

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-475-818]

Certain Pasta from Italy: Notice of Court Decision Not in Harmony

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

SUMMARY: On September 14, 2005, the United States Court of International Trade ("CIT") held void *ab initio* the Department of Commerce's ("the Department") initiation of the sixth administrative review of the antidumping duty order with regard to PAM, S.p.A. and JCM, Ltd. ("PAM") in all respects. See *PAM S.p.A. & JCM, Ltd. v. United States*, Court No. 04-00082, Slip. Op. 05-124 (CIT, Sept. 14, 2005) ("*PAM v. United States*"). Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("Federal Circuit") in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*"), the Department is notifying the public that the *PAM v. United States* decision was "not in harmony" with the Department's original results.

EFFECTIVE DATE: September 24, 2005.

FOR FURTHER INFORMATION CONTACT: Preeti Tolani, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0395.

SUPPLEMENTARY INFORMATION:**Background**

On July 1, 2002, the Department published a notice of opportunity to request an administrative review of the antidumping duty order for certain pasta from Italy. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review*, 67 FR 44172 (July 1, 2002). In response, the Department received requests for review of thirteen respondent companies, including PAM, from domestic petitioners.¹ Petitioners served their requests for administrative reviews upon all respondent companies except for PAM. On August 27, 2002, the Department published a notice of initiation of its sixth antidumping duty administrative review covering the period of July 1, 2001, through June 30, 2002, listing PAM and twelve other

¹New World Pasta Company, Dakota Growers Pasta Company, Borden Foods Corporation, and American Italian Pasta Company.

companies as respondents. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 55000 (August 27, 2002). Thereafter, PAM notified the Department that PAM was not served properly with a request for review. On August 7, 2003, the Department published its preliminary results of the sixth administrative review of the antidumping duty order where it applied adverse facts available for PAM to arrive at an antidumping margin of 45.49 percent. See *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent Not to Revoke in Part: For the Sixth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy*, 68 FR 47020 (August 7, 2003). On February 10, 2004, the Department published its final results, which affirmed its decisions in the preliminary results. See *Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part: For the Sixth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy*, 69 FR 6255 (Feb. 10, 2004).

PAM challenged that the initiation of this review, as well as its subsequent results, should be void *ab initio* because petitioners failed to serve their request for initiation of the review in violation of 19 C.F.R. § 351.303(f)(3)(ii) (2002). The CIT granted PAM's motions for judgment on the agency record, held void *ab initio* the initiation of the sixth administrative review of the antidumping duty order with respect to PAM, and directed the Department to rescind the sixth administrative review of the antidumping duty order with respect to PAM.

Timken Notice

In its decision in *Timken*, the Federal Circuit held that, pursuant to 19 U.S.C. § 1516a(e), the Department must publish notice of a decision of the CIT which is "not in harmony" with the Department's results. The CIT's decision in *PAM v. United States* was not in harmony with the Department's final antidumping duty results. Therefore, publication of this notice fulfills the obligation imposed upon the Department by the decision in *Timken*. In addition, this notice will serve to continue the suspension of liquidation. If this decision is not appealed, or if appealed, it is upheld, the Department will rescind the sixth administrative review of the antidumping duty order with respect to PAM.

Dated: October 7, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE**International Trade Administration**

[A-580-807]

Polyethylene Terephthalate Film from Korea; Continuation of Antidumping Duty Order

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

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty order on polyethylene terephthalate (PET) film from Korea would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing this notice of continuation of this antidumping duty order.

EFFECTIVE DATE: October 20, 2005.

FOR INFORMATION CONTACT: Dana Mermelstein or Robert James, AD/CVD Operations, Offices 6 and 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-1391 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:**Scope of the Order**

The antidumping duty order on PET film from Korea covers shipments of all gauges of raw, pre-treated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or co-extruded. The films excluded from this order are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order. PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00.00.¹

¹Effective July 1, 2003, the HTS subheading 3920.62.00.00 was divided into 3920.62.00.10

While the HTS subheading is provided for convenience and for customs purposes, the written description remains dispositive as to the scope of the product coverage.

Background

On February 2, 2005, the Department initiated and the ITC instituted sunset reviews of the antidumping duty order on PET film from Korea pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See *Initiation of Five-year ("Sunset") Reviews*, 70 FR 5415 (February 2, 2005) and *Polyethylene Terephthalate (PET) Film from Korea, Investigation No. 731-TA-459 (Second Review)*, 70 FR 5473 (February 2, 2005). As a result of its review, the Department found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping, and notified the ITC of the magnitude of margins likely to prevail were the order to be revoked. See *Polyethylene Terephthalate Film from Korea; Five year (Sunset) Reviews of Antidumping Duty Order; Final Results*, 70 FR 53627 (September 9, 2005). On October 3, 2005, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on PET film from Korea would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See USITC Publication 3800 (September 2005) and *Polyethylene Terephthalate (PET) Film from Korea, Investigation No. 731-TA-459 (Second Review)*, 70 FR 58748 (October 7, 2005).

Determination

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on PET film from Korea. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year

review of this order not later than February 2010.

This five-year (sunset) review and notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: October 14, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-702, A-580-813, A-583-816]

Certain Stainless Steel Butt-Weld Pipe Fittings from Japan, South Korea, and Taiwan; Continuation of Antidumping Duty Orders

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

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty orders on certain stainless steel butt-weld pipe fittings (pipe fittings) from Japan, South Korea, and Taiwan would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing this notice of continuation of these antidumping duty orders.

EFFECTIVE DATE: October 20, 2005.

FOR FURTHER INFORMATION: Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-1391.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2005, the Department and the ITC instituted sunset reviews of the antidumping duty orders on pipe fittings from Japan, South Korea, and Taiwan pursuant to section 751(c) of the Act. See *Initiation of Five-year ("Sunset") Reviews*, 70 FR 5415 (Feb. 2, 2005). As a result of its review, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping, and notified the ITC of the magnitude of the margins likely to prevail were the orders to be revoked. See *Certain Stainless Steel Butt-Weld*

Pipe Fittings from Japan, South Korea, and Taiwan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders, 70 FR 53631 (Sept. 9, 2005). On October 3, 2005, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on pipe fittings from Japan, Korea, and Taiwan would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See USITC Publication 3801 (September 2005) and *Stainless Steel Butt-Weld Pipe Fittings from Japan, Korea, and Taiwan, Inv. Nos. 731-TA-376, 563, and 564 (Second Review)* 70 FR 58748 (Oct. 7, 2005).

Scope of the Orders

Japan

The products covered by this order include certain stainless steel butt-weld pipe and tube fittings, or SSPFs. These fittings are used in piping systems for chemical plants, pharmaceutical plants, food processing facilities, waste treatment facilities, semiconductor equipment applications, nuclear power plants and other areas. This merchandise is classifiable under the Harmonized Tariff Schedules of the United States (HTSUS) subheading 7307.23.0000. While the HTSUS subheading is provided for convenience and for customs purposes, the written product description remains dispositive as to the scope of the product coverage.

South Korea

The products subject to this order are certain welded stainless steel butt-weld pipe fittings (pipe fittings), whether finished or unfinished, under 14 inches in inside diameter.

Pipe fittings are used to connect pipe sections in piping systems where conditions require welded connections. The subject merchandise can be used where one or more of the following conditions is a factor in designing the piping system: (1) Corrosion of the piping system will occur if material other than stainless steel is used; (2) contamination of the material in the system by the system itself must be prevented; (3) high temperatures are present; (4) extreme low temperatures are present; (5) high pressures are contained within the system.

Pipe fittings come in a variety of shapes, and the following five are the most basic: "elbows," "tees," "reducers," "stub ends," and "caps." The edges of finished fittings are beveled. Threaded, grooved, and bolted fittings are excluded from this review. The pipe fittings subject to this order are