

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

Dated: July 31, 2000.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-489-805]

#### Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta from Turkey

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

**ACTION:** Notice of preliminary results and partial rescission of antidumping duty administrative review.

**SUMMARY:** The Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain pasta ("pasta") from Turkey in response to a request by Filiz Gida Sanayi ve Ticaret A.S. ("Filiz"). The review covers exports of pasta to the United States for the period of review ("POR") July 1, 1998 through June 30, 1999.

We preliminarily determine that during the POR, Filiz did not make sales of the subject merchandise at less than normal value ("NV"). If these preliminary results are adopted in our final results of this administrative review, we will instruct the Customs Service to liquidate entries of subject merchandise by this company without regard to antidumping duties.

Interested parties are invited to comment on these preliminary results. Parties who submit comments in this proceeding should also submit with them: (1) A statement of the issues; (2) a brief summary of their comments; and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of

the public version of any such comments on diskette.

**EFFECTIVE DATE:** August 8, 2000.

**FOR FURTHER INFORMATION CONTACT:** John Brinkmann or Cindy Robinson, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4126 or (202) 482-3797, respectively.

#### SUPPLEMENTARY INFORMATION

##### The 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 ("URAA"). In addition, unless otherwise indicated, all citations to Department regulations refer to the regulations codified at 19 CFR part 351 (April 1999).

##### Background

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on pasta from Turkey (61 FR 38545). On July 15, 1999, we published in the **Federal Register** the notice of "Opportunity to Request an Administrative Review" of this order, for the period July 1, 1998, through June 30, 1999 (64 FR 38181).

In accordance with 19 CFR 351.213(b)(2), the following producers and/or exporters of pasta from Turkey requested an administrative review of their sales: Filiz and Pastavilla Makarnacilik Sanayi ve Ticaret A.S. ("Pastavilla"). On August 30, 1999, we published the notice of initiation of this antidumping duty administrative review covering the period July 1, 1998 through June 30, 1999, for Filiz and Pastavilla. *Notice of Initiation*, 64 FR 47167, (August 30, 1999).

Because the Department disregarded sales that failed the cost test during the most recently completed segment of the preceding in which Filiz and Pastavilla participated, 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 NV in this review were made at prices below the cost of production ("COP"). Therefore, we initiated a cost investigation on Filiz and Pastavilla at the time we initiated the antidumping review. In its August 25, 1999, request for an administrative review, Filiz stated that it had no U.S. entries or sales during the POR prior to

January 1, 1999, and therefore requested that, for purposes of reporting home market sales and cost data, the POR be shortened to the six-month period from January 1 through June 30, 1999. Accordingly, on September 1, 1999, we informed Filiz that it could limit its reporting of home market data to the period January 1 through June 30, 1999. In that letter we also advised Filiz that if it elected to limit its reporting of home market data to the six-month period, in the sales-below-cost investigation, it would forego the application of the "recovery of cost" test pursuant to section 773(b)(2)(D) of the Act.

On August 30, 1999, we issued an antidumping questionnaire<sup>1</sup> to Filiz and Pastavilla. On September 16, 1999, Pastavilla withdrew its request for a review. Filiz submitted its section A questionnaire response on September 23, 1999, and sections B, C, D on October 20, 1999.

The Department issued a supplemental section A through D questionnaire to Filiz on December 16, 1999. Filiz submitted its response to our supplemental questionnaire on January 13, 2000.

On February 4, 2000, the Department published a notice postponing the preliminary results of this review until June 30, 2000 (65 FR 5591). On June 28, 2000, the Department published a notice further postponing the preliminary results of this review until July 31, 2000 (65 FR 39868).

We verified the sales and cost information submitted by Filiz from April 10-19, 2000.

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

On September 16, 1999, Pastavilla withdrew its request for a review. Because there were no other requests for review for Pastavilla, and because Pastavilla's letter withdrawing its request was timely filed, we are rescinding the review with respect to Pastavilla 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

<sup>1</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 COP of the foreign like product and constructed value ("CV") of the merchandise under review.

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.

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 ruling to date:

(1) 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 is 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, in the case file in the Central Records Unit, main Commerce building, room B-099 ("the CRU").

### Verification

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

### Product Comparisons

In accordance with section 771(16) of the Act, the Department first attempted to match contemporaneous sales of products sold in the U.S. and comparison markets that were identical with respect to the following characteristics: (1) pasta shape; (2) type

of wheat; (3) additives; and (4) enrichment. Where there were no sales of identical merchandise in the home market to compare with U.S. sales, we compared U.S. sales with the most similar product based on the characteristics listed above, in descending order of priority.

For purposes of the preliminary results, where appropriate, we have calculated the adjustment for differences in merchandise based on the difference in the variable cost of manufacturing between each U.S. model and the most similar home market model selected for comparison.

### Comparisons to Normal Value

To determine whether sales of certain pasta from Turkey were made in the United States at less than fair value, we compared the export price ("EP") to the NV, as described in the "Export Price" and "Normal Value" sections of this notice. Because Turkey's economy experienced high inflation during the POR (over 60 percent), as is Department practice, we limited our comparisons to home market sales made during the same month in which the U.S. sale occurred and did not apply our "90/60 contemporaneity rule" (see, e.g., *Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey*, 63 FR 68429, 68430 (December 11, 1998) and *Certain Porcelain on Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 42496, 42503 (August 7, 1997)). This methodology minimizes the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred in the intervening time period between the U.S. and home market sales.

### Export Price

For the price to the United States, we used EP in accordance with section 772(a) of the Act because the merchandise was sold by the producer or exporter outside the United States to the first unaffiliated purchaser in the United States prior to importation and constructed export price ("CEP") was not otherwise warranted based on the facts on the record. We based EP on the packed C&F prices to the first unaffiliated customer in the United States.

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, insurance, foreign brokerage handling and loading charges, and international

freight. In addition, we increased the EP by the amount of the countervailing duties imposed that were attributable to an export subsidy, in accordance with section 772(c)(1)(C).

Based on our findings at verification, we revised Filiz' short-term interest rate used in its imputed credit calculation by excluding two long-term loans. See Memorandum from Cindy Robinson to John Brinkmann dated July 31, 2000 ("Filiz Analysis Memo").

### 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 Filiz' volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) of the Act, because Filiz' 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 Filiz.

#### B. Arm's Length Test

Sales to affiliated customers for consumption in the home market which were determined not to be at arm's length were excluded from our analysis. To test whether these sales were made at arm's length, we compared the prices of sales of comparison products to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts, and packing. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, where the prices to the affiliated party were on average less than 99.5 percent of the prices to unaffiliated parties, we determined that the sales made to the affiliated party were not at arm's length. See, e.g., *Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, From Japan*, 62 FR 60472, 60478 (November 10, 1997), and *Antidumping Duties; Countervailing Duties: Final Rule (Antidumping Duties)*, 62 FR 27295, 27355-56 (May 19, 1997). We included in our NV calculations those sales to affiliated customers that passed the arm's-length test in our analysis. See, 19 CFR 351.403; *Antidumping Duties*, 62 FR at 27355-56.

#### C. Cost of Production Analysis

##### 1. Calculation of COP

Before making any comparisons to NV, we conducted a COP analysis,

pursuant to section 773(b) of the Act, to determine whether Filiz' comparison market sales were made below the COP. 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. With the exception of the interest expense ratio, we relied on Filiz' information as submitted. We revised Filiz' reported interest expense ratio, by excluding packing cost from the cost of goods sold. See Filiz Analysis Memo.

As noted above, we determined that the Turkish economy experienced high inflation during the POR. Therefore, to avoid the distortive effect of inflation on our comparison of costs and prices, we requested that Filiz submit the product-specific cost of manufacturing ("COM") incurred during each month of the six-month period for which it reported home market sales. We then calculated a six-month average COM for each product after indexing the reported monthly costs during the six-month period to an equivalent currency level using the Turkish wholesale price index from the *International Financial Statistics* published by the International Monetary Fund (IMF). We then restated the six-month average COM in the currency value of each respective month.

2. Test of Comparison Market Prices

As required under section 773(b) of the Act, we compared the weighted-average COP 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. Since Filiz limited its reporting of home market sales to a six-month period, we did not conduct an analysis to determine 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.

3. 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 six-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 of the limited six-month reporting period used by Filiz, 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 sections 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.

D. 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 inland freight, inland insurance, discounts, and rebates. In accordance with sections 773(a)(6)(A) and (B) of the Act, we added U.S. packing costs and deducted comparison market packing costs, respectively. In addition, we made circumstance of sale adjustments for direct expenses, including imputed credit, advertising, promotions, and warranties, 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. Pursuant to section 351.411 of the Department's regulations, we based this adjustment on the difference in the variable COM for the foreign like product and subject merchandise, using six-month average costs, as adjusted for inflation for each month of the six-month period, as described in the *Cost of Production Analysis* section above.

E. Level of Trade ("LOT")

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same LOT as the U.S. EP sales, to the extent practicable. When there were no sales at the same LOT, we compared U.S. sales to comparison market sales at a different LOT.

Pursuant to section 351.412 of the Department's regulations, to determine whether comparison market sales were at a different LOT, 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 LOT 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 LOT of the export transaction, we made a LOT adjustment under section 773(a)(7)(A) of the Act.

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, see the July 31, 2000, "98/99 Administrative Review of Pasta from Italy and Turkey: Level of Trade Findings Memoranda" on file in the CRU. The company-specific LOT analysis is included in the business proprietary *Filiz Analysis Memo*.

Currency Conversion

Because this proceeding involves a high-inflation economy, we limited our comparison of U.S. and home market sales to those occurring in the same month (as described above) and only used daily exchange rates. (See, *Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey*, 63 FR 68429 (December 11, 1998).)

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for the Turkish Lira. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones Service, as published in the *Wall Street Journal*.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following percentage weighted-average margin exists for the period July 1, 1998 through June 30, 1999:

Manufacturer/exporter	Margin (percent)
Filiz .....	0.0

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit

case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of 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 issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (i.e., at or above 0.5 percent) the Department will issue appraisal instructions directly to the U.S. Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculated importer-specific assessment rates for the subject merchandise by aggregating the dumping margins for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer. Where appropriate, in order to calculate the entered value, we subtracted international movement expenses (e.g., international freight) from the gross sales value.

#### 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 Turkey 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 rate for Filiz will be

zero; (2) for previously reviewed or investigated companies, 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 51.49 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 Turkey*, 61 FR 38546 (July 24, 1996).

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

#### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility 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 administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 31, 2000.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-489-805]

#### **Certain Pasta From Turkey: Extension of Time Limit for Preliminary Results of New Shipper Review**

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

**EFFECTIVE DATE:** August 8, 2000.

#### **FOR FURTHER INFORMATION CONTACT:**

Cindy Robinson or Darla Brown, AD/CVD Enforcement, Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3797 or (202) 482-2849, respectively.

#### **Time Limits**

##### *Statutory Time Limits*

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to make a preliminary determination within 180 days after the date on which the review is initiated and a final determination within 90 days after the date the preliminary determination is issued. However, if the Department concludes that the case is extraordinarily complicated such that it cannot complete the review within these time periods, section 751(a)(2)(B)(iv) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 300 days and 150 days for the final determination from the date of publication of the preliminary determination.

##### *Background*

On February 23, 2000, the Department published a notice of initiation of new shipper review of the antidumping duty order on certain pasta from Turkey, covering the period July 1, 1999, through December 31, 1999 (65 FR 8949). The preliminary results are currently due no later than August 9, 2000.

##### *Extension of Time Limit for Preliminary Results of Review*

We determine that this case is extraordinarily complicated. Consequently, we are not able to complete the preliminary results of this review within the time limit. Therefore the Department is extending the time limit for completion of the preliminary results for the full 120 days, until no later than December 7, 2000. See Decision Memorandum from Melissa Skinner to Holly Kuga, dated July 24, 2000, which is on file in the Central Records Unit, Room B-099 of the main Commerce building. We intend to issue the final results no later than 90 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(2)(B)(iv) of the Act.