

under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulation and the terms of an APO is a sanctionable violation.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: July 30, 1999.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 99-20450 Filed 8-6-99; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-475-818]

#### Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy

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

**SUMMARY:** The Department of Commerce is conducting an administrative review of the antidumping duty order on certain pasta (pasta) from Italy. This review covers shipments to the United States by seven respondents during the period of review (POR) July 1, 1997, through June 30, 1998.

We preliminarily find that, for certain respondents, sales of the subject merchandise have been made below normal value. If these preliminary results are adopted in the final results, we will instruct the Customs Service to assess antidumping duties on the subject merchandise exported by these companies.

For three respondents, we preliminarily find that sales of the

subject merchandise have not been made below normal value. If these preliminary results are adopted in the final results, we will instruct the Customs Service not to assess antidumping duties on the subject merchandise exported by this company.

**EFFECTIVE DATE:** August 9, 1999.

**FOR FURTHER INFORMATION CONTACT:** John Brinkmann, Office of AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-5288.

#### SUPPLEMENTARY INFORMATION:

##### Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR part 351 (1998).

##### Case History

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on certain pasta from Italy (61 FR 38547). On July 1, 1998, we published in the **Federal Register** the notice of "Opportunity to Request an Administrative Review" of this order, for the period July 1, 1997 through June 30, 1998 (63 FR 35909).

In accordance with 19 CFR 351.213(b), on July 31, 1998, Borden, Inc., Hershey Pasta and Grocery Group, Inc.,<sup>1</sup> and Gooch Foods, Inc. (the petitioners) requested a review of the following producers and exporters of pasta from Italy: Pastificio Antonio Pallante (Pallante); Arrighi S.p.A. Industrie Alimentari (Arrighi); Barilla Alimentari S.R.L. (Barilla); N. Puglisi & F. Industria Paste Alimentare S.p.A. (Puglisi); La Molisana Industrie Alimentari S.p.A. (La Molisana); Pastificio Fratelli Pagani S.p.A. (Pagani); and Rummo S.p.A. Molino e Pastificio (Rummo). The petitioners subsequently withdrew their request for a review of Arrighi, Barilla and Pagani prior to initiation. In addition, the following producers and/or exporters of pasta from Italy requested an administrative review in accordance with 19 CFR 351.213(b)(2): Rummo; La Molisana; Puglisi; Pallante; F.lli De Cecco di

Filippo Fara S. Martino S.p.A. (De Cecco); Pastificio Maltagliati S.p.A. (Maltagliati); Riscossa F.lli Mastromauro S.r.l. (Riscossa); Commercio-Rappresentanze-Export S.r.l. (Corex); Pastificio Fabianelli S.p.A. (Fabianelli); Industria Alimentari Colavita S.p.A. (Indalco); and F. Divella Molina e Pastificio (Divella). On August 27, 1998, we published the notice of initiation of this antidumping duty administrative review covering the period of July 1, 1997 through June 30, 1998 (*Notice of Initiation*, 63 FR 45796). After initiation, Divella, Fabianelli, Indalco, and Riscossa withdrew their requests for review. See Partial Rescission of Antidumping Duty Administrative Review section, below.

Because the Department had disregarded sales that failed the cost test during the preceding review of De Cecco, La Molisana, Puglisi and Rummo, pursuant to section 773(b)(2)(A)(ii) of the Act, we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the cost of production (COP). Therefore, we initiated cost investigations on these four companies at the time we initiated the antidumping review.

On September 1, 1998, we issued an antidumping questionnaire<sup>2</sup> to all of the companies subject to review. After several extensions, the respondents submitted their responses to sections A through C (or D, where applicable) of the questionnaire by November 5, 1998.

On November 12, 1998, the petitioners alleged that Corex and Maltagliati had sold the foreign like product at prices below the COP. On December 22, 1998, we initiated a sales-below-cost investigation with respect to both companies. On December 14, 1998, the petitioners also alleged that Pallante had also sold the foreign like product at prices below the COP. We initiated a sales below cost investigation with respect to Pallante on January 4, 1999. All the companies submitted their COP responses by February 2, 1999.

The Department issued its supplemental section A questionnaires in November 1998, and supplemental sections B and C questionnaires in

<sup>2</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the sales of the merchandise in all of its markets. Sections B and C of the questionnaire request comparison market sales listings and U.S. sales listings, respectively. Section D requests additional information about the cost of production of the foreign like product and constructed value of the merchandise under review.

<sup>1</sup> Effective January 1, 1999, Hershey Pasta and Grocery Group, Inc., became New World Pasta, Inc.

January 1999. Supplemental section D questionnaires were issued in February 1999. Responses to all supplemental questionnaires were received by March 23, 1999.

We verified the sales and cost information submitted by Rummo from April 12 through April 20, 1999 and May 17 through 19, 1999. From April 22 through April 30, 1999, we verified the sales and cost information submitted by Maltagliati.

On March 12, 1999, the Department published a notice postponing the preliminary results of this review until June 30, 1999 (64 FR 12287). On June 16, 1999, the Department published a notice further postponing the preliminary results of this review until August 2, 1999 (64 FR 32213).

#### **Partial Rescission of Antidumping Duty Administrative Review**

On September 25, 1998, Divella and Fabianelli withdrew their requests for a review. Indalco withdrew its request for a review on September 29, 1998. Riscossa withdrew its request on November 17, 1998. Because there were no other requests for reviews of these companies, and because the companies' letters withdrawing their requests for review were timely filed, we are rescinding the review with respect to these companies in accordance with 19 CFR 351.213(d)(1).

#### **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. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione (IMC), by Bioagricoop Srl, by QC&I International Services, by Ecocert Italia or by Consorzio per il Controllo dei Prodotti Biologici.

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.

#### **Scope Rulings**

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the antidumping and countervailing duty orders. See Memorandum from Edward Easton to Richard Moreland, dated August 25, 1997.

(2) On July 30, 1998, the Department issued a scope ruling, finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the antidumping and countervailing duty orders. See letter from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Import Administration, to Barbara P. Sidari, Vice President, Joseph A. Sidari Company, Inc., dated July 30, 1998.

(3) On October 23, 1997, the petitioners filed an application requesting that the Department initiate an anti-circumvention investigation against Barilla, an Italian producer and exporter of pasta. On October 5, 1998, the Department issued its final determination that, pursuant to section 781(a) of the Act, circumvention of the antidumping duty order is occurring by reason of exports of bulk pasta from Italy produced by Barilla which subsequently are repackaged in the United States into packages of five pounds or less for sale in the United States. See *Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta From Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 63 FR 54672 (October 13, 1998).

(4) 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 may be 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 to Richard Moreland*, dated May 24, 1999.

#### **Verification**

As provided in section 782(i) of the Act, we verified sales and cost information provided by Maltagliati and Rummo. We used standard verification procedures, including on-site inspection of the manufacturers' facilities and examination of relevant sales and financial records. Our verification results are outlined in the verification reports placed in the case file.

#### **Comparisons to Normal Value**

To determine whether sales of certain pasta from Italy were made in the United States at less than fair value, we compared the export price (EP) or constructed export price (CEP) to the normal value (NV). We first attempted to compare contemporaneous sales of products sold in the U.S. and comparison markets that were identical with respect to the following characteristics: pasta shape; type of wheat; additives; and enrichment. However, we did not find any comparison market sales of merchandise that were identical in these respects to the merchandise sold in the United States. Accordingly, we compared U.S. products with the most similar merchandise sold in the comparison market based on the characteristics listed above, in that order of priority. Where there were no appropriate comparison market sales of comparable merchandise, we compared the merchandise sold in the United States to constructed value (CV), in accordance with section 773 (a)(4) of the Act.

#### **Export Price and Constructed Export Price**

For the price to the United States, we used, as appropriate, EP or CEP, in accordance with sections 772(a) and (b) of the Act. We calculated EP where the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP was not otherwise warranted based on the facts on our record. We calculated CEP where sales to the first unaffiliated purchaser took place after importation. We based EP and CEP on the packed CIF, ex-factory, FOB, or delivered prices to the first unaffiliated customer in, or for exportation to, the United States. Where appropriate, we reduced these prices to reflect discounts and rebates.

In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses including inland freight from plant or warehouse to port of exportation, foreign brokerage handling and loading

charges, export duties, international freight, marine insurance, U.S. duties, and U.S. inland freight expenses (freight from port to the customer). In addition, where appropriate, we increased the EP and CEP by the amount of the countervailing duties paid that were attributable to an export subsidy, in accordance with section 772(c)(1)(C).

For CEP, in accordance with section 772(d)(1) of the Act, where appropriate, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (advertising, credit costs, warranties, and commissions paid to unaffiliated sales agents). In addition, we deducted indirect selling expenses that related to economic activity in the United States. These expenses include certain indirect selling expenses incurred in the exporting country and the indirect selling expenses of affiliated U.S. distributors. We also deducted from CEP an amount for profit in accordance with section 772 (d)(3) and (f) of the Act.

Certain respondents reported the resale of subject merchandise purchased in Italy from unaffiliated producers. Where an unaffiliated producer of the subject pasta knew at the time of the sale that the merchandise was destined for the United States, the relevant basis for the export price would be the price between that producer and the respondent. See *Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Administrative Review and Notice of Determination Not to Revoke Order*, 63 FR 50867, 50876 (September 23, 1998). In this review, the unaffiliated producers knew or had reason to know at the time of sale that the ultimate destination of the merchandise was the United States because virtually all enriched pasta is sold to the United States. Accordingly, such transactions were disregarded for purposes of our analysis.

Consistent with our methodology in prior reviews (*Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy*, 64 FR 6615, 6617 (February 10, 1999)), when respondents purchased pasta from other producers and we were able to identify resales of this merchandise to the United States, we excluded sales of the purchased pasta from the margin calculation. Where the purchased pasta was commingled with the respondent's production and we could not identify the resales, we examined both sales of

produced pasta and resales of purchased pasta. Inasmuch as the percentage of pasta purchased by any single respondent was an insignificant part of its U.S. sales data base, we included the sales of commingled purchased pasta in our margin calculations.

#### Normal Value

##### A. Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared each respondent's volume of home market sales of the foreign like product to the volume of their U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1)(B) and (C) of the Act, because, with the exception of Corex, each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for all producers, except Corex.

Corex reported that it made no home market sales during the POR. Therefore, in accordance with section 773(a)(1)(B)(ii) of the Act, we have based NV on the price at which the foreign like product was first sold for consumption in the respondent's largest third-country market, Sweden, which had an aggregate sales quantity greater than five percent of the aggregate quantity sold in the United States.

##### B. Cost of Production Analysis

Before making any comparisons to normal value, we conducted a COP analysis, pursuant to section 773(b) of the Act, to determine whether the respondents' comparison market sales were made below the cost of production. We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (SG&A) and packing, in accordance with section 773(b)(3) of the Act. We relied on the respondents' information as submitted, except in the specific instances discussed below.

##### Corex

We reclassified certain expenses reported as indirect selling expenses as G&A and revised Corex's G&A ratio. See Memorandum from Cindy Robinson to John Brinkmann dated August 2, 1999 (Corex Analysis Memo).

##### Maltagliati

For semolina cost we used the weighted-average cost of semolina, adjusted for loss in processing, found at

verification. We also recalculated G&A to include payments Maltagliati made to an affiliate for financial services. See Memorandum from Constance Handley to John Brinkmann dated August 2, 1999 (Maltagliati Analysis Memo).

##### Rummo

We recalculated G&A to include rental and amortization expenses found at verification. See Memorandum from James Kemp to John Brinkmann dated August 2, 1999 (Rummo Analysis Memo).

##### Test of Comparison Market Prices

As required under section 773(b) of the Act, we compared the weighted-average COP for each respondent to their 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, direct and indirect selling expenses, and packing expenses.

##### Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the 12 month period were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2) (B) and (C) of the Act. In such cases, because we compared prices to POR-average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, we disregarded the below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

For one company, Corex, we found that all comparison market sales were below the COP.

### Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on ex-works, FOB or delivered prices to comparison market customers. We made deductions from the starting price for handling, loading, inland freight, warehousing, inland insurance, discounts, and rebates. In accordance with section 773(a)(6) (A) and (B) of the Act, we deducted comparison market packing costs and added U.S. packing costs. In addition, we made circumstance of sale (COS) adjustments for direct expenses, including imputed credit expenses, advertising, warranty expenses, commissions, bank charges and interest revenue, in accordance with section 773(a)(6)(C)(iii) of the Act.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We based this adjustment on the difference in the variable costs of manufacturing for the foreign like product and subject merchandise, using POR-average costs.

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 (the "commission offset"). Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to normal value 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 normal value following the same methodology.

Sales of pasta purchased by the respondents from unaffiliated producers and resold in the comparison market were treated in the same manner described above in the "Export Price and Constructed Export Price" section of this notice.

### Normal Value Based on Constructed Value

For Corex, we could not determine the NV based on comparison market sales because there were no contemporaneous sales of a comparable product in the ordinary course of trade. Therefore, we compared the EP to CV. In accordance with section 773(e) of the Act, we calculated CV based on the sum

of the cost of manufacturing of the product sold in the United States, plus amounts for SG&A expenses, profit, and U.S. packing costs. We calculated Corex's CV based on the methodology described in the "Cost of Production Analysis" section of this notice, above.

Because there were no above-cost comparison market sales and hence no actual company-specific profit data available for Corex's sales of the foreign like product to the comparison market, we calculated profit expenses in accordance with section 773(e)(2)(B)(i) of the Act. Section 773(e)(2)(B)(i) states that SG&A and profit may be determined on the basis of the actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review, in connection with the production and sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise. In this case, for CV profit, we used Corex's 1997 financial statement profit margin. For SG&A, we have used Corex's actual expenses incurred in Italy on comparison market sales because this data reflects Corex's actual experience in selling the foreign like product. (*See Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile*, 63 FR 56613, 56615 (October 22, 1998)).

For price-to-CV comparisons, we made adjustments to CV for COS differences, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. We made COS adjustments by deducting direct selling expenses incurred on comparison market sales and adding U.S. direct selling expenses.

### Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade as the U.S. EP and CEP sales, to the extent practicable. When there were no sales at the same level of trade, we compared U.S. sales to comparison market sales at a different level of trade. When NV is based on CV, the level of trade is that of the sales from which we derive SG&A expenses and profit.

To determine whether comparison market sales were at different levels of trade we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's length) customers. If the comparison-market sales were at a different level of trade and the differences affected price comparability, as manifested in a pattern of consistent

price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we made a level-of-trade adjustment under section 773(a)(7)(A) of the Act.

Finally, if the NV level was more remote from the factory than the CEP level and there was no basis for determining whether the difference in levels between NV and CEP affected price comparability, we granted a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

For a detailed description of our level-of-trade methodology and company-specific level of trade findings for these preliminary results, *see* the August 2, 1999, *97/98 Administrative Review of Pasta from Italy and Turkey: Level of Trade Findings Memoranda* on file in the Import Administration's Central Records Unit (Room B-099) of the main Commerce building. The company-specific level of trade analysis is included in the analysis memorandum for each company.

The U.S. Court of International Trade (CIT) has held that the Department's practice of determining LOTs for CEP transactions after CEP deductions is an impermissible interpretation of section 772(d) of the Act. *See Borden, Inc., v. United States*, 4 F. Supp.2d 1221, 1241-42 (CIT March 26, 1998) (*Borden*); *see also, Micron Technology, Inc. v. United States*, Court No. 96-06-01529, Slip Op. 99-02 at 8-15 (CIT, January 28, 1999). The Department believes, however, that its practice is in full compliance with the statute and that these CIT decisions do not contain persuasive statutory analysis. On June 4, 1999, the CIT entered final judgment in *Borden* on the LOT issue. *See Borden, Inc., v. United States*, Court No. 96-08-01970, Slip Op. 99-50 (CIT, June 4, 1999). The government is considering an appeal of *Borden*. The *Micron* case is on remand to the Department for application of the *Borden* LOT decision in the underlying administrative proceeding. Consequently, the Department has continued to follow its normal practice of adjusting CEP under section 772(d) prior to starting a LOT analysis, as articulated in the Department's regulations at § 351.412.

### Company-Specific Issues

#### Corex

We recalculated the indirect selling expense ratio based on information

submitted in January 21, 1999 section D response. See Corex Analysis Memo.

#### *Maltagliati*

We made corrections to both the U.S. and home market databases based on our verification findings. Specifically, we recalculated credit, inventory carrying costs, home market freight from plant to customer, home market commissions and U.S. bank charges, and indirect selling expenses and advertising in both markets. In addition, certain allocated expenses, including inland freight from plant to warehouse for U.S. sales, warehousing expense for U.S. sales, were reported correctly in the narrative portion of the response, but not in the database. We have incorporated the correct amount for those expenses into the database.

In addition, Maltagliati included a small quantity of sales in its database which it described as "free pasta but billed to parent at full price." At verification, we determined that these transactions involved Maltagliati providing pasta to affiliated companies to give away as gifts. We have determined that these sales were outside the ordinary course of trade and removed them from our calculation of normal value. See Maltagliati Analysis Memo.

#### *La Molisana*

La Molisana claimed a level of trade adjustment on the basis of different selling activities associated with their La Molisana ("LM") brand and private label ("PL") products sold in both the home market and the United States. Consistent with the first review, we found that different brands are not an appropriate basis for establishing different levels of trade. See *Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy*, 64 FR 6615, 6624 (February 10, 1999) (Comment 10A).

#### *Pallante*

We recalculated home market warranty expenses, advertising, and imputed credit expenses. We recalculated inventory carrying costs for the U.S. and home market based on the cost of manufacture. See *Memorandum from Dennis McClure to John Brinkmann* dated August 2, 1999 (Pallante Analysis Memo).

#### *Rummo*

We recalculated U.S. credit expenses, based on the corrected pay-dates which Rummo supplied at verification. We also removed warehousing expenses and certain advertising expenses from

indirect selling expenses incurred in the United States and treated them as a movement expenses and direct advertising expenses, respectively. Indirect selling expenses incurred in the United States were recalculated to reflect this change and to include other applicable expenses found at verification. We disallowed two home market billing adjustments because we were unable to tie the adjustments claimed to the sales made during the POR. See Rummo Analysis Memo.

#### **Currency Conversion**

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine that a fluctuation exists, we substitute the benchmark for the daily rate.

#### **Preliminary Results of Review**

As a result of our review, we preliminarily determine that the following percentage weighted-average margins exist for the period July 1, 1997 through June 30, 1998:

Manufacturer/exporter	Margin (percent)
Corex .....	0.00
De Cecco .....	10.48
La Molisana .....	18.38
Maltagliati .....	19.19
Pallante .....	3.44
Puglisi .....	10.19
Rummo .....	2.99

<sup>1</sup> Deminimus.

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the date of publication of this notice. See 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Parties who submit case briefs in this proceeding should provide a summary of the

arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 7 days after the date of filing of case briefs. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments, within 120 days from the publication of these preliminary results.

#### **Assessment Rate**

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of the subject merchandise. Upon completion of this review, the Department will instruct the U.S. Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service not to assess antidumping duties on Corex's, De Cecco's or Puglisi's entries of the merchandise subject to the review.

#### **Cash Deposit Requirements**

To calculate the cash-deposit rate for each producer and/or exporter included in this administrative review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of certain pasta from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed above will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 11.26

percent, the "All Others" rate established in the LTFV investigation. See *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 38547 (July 24, 1996).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 2, 1999.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration*

[FR Doc. 99-20447 Filed 8-6-99; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-489-805]

#### Notice of Preliminary Results of Antidumping Duty Administrative Review: Certain Pasta From Turkey

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

**SUMMARY:** The Department of Commerce is conducting an administrative review of the antidumping duty order on certain pasta (pasta) from Turkey. This review covers shipments to the United States by two respondents during the period of review (POR) July 1, 1997, through June 30, 1998.

We preliminarily find that, for one respondent, sales of the subject merchandise have been made below normal value. If these preliminary results are adopted in the final results, we will instruct the Customs Service to assess antidumping duties on the subject merchandise exported by this company.

For the other respondent, we preliminarily find that sales of the subject merchandise have not been made below normal value. If these

preliminary results are adopted in the final results, we will instruct the Customs Service not to assess antidumping duties on the subject merchandise exported by this company.

**EFFECTIVE DATE:** August 9, 1999.

**FOR FURTHER INFORMATION CONTACT:** John Brinkmann, Office of AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5288.

#### SUPPLEMENTARY INFORMATION:

#### Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR part 351 (1998).

#### Case History

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on pasta from Turkey (61 FR 38545). On July 1, 1998, we published in the **Federal Register** the notice of "Opportunity to Request an Administrative Review" of this order for the period July 1, 1997 through June 30, 1998 (63 FR 35909).

In accordance with 19 CFR 351.213(b), on July 31, 1998, Borden, Inc., Hershey Pasta and Grocery Group, Inc.,<sup>1</sup> and Gooch Foods, Inc. (the petitioners) requested a review of Pastavilla Kartal Makarnacilik Sanayi ve Ticaret A.S. (Pastavilla). On July 31, 1998, Maktas Makarnacilik ve Tic. A.S. (Maktas) and Pastavilla, requested an administrative review, in accordance with 19 CFR 351.213(b)(2). On August 27, 1998, we published the notice of initiation of this antidumping duty administrative review covering the period of July 1, 1997 through June 30, 1998 (*Notice of Initiation*, 63 FR 45796).

Because the Department had disregarded sales that failed the cost test during the preceding review of Pastavilla and during the investigation of Maktas, pursuant to section 773(b)(2)(A)(ii) of the Act, we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of normal value in this review may have been made at

prices below the cost of production. Therefore, we initiated cost investigations on these two companies at the time we initiated the antidumping review.

On September 1, 1998, we issued an antidumping questionnaire to Maktas and Pastavilla.<sup>2</sup> Pastavilla submitted its section A questionnaire response on October 6, 1998, and sections B, C, and D on November 5, 1998. We received Maktas's response to section A on September 23, 1998, and sections B, C, and D on October 26, 1998.

The Department issued supplemental questionnaires to Pastavilla for sections B and C on January 27, 1999, and section D on February 8, 1999. On February 17, 1999, we issued to Maktas a supplemental questionnaire for sections A, B, C, and D. Pastavilla submitted its response to our supplemental questionnaires for sections B, C, and D on February 24, 1999. Maktas submitted its response to our supplemental questionnaire on March 23, 1999.

We issued a second supplemental questionnaire to Pastavilla for sections B and D on March 11, 1999. Pastavilla submitted its response to our second supplemental questionnaire on March 18, 1999.

On March 12, 1999, the Department published a notice postponing the preliminary results of this review until June 30, 1999 (64 FR 12287). On June 16, 1999, the Department published a notice further postponing the preliminary results of this review until August 2, 1999 (64 FR 32213).

#### 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

<sup>2</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the sales of the merchandise in all of its markets. Sections B and C of the questionnaire request comparison market sales listings and U.S. sales listings, respectively. Section D requests additional information about the cost of production of the foreign like product and constructed value of the merchandise under review.

<sup>1</sup> Effective January 1, 1999, Hershey Pasta and Grocery Group, Inc., became New World Pasta, Inc.