export price and normal value using the same methodology stated in the preliminary results.

Discussion of the Issues

Issues Related to the Turkish Government Competition Board's Report

Prior to the POR, Ege Celik was a member of an association in Turkey called the Turkish Iron and Steel Producers Association (TISPA). In October 2005, the Turkish Competition Board (the Competition Board), a Turkish governmental agency, found that Ege Celik, along with the vast majority of TISPA's other members, had violated the country's competition law by engaging in anti-competitive behavior and collusion. In February 2007, the U.S. domestic industry filed the Competition Board's report on the record of this proceeding, and it requested that we rely on this report to conclude that: 1) rebar prices in the home market and to the United States, as well as certain costs in the home market, were not competitively set; and 2) Ege Celik is affiliated with respondents in previously completed reviews and the less-than-fair-value investigation by virtue of its participation in TISPA. As a result, the domestic industry requested that the Department rescind the new shipper review for Ege Celik because its affiliation with other rebar producers makes it ineligible to be treated as a new shipper.

We solicited data from Ege Celik regarding certain issues surrounding the Competition Board's report, and we verified this data. After analyzing all of the information on the record, we preliminarily concluded that we disagree with the domestic industry's allegations. See the August 31, 2007, Memorandum from Shawn Thompson, Irina Itkin, and Brianne Riker to David M. Spooner, entitled "Preliminary Finding on Issues Related to the Turkish Government Competition Board's Reports in Certain Steel Concrete Reinforcing Bars from Turkey" ("Competition Memo").

The domestic industry continues to argue that evidence on the record demonstrates that Ege Celik acted through TISPA to coordinate scrap purchasing, rebar production, and rebar pricing in the Turkish market. As a result, the domestic industry argues that Turkish prices for scrap were pushed below market value, and prices for rebar were raised above market value. According to the domestic industry, the Department should reconsider its preliminary decision and find that: 1) sales and costs in the home market are unreliable and do not represent market values; and 2) Ege Celik is affiliated with other rebar producers. The domestic industry implies that, as a result, the Department should either apply adverse facts available to Ege Celik or rescind this new shipper review with respect to it.

Ege Celik argues that the domestic industry has not provided any new arguments regarding this issue in its case brief. Therefore, Ege Celik argues that the Department should affirm its preliminary results with respect to Ege Celik in the final results.

Department's Position:

In our preliminary determination related to this issue, we did not rely on the evidence or conclusions in the Competition Board's report as the basis for any finding in this review. Instead, we investigated the domestic industry's allegations within the confines of antidumping duty law and regulations. In evaluating the evidence on the record, we examined the activities of TISPA during the POR and Ege Celik's role in it, as well as the cost data reported by Ege Celik, especially with respect to its scrap purchases in the context of domestic and international scrap price movements.

The domestic industry provided no new arguments with respect to the information on the record pertaining to the Competition Board's report or Ege Celik's reported costs, prices, and affiliations that were not already addressed in our preliminary findings, nor did it comment on specific sections of our preliminary findings with which it disagreed. Rather, the domestic industry merely reiterated its previous arguments in stating its opposition to our preliminary finding. Therefore, absent any new argument with respect to our preliminary conclusions, we continue to find that there is no basis to conclude that Ege Celik is affiliated with any other rebar producers and that there is no basis to conclude that the sales and cost data in this review is distorted by non-market considerations and, thus, it is appropriate to rely on this data for purposes of the final results. Thus, we have concluded that Ege Celik is entitled to a new shipper review because it has met the requirements set forth under 19 CFR 351.214(b). See "Preliminary Finding on Issues Related to the Competition Board's Report" at pages 24 through 38 for a detailed discussion of these findings.

This finding is consistent with the Department's practice of not reconsidering prior determinations, absent new information or arguments. See, e.g., Certain Frozen Warmwater Shrimp from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 72 FR 52061, 52063 (Sept. 12, 2007) and Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 72 FR 52055, 52058 (Sept. 12, 2007) (where, in both instances, the Department did not reverse its preliminary decisions regarding collapsing because there was "no additional information that would compel us to reverse our preliminary finding"); Stainless Steel Bar from the United Kingdom: Final Results of Antidumping Duty Administrative Review, 72 FR 43598, 42599 (Aug. 6, 2007) and Certain Steel Concrete Reinforcing Bars From Turkey: Final Results and Rescission of Antidumping Duty Administrative Review in Part, 71 FR 65082, 65083 (where, in both instances, the Department did not reverse its preliminary successor-in-interest determinations because no party provided any additional information to compel it to reverse its preliminary findings); and Notice of Final Results of the Twelfth Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the

Republic of Korea, 72 FR 13086 (Mar. 20, 2007), and accompanying Issues and Decision Memorandum at Comment 1 (where the Department did not revise the model-matching hierarchy because the respondent relied on previously submitted arguments without offering any new arguments in its case brief to compel the Department to reverse its preliminary finding).

The Department's analysis and conclusions are supported by the information on the record. Ege Celik responded fully to all of the Department's questionnaires and otherwise acted to the best of its ability throughout the conduct of the new shipper review. Thus, there is no reason to apply facts otherwise available, or to apply an adverse inference, pursuant to sections 776(a) and (b) of the Act, and we have continued to calculate an antidumping duty margin for Ege Celik on the basis of its response and the data contained in its own books and records.

Recommendation

Based on our analysis of the comments received, we recommend adopting the above position. If this recommendation is accepted, we will publish the final results of this review and the final weighted-average dumping margin for Ege Celik in the Federal Register.

Agree_____

Disagree_____

 Stephen J. Claeys
 Acting Assistant Secretary
 for Import Administration

 (Date)