

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Port Authority of New York and New Jersey, grantee of Foreign-Trade Zone 49, for authority to establish special-purpose subzone status at the pharmaceutical manufacturing facility of Merck & Co., Inc., in Rahway, New Jersey, was filed by the Board on May 20, 1994, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 21-94, 59 FR 28052, 5-31-94); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 49D) at the plant site of Merck & Co., Inc., in Rahway, New Jersey, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 1st day of June 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

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International Trade Administration

[A-475-818, A-489-805]

Initiation of Antidumping Duty Investigations: Certain Pasta From Italy and Turkey

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

EFFECTIVE DATE: June 8, 1995.

FOR FURTHER INFORMATION CONTACT: John Brinkmann at (202) 482-5288, or Greg Thompson at (202) 482-3003, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Initiation of Investigations

The Applicable Statute

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).

The Petition

On May 12, 1995, the Department of Commerce (the Department) received a petition filed in proper form by Borden, Inc., Hershey Foods Corp., and Gooch Foods, Inc. (the petitioners), three U.S. producers of certain pasta. Supplements to the petition were filed on May 26 and June 1, 1995.

In accordance with section 732(b) of the Act, the petitioners allege that imports of certain pasta from Italy and Turkey are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

The petitioners state that they have standing to file the petition because they are interested parties, as defined under section 771(9)(C) of the Act.

Determination of Industry Support for the Petition

Section 732(c)(4)(A) of the Act requires the Department to determine, prior to the initiation of an investigation, the domestic industry supports an antidumping petition. A petition meets this requirement if (1) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product; and (2) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

A review of the industry support data provided in the petition and other production information readily available to the Department indicates that the petitioners account for more than 25 percent of the total production of the domestic like product and for more than 50 percent of that produced by companies expressing support for, or opposition to, the petition. The Department received no expressions of opposition to the petition from any interested party. Accordingly, the Department determines that this petition is supported by the domestic industry.

Scope of the Investigations

The Department has inherent authority to redefine and clarify the scope of an investigation, as set forth in

a petition, whenever it determines that the petition language is overly broad, or insufficiently specific to allow proper investigation, or is in any other way defective. See *NTN Bearing Corp. v. United States*, 747 F. Supp. 726 (CIT 1990). We revised the petitioners' proposed scope to eliminate channel of trade as a scope criterion in order to ensure that it would be clear and administrable.

The scope of these investigations consists of certain non-egg dry pasta in packages of five pounds (or 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 these investigations 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 under investigation is currently classifiable under items 1902.19.20 of the *Harmonized Tariff Schedule of the United States (HTSUS)*. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Italy

Export Price and Normal Value

The petitioners based export price on two sources. First, the petitioners based export price on the average unit values (AUVs) derived from the IM-146 monthly import statistics for HTSUS subheading 1902.19.20, published by the U.S. Department of Commerce, for the months of December 1994 and January and February 1995. These AUVs corresponded to the months the available home market price lists were in effect. The AUVs, which represent the f.o.b. Italy price of the subject pasta, were not adjusted for foreign inland freight. We find the AUVs a reasonable basis for export price because 1) the HTSUS subheading is inclusive of all sales of the subject merchandise, 2) there were limited imports of non-subject pasta under this subheading, and 3) a market research report submitted by the petitioners shows the AUVs to be consistent with the average export values of non-egg pasta from Italy to the U.S.

The second methodology used by the petitioners was based on U.S. retail prices obtained from 1) the domestic industry's weekly sales reports compiled by the petitioners' own sales representative for November and December of 1994, and 2) *InfoScan Markets*, which reports published weekly prices charged by U.S. retailers for pasta for the month of January 1995. The prices used were for brand name products of two Italian producers, and were adjusted downward for U.S. ocean freight and other movement charges.

The petitioners used Italian producer price lists to wholesale customers obtained from a market research report as the basis for normal value. For comparisons to the three U.S. retail prices, the petitioners selected a single "regular or regular cut" pasta price from the appropriate producer's price list. For comparisons to the U.S. AUVs, the petitioners selected a single price from a producers' price list. Because the prices were reported in Italian lire per kilogram (kg), the petitioners calculated the lire per pound (lb) equivalent for each product listed and then converted to U.S. dollars per pound using the average exchange rate for the two month period that is used to calculate the U.S. prices. The petitioners deducted a nine percent quantity discount and 7.5 percent "other discount" based on the Italian market research report. Finally, the petitioners made an adjustment to normal value for U.S. and Italian imputed credit expenses.

We find the petitioners' selection of home market prices not to be representative comparisons to the U.S. export price to which they are being compared. In the case of the AUVs, the petitioners have selected a single price of a specific pasta type to compare to an export price which is an average of all imports of the subject pasta from Italy. For purposes of this initiation, we have revised the normal value to a simple average of all of the subject pasta prices that are listed in the producer's price list used by the petitioners in their fair value comparisons. In the case of the export prices based on the three retail prices described as "regular or regular cuts," we have revised the normal value to be a simple average of the subject pasta prices that are listed in producer's price list used by the petitioners that are described in that price list as "regular" pasta.

Based on comparisons of export price to normal value, the estimated dumping margins for certain pasta from Italy range from 21.85 percent to 71.49 percent.

Turkey

Export Price and Normal Value

The petitioners based export price on the AUVs derived from the IM-146 monthly import statistics for HTSUS subheading 1902.19.20, published by the U.S. Department of Commerce for the months of January and February, 1995. Claiming that Turkey's economy is hyperinflationary, the petitioners used AUVs for the month when the comparison home market sales occurred as the basis for export price. Specifically, petitioners state that Turkey experienced an annual inflation rate of 70 percent during 1994, which rose to approximately 130 percent in early 1995. The AUVs were not adjusted for foreign inland freight. We find the AUVs a reasonable basis for export price for the same reasons stated above for Italy.

The petitioners based normal value on January and February 1995 prices between a Turkish producer and its wholesaler which were obtained by a market researcher. The gross home market prices were adjusted downward for the following costs: value added taxes, quantity discounts, special annual rebate, and average delivery costs. The petitioners converted the unit price quotes in Turkish lire to U.S. dollars using the exchange rates that were in effect on or about the time the home market sales occurred.

In accordance with Section 773(b)(2) of Act, the petitioners alleged that sales of certain pasta in the home market were made at prices below the cost of production (COP). The components of COP, as enumerated in Section 773(b)(3) of the Act, are the cost of manufacture (COM), packing and selling, general, and administrative (SG&A) expenses. SG&A includes the company's net financing expense.

The petitioners calculated COM based on their own production experience for January and February 1995, adjusted for known differences between costs incurred to produce certain pasta in the United States and production costs incurred for the merchandise in Turkey. For SG&A expenses, the petitioners used their own 1994 audited annual financial statements because they could not obtain financial statements for a Turkish pasta or food processing company. The Department normally uses cost information specific to the home market. However, the petitioners documented that they attempted to obtain financial statements through various sources but were unable to gather financial data on the Turkish pasta or food processing industry.

The allegation that the Turkish producers are selling the foreign like product in their home market at prices below its COP is based upon a comparison of the adjusted home market prices with the calculated COP. Based on this reasonably available information, we find reasonable grounds to believe or suspect that sales of the foreign like product may have been made at prices below COP in accordance with section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a cost investigation with respect to Turkey.

The petitioners calculated a constructed value (CV) using the same COM, packing and SG&A figures used to compute the Turkish home market costs for pasta. The petitioners also added to CV an amount for profit. To calculate profit, the petitioners relied on 1993 audited financial statements reported by a major Italian producer. Although the petitioners demonstrated significant efforts in attempting to obtain Turkish specific financial data for the pasta and food processing industries, we do not consider the profit of an Italian pasta producer an acceptable alternative. For purposes of this initiation, we have rejected the estimated margin based on CV, and have instead relied solely on the comparison of export price to the home market price above COP.

Based on this comparison of export price to normal value, the estimated dumping margin for certain pasta from Turkey is 63.29 percent.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of certain pasta from Italy and Turkey are being, or likely to be, sold at less than fair value. If it becomes necessary at a later date to consider the petition as a source of facts available, we may review the calculations.

Initiation of Investigations

We have examined the petition on certain pasta from Italy and Turkey and have found that it meets the requirements of section 732 of the Act, including the requirements concerning allegations of material injury or threat of material injury to the domestic producers of a domestic like product by reason of the complained-of imports, allegedly sold at less than fair value. Therefore, we are initiating antidumping duty investigations to determine whether imports of certain pasta from Italy and Turkey are being, or are likely to be, sold in the United States at less than fair value. Unless extended, we will make our preliminary determinations by October 19, 1995.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, copies of the public versions of the petition have been provided to the representatives of the governments of Italy and Turkey. We will attempt to provide copies of the public versions of the petition to all the exporters named in the petition.

International Trade Commission (ITC) Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by June 26, 1995, whether there is a reasonable indication that imports of certain pasta from Italy and Turkey are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination in either investigation will result in the respective investigation being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

Dated: June 1, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

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[A-301-602]

Certain Fresh Cut Flowers From Colombia; Preliminary Results of Antidumping Duty Administrative Review, Partial Termination of Administrative Reviews, and Notice of Intent To Revoke Order (In Part)

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

ACTION: Notice of preliminary results of antidumping duty administrative reviews, partial termination of administrative reviews, and notice of intent to revoke in part the antidumping duty order.

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting three concurrent administrative reviews of the antidumping duty order on certain fresh cut flowers from Colombia. These reviews cover a total of 336 producers and/or exporters of this merchandise to the United States for at least one of the following periods: March 1, 1991 through February 29, 1992; March 1, 1992 through February 28, 1993; and

March 1, 1993 through February 28, 1994. The reviews indicate the existence of dumping margins for certain firms during the relevant periods.

We are terminating the administrative reviews with respect to 18 producers/exporters, because the Department either received timely withdrawal of review requests from these firms, or the firms were no longer subject to the order due to exclusion or revocation actions taken by the Department. We are also announcing our intent to revoke the antidumping duty order for the following exporters/growers: Cultivos Miramonte, Flores Aurora, the Funza Group, and Industrial Agricola. We determined that these firms have not sold the subject merchandise at less than foreign market value (FMV) in these reviews and for at least three consecutive administrative review periods, and these firms have submitted certifications that they will not sell at less than FMV in the future.

We have preliminarily determined that sales have been made below the FMV. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the United States price (USP) and the FMV.

We invite interested parties to comment on these preliminary results and intent to revoke.

EFFECTIVE DATE: June 8, 1995.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine or Richard Rimlinger, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-4733.

SUPPLEMENTARY INFORMATION:**Background**

On March 5, 1992, March 12, 1993, and March 4, 1994, the Department published notices in the **Federal Register** of "Opportunity to Request Administrative Review" (57 FR 7910, 58 FR 13583, and 59 FR 10368, respectively) of the antidumping duty order on certain fresh cut flowers from Colombia. On May 21, 1992, May 28, 1993, and May 2, 1994, in accordance with 19 CFR 353.22(c), we initiated administrative reviews of this order for over 500 Colombian firms covering the periods March 1, 1991 through February 29, 1992 (the 5th review), March 1, 1992 through February 28, 1993 (the 6th review), and March 1, 1993 through February 28, 1994 (the 7th review),

respectively (see 57 FR 21643, 58 FR 31010, and 59 FR 22579, respectively).

On May 9, 1994, the Department notified interested parties of its decision to collapse these three reviews for the record, and to conduct the three reviews concurrently. See Memorandum To File dated May 9, 1994.

We have preliminarily determined to revoke the antidumping duty order for the following exporters/growers: Cultivos Miramonte, Flores Aurora, the Funza Group, and Industrial Agricola. These firms have submitted requests in accordance with 19 CFR 353.25(b) to revoke the order with respect to their sales of flowers to the United States. Their requests were accompanied by certifications that they have not sold flowers to the United States at less than FMV for at least a three-year period, including the subject review periods, and will not do so in the future. Since we preliminarily determine that these firms have not sold the subject merchandise at less than FMV in these reviews, and have not sold the subject merchandise at less than FMV for at least the required three-year period, we intend to revoke the order with respect to these companies.

The Department has now conducted the administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by these reviews are shipments of certain fresh cut flowers from Colombia (standard carnations, miniature (spray) carnations, standard chrysanthemums and pompon chrysanthemums). These products are currently classifiable under item numbers 0603.10.30.00, 0603.10.70.10, 0603.10.70.20, and 0603.10.70.30 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Although we initiated reviews on over 500 firms, we have actually reviewed a total of 336 firms for at least one of the three review periods.

There was one firm, Agroteusa, which was not included in our initiation notices but was included in these reviews because of its close relationship to another firm for which reviews were initiated.

Subsequent to the publication of our initiation notices, we received timely withdrawals of requests for Agricola Sagasuca (6th and 7th reviews), Daflor Ltda. (7th review), Flores el Tandil Ltda. (7th review), Industrial Agricola (7th review), the Santana Flowers Group