

Yangfeng Marine Products Company (Shantou Yangfeng) to conduct new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). On November 15, 1999 (64 FR 61833), the Department initiated these new-shipper antidumping reviews covering the period September 1, 1998 through August 31, 1999. On February 25, 2000, Yixing withdrew its request for a new shipper review.

Postponement of New Shipper Review

On May 22, 2000 and May 24, 2000, Fujian Pelagic, Qingdao Zhengri, Shantou Yangfeng, Suqian, and Yangzhou Lakebest, in accordance with 19 CFR 351.214(j)(3), agreed to waive the applicable new shipper time limits to their new shipper reviews so that the Department might conduct their new shipper reviews concurrently with the 1998/99 administrative review of crawfish tail meat from the PRC. Therefore, pursuant to respondents' request and in accordance with the Departments' regulations, we are conducting these reviews concurrently with the 1998/99 administrative review of freshwater crawfish tail meat from the PRC. As a result, the date of preliminary antidumping duty results in these new shipper reviews is September 29, 2000.

This notice is published in accordance with Section 751(a)(2)(B) of the Act and 19 CFR 351.214(j)(3).

Dated: August 2, 2000.

Richard O. Weible,

Acting Deputy Assistant Secretary for AD/CVD Enforcement III.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818]

Notice of Preliminary Results and Partial Recission of Antidumping Duty Administrative Review and Intent To Revoke Antidumping Duty Order in Part: Certain Pasta From Italy

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

ACTION: Notice of Preliminary Results and Partial Recission of Antidumping Duty Administrative Review and Intent to Revoke the Antidumping Duty Order in Part.

SUMMARY: The Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain pasta

("pasta") from Italy in response to requests by the following companies: Commercio-Rappresentanze-Export S.r.l. ("Corex"); F.lli De Cecco di Filippo Fara S. Martino S.p.A. ("De Cecco"); La Molisana Industrie Alimentari S.p.A. ("La Molisana"); Pastificio Fratelli Pagani S.p.A. ("Pagani"); Pastificio Antonio Pallante ("Pallante"); P.A.M. S.r.l. ("PAM"); Pastificio Maltagliati S.p.A. ("Maltagliati"); N. Puglisi & F. Industria Paste Alimentare S.p.A. ("Puglisi"); and Rummo S.p.A. Molino e Pastificio ("Rummo"). 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, La Molisana and PAM sold subject merchandise at less than normal value ("NV"). If these preliminary results are adopted in the final results of this administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between the export price ("EP") or constructed export price ("CEP") and NV.

We preliminarily determine that during the POR, Corex, De Cecco, Pallante, Pagani and Puglisi did not make sales of the subject merchandise at less than NV (*i.e.*, "zero" or *de minimis* dumping margins). If these preliminary results are adopted in the final results of administrative review, we will instruct the U.S. Customs Service to liquidate appropriate entries without regard to antidumping duties. Also, if these preliminary results are adopted in our final results of this administrative review, we intend to revoke the antidumping order with respect to De Cecco, based on three years of sales at not less than NV. See "*Intent to Revoke*" section of this notice.

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 the 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.

DATES: *Effective Date:* August 8, 2000.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Jarrod Goldfeder, 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) 482-2305, 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 Italy (61 FR 38547). 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 Italy requested an administrative review of their sales: Corex; De Cecco; La Molisana; Maltagliati; Pagani; Pallante; PAM; Puglisi; and Rummo. On July 28, 2000, De Cecco also requested revocation of the order with respect to its sales of subject merchandise. 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 all nine companies. *Notice of Initiation*, 64 FR 47167 (August 30, 1999).¹

For De Cecco, La Molisana, Pagani, PAM, Puglisi and Rummo, the Department disregarded sales that failed the cost test during the most recently completed segment of the proceeding in which each company participated. Therefore, 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 cost investigations on these six companies at the time we initiated the antidumping review. During the course of this review, we completed the administrative review for the period July 1, 1997 through June 30, 1998. See

¹ Puglisi was inadvertently omitted from the August 30, 1999 initiation notice. The *Notice of Initiation* was amended on September 8, 1999 to include Puglisi (64 FR 48897).

Notice of Final Results of Antidumping Duty Administrative Review, 65 FR 7349 (February 14, 2000). Because the Department had disregarded sales for Corex, Maltagliati, and Pallante that failed the cost test during this recently completed review, on February 9, 2000, for the same reasons noted above, we initiated cost investigations on Corex, Maltagliati and Pallante.

On August 30, 1999, we issued an antidumping questionnaire² to all of the companies subject to review. After several extensions, the respondents submitted their responses to sections A through C of the questionnaire by October 29, 1999, and Section D responses by January 3, 2000 (except Corex, which submitted its Section D response on February 22, 2000). Pallante voluntarily submitted its section D response on December 12, 1999, prior to the February 9, 2000 initiation of the cost investigation for Pallante.

The Department issued supplemental section A through C questionnaires to the responding companies by January 7, 2000, and second supplemental questionnaires to De Cecco on January 3, 2000, and to Pallante on March 2, 2000. Supplemental section D questionnaires were issued to all companies, except Corex, by February 18, 2000. Second supplemental section D questionnaires were issued to Pallante on March 2, 2000, and to PAM on April 4, 2000. Responses to all supplemental questionnaires were received by April 18, 2000.

We verified the sales information submitted by De Cecco from February 17–19 and March 13–17, 2000; Pagani from March 20–24, 2000; PAM from May 15–19, 2000; and La Molisana from May 22–26, 2000, and June 8–9, 2000. We verified the cost information submitted by De Cecco from May 8–16, 2000, and La Molisana from May 15–19, 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).

² 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 ("CV") of the merchandise under review.

Partial Rescission of Antidumping Duty Administrative Review

On August 26, 1999, Rummo withdrew its request for a review. On November 26, 1999, Maltagliati withdrew its request for a review. Because there were no other requests for review for Rummo and Maltagliati, and because the letters withdrawing the requests were timely filed, we are rescinding the review with respect to Rummo and Maltagliati 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, diastasis, 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 Institute Metatherian Di Certification, by Bioagricoop Scrl, 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, in the case file in the Central

Records Unit, main Commerce building, room B–099 ("the CRU").

(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, which is available in the CRU.

(3) On October 23, 1997, the petitioners filed an application requesting that the Department initiate an anti-circumvention investigation of Barilla, an Italian producer and exporter of pasta. The Department initiated the investigation on December 8, 1997 (62 FR 65673). On October 5, 1998, the Department issued its final determination that Barilla's importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention, with respect to the antidumping duty order on pasta from Italy pursuant to section 781(a) of the Act and 19 CFR 351.225(b). 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 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, which is available in the CRU. The following scope ruling is pending:

(1) On April 27, 2000, the Department self-initiated an anti-circumvention inquiry to determine whether Pagani's importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention, with respect to the antidumping and countervailing duty orders on pasta from Italy pursuant to section 781(a) of the Act and 19 CFR 351.225(b). See *Certain Pasta from Italy: Notice of Initiation of Anti-circumvention Inquiry*

of the Antidumping and Countervailing Duty Orders, 65 FR 26179 (May 5, 2000).

Verification

As provided in section 782(i) of the Act, we verified sales and cost information provided by De Cecco and La Molisana, and the sales information provided by Pagani and PAM. 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 company-specific verification reports placed in the case file in the CRU.

Product Comparisons

In accordance with section 771(16) of the Act, we first attempted to match contemporaneous sales of products sold in the United States 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. Where there were no appropriate comparison market sales of comparable merchandise, we compared the merchandise sold in the United States to CV, in accordance with section 773(a)(4) of the Act.

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 Italy were made in the United States at less than fair value, we compared the EP or CEP to the NV, as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

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 by the producer

or exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and CEP was not otherwise warranted based on the facts on the record. We calculated CEP where sales to the first unaffiliated purchaser took place in the United States. 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 imposed 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, cost of credit, 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 sections 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, we determined that it was reasonable to assume that 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, consistent with our methodology in prior reviews (see *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy*, 63 FR 42368, 42370 (August 7, 1998)), when respondents purchased pasta from other producers and we were able to identify resales of this merchandise to the United States, we excluded these sales of the purchased pasta from the margin calculation. Where the purchased pasta was commingled with the respondent's production and the respondent 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 database, 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 its 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, Australia, which had an aggregate sales quantity greater than five percent of the aggregate quantity sold in the United States.

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 Recission 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 the respondents' 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. We relied on the respondents' information as submitted, except in the specific instances discussed below.

Corex: We recalculated the indirect selling expense ratio based on information submitted by Corex on October 6, 1999. See Memorandum from Cindy Robinson to John Brinkmann dated July 31, 2000 ("Corex Analysis Memo").

For certain products, or control numbers ("CONNUMS"), Corex did not provide complete cost information in its COP database. For these CONNUMS, we calculated COP using the cost of manufacturing ("COM") reported in Corex's sales database. We calculated interest expense and G&A using information submitted in Corex's October 6 and December 27, 1999 responses. See, *Corex Analysis Memo*.

De Cecco: We adjusted the G&A ratio by excluding packing from the cost of sales denominator in the G&A calculation because the G&A ratio should be applied to a COM amount that does not include the cost of packing. We also adjusted the interest expense factor by deducting packing from the COM used in the denominator

of the calculation. We changed the numerator of the interest expense factor by including the interest expense of other affiliated companies owned by the De Cecco family. See Office of Accounting Memorandum from Michael P. Harrison to Neal Halper, "De Cecco Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination," dated July 31, 2000.

La Molisana: We adjusted La Molisana's reported G&A ratio to exclude direct income taxes and to include certain expenses which were non-deductible for income tax purposes. We also adjusted La Molisana's reported interest expense ratio to exclude foreign exchange rate gains and losses on accounts receivable. See Office of Accounting Memorandum from Ernest Gziryan and Heidi Norris to Neal Halper, "La Molisana Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination," dated July 31, 2000.

Pagani: We adjusted the numerator of the G&A expense ratio calculation by excluding expenses related to Molino Rovato and including Pagani's other operating expenses. For the denominator we used Pagani's unconsolidated cost of goods sold ("COGS") instead of the reported consolidated figure. In addition, we adjusted Pagani's COGS by adding Pagani's inventory adjustments, and deducting other operating expenses, the write-down of receivables, packing expenses, and G&A expenses.

We recalculated Pagani's financial expense ratio to include only those interest expenses related to Alimco, the consolidated parent company. For the numerator, we used the interest expenses for Alimco as reported in the consolidated audited financial statements instead of the reported summation of interest expenses for Pagani, Molino Rovato, Foods Control, and Alimco. For the denominator, we deducted G&A expenses, the write-down of receivables, and other operating charges from Alimco's consolidated COGS figure. As a result, we recalculated the company's interest expense ratio. See Office of Accounting Memorandum from Gina Lee to Neal Halper, "Pagani Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination," dated July 31, 2000.

PAM: Based on the lack of differentiation between the types and mixes of wheat used by PAM in pasta production, we have weight-averaged the costs of four of the five wheat types reported by PAM, leaving only two

wheat types with separate costs. See PAM Sales Verification Report and the Office of Accounting Memorandum from Heidi Norris to Neal Halper, "PAM Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination," dated July 31, 2000 ("PAM Accounting Memorandum").

In addition, we have revised the fixed overhead expenses to exclude packaging and packing costs that should be reported as a sales price adjustment. We also revised PAM's financial expense ratio to exclude offsets for income earned on fixed bonds, treasury bonds, common funds, and sales of bonds. Finally, we revised the denominator in PAM's G&A and financial expense ratio calculations to exclude G&A, selling, and packing expenses. *Id.*

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, 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.

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 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. Specifically, we have disregarded below-cost sales made by Corex, De Cecco, La Molisana, PAM, Pallante, Pagani, and Puglisi in this administrative review.

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 handling, loading, inland freight, warehousing, 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, respectively. In addition, we made circumstance of sale ("COS") adjustments for direct expenses, including imputed credit expenses, advertising, warranty expenses, commissions, bank charges, billing adjustments, 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 and section 19 CFR 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 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 are incurred in one market, but not in the other, we make an allowance for the indirect selling expenses in the other market up to the amount of the commissions.

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.

E. Normal Value Based on CV

For Corex, where 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, 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. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred by Corex in connection with the production and sale of the foreign like product in the comparison market. We calculated Corex's CV based on the methodology described in the *Cost of Production Analysis* section of this notice, above.

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.

F. 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 EP and CEP 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. When NV is based on CV, the NV LOT is that of the sales from which we derive SG&A expenses and profit.

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.

Finally, if the NV LOT was more remote from the factory than the CEP LOT and there was no basis for determining whether the differences in LOT 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, 61732-33 (November 19, 1997).

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: Preliminary Determination Level of Trade Findings" memoranda on file in the CRU. The company-specific LOT analysis is included in the business proprietary analysis memorandum for each company.

The U.S. Court of International Trade ("CIT") has held that the Department's practice of determining LOT 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 II*). The Department believes, however, that its practice is in full compliance with the statute. On June 4, 1999, the CIT entered final judgment in *Borden II* 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 has appealed *Borden II* to the Court of Appeals for the Federal Circuit. Consequently, the Department has continued to follow its normal practice of adjusting CEP under section 772(d) of the Act prior to starting a LOT analysis, as articulated in the Department's regulations at section 351.412.

G. Company-Specific Issues

De Cecco: Pursuant to sections 772(a) and 772(b) of the Act, we reclassified De Cecco's reported EP sales as CEP sales since the agreement for sale occurred in the United States between PMI, De Cecco's U.S. affiliate, and the unaffiliated customer. See Memorandum from John Brinkmann to Melissa Skinner, "Reclassification of De Cecco EP Sales as CEP Sales," dated July 31, 2000.

La Molisana: Based on verification findings, we revised the calculation of the ENASARCO (commission benefit) expense and other discounts in the home market database, and recalculated marine insurance, billing adjustments, other U.S. transportation expenses, and commissions in the U.S. database. See Memorandum from Jarrod Goldfeder and Russell Morris to John Brinkmann, "Analysis Memorandum for La Molisana Industrie Alimentari S.p.A.," dated July 31, 2000. In addition, we reclassified as indirect selling expenses incurred in the United States, certain indirect advertising expenses incurred in the United States that La Molisana had included as part of U.S. indirect selling expenses incurred in Italy. Id.

Pallante: We recalculated home market imputed credit expenses and billing adjustments to correct errors discovered during our analysis of the home market database. See Memorandum from Dennis McClure to John Brinkmann, "Analysis

Memorandum for Pastificio Antonio Pallante s.r.l. (PAP) and its affiliate, Industrie Alimentari Molisane s.r.l. (IAM),” dated July 31, 2000.

Pagani: Based on verification findings, we revised quantity discounts in the home market database and recalculated credit expenses in the U.S. database. See Memorandum from Geoff Craig and Russell Morris to John Brinkmann, “Analysis Memorandum for Pastificio Fratelli Pagani S.p.A.,” dated July 31, 2000.

PAM: Based on verification findings, we recalculated indirect selling expenses and commission benefits in the home market database, and foreign brokerage and handling, packing costs and discounts in the U.S. sales database. We also revised certain prices that were incorrectly reported in the U.S. Sales database. See Memorandum from Jarrod Goldfeder to John Brinkmann, “Analysis Memorandum for PAM S.r.l.,” dated July 31, 2000. In addition, we excluded from the home market database, certain reported sales that we determined were not Italian market sales. We also included in the U.S. database certain sales made to a customer in Italy that were exported to the United States, and excluded from the U.S. database duplicate sales that were erroneously reported. Furthermore, based on our findings at the sales verification, we found that there were insignificant differences between four of PAM’s five reported wheat types. See Memorandum from Jarrod Goldfeder to John Brinkmann, “Verification of the Sales Response of P.A.M. S.r.l. in the 98/99 Administrative Review of the Antidumping Duty Order of Certain Pasta from Italy,” dated June 6, 2000. Accordingly, where appropriate, we have combined these four wheat types and revised PAM’s control numbers used for product matching. See “Product Comparisons” section above.

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.

Intent To Revoke

On July 28, 1999, De Cecco submitted a letter to the Department requesting, pursuant to 19 CFR 351.222(b), revocation of the antidumping duty order with respect to its sales of the subject merchandise.

The Department “may revoke, in whole or in part” an antidumping duty order upon completion of a review under section 751 of the Act. While

Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires, *inter alia*, that one or more exporters and producers covered by the order submit the following: (1) A certification that the company has sold the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in each of the three years forming the basis of the request in commercial quantities; and (3) an agreement to immediate reinstatement of the order if the Department concludes that the company, subsequent to the revocation, has sold subject merchandise at less than normal value. See 19 CFR 351.222(e)(1). Upon receipt of such a request, the Department will consider the following in determining whether to revoke the order in part: (1) Whether the producer or exporter requesting revocation has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether it is not likely in the future to sell the subject merchandise at less than NV; and (3) whether the producer or exporter requesting revocation in part has agreed in writing to the immediate reinstatement of the order, as long as any exporter or producer is subject to the order, if the Department concludes that the exporter or producer, subsequent to revocation, sold the subject merchandise at less than NV. See 19 CFR 351.222(b)(2).

In its July 28, 1999 request for revocation in part, De Cecco submitted the required certifications and agreement. On October 26, 1999, the Department established a time frame for parties to submit factual information relating to the Department’s consideration of De Cecco’s request for the revocation of the antidumping duty order with respect to its sales of subject merchandise. We did not receive any comments in response to this request.

Based on the preliminary results in this review and the final results of the two preceding reviews, De Cecco has had *de minimis* dumping margins for three consecutive reviews. Further, in determining whether three years of no dumping establish a sufficient basis to make a revocation determination, the Department must be able to determine that the company continued to participate meaningfully in the U.S. market during each of the three years at issue. See *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain*

Cut-to-Length Carbon Steel Plate From Canada; Final Results of Antidumping Duty Administrative Reviews and Determination To Revoke in Part, 64 FR 2173, 2175 (January 13, 1999); see also *Pure Magnesium From Canada; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke Order in Part*, 64 FR 12977, 12979 (March 16, 1999); and *Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Order: Brass Sheet and Strip from the Netherlands*, 65 FR 742 (January 6, 2000). This practice has been codified in section 351.222(d)(1) of the Department’s regulations, which states that, “before revoking an order or terminating a suspended investigation, the Secretary must be satisfied that, during each of the three (or five) years, there were exports to the United States in commercial quantities of the subject merchandise to which a revocation or termination will apply.” 19 CFR 351.222(d)(1) (emphasis added); see also 19 CFR 351.222(e)(1)(ii). For purposes of revocation, the Department must be able to determine that past margins are reflective of a company’s normal commercial activity. Sales during the POR which, in the aggregate, are an abnormally small quantity do not provide a reasonable basis for determining that the discipline of the order is no longer necessary to offset dumping.

With respect to the threshold matter of whether De Cecco made sales of subject merchandise to the United States in commercial quantities, we find that De Cecco’s aggregate sales to the United States were made in commercial quantities during all segments of this proceeding. Although both the quantity and number of De Cecco’s shipments to the United States of subject merchandise have decreased since the imposition of the antidumping duty order, they have remained at sufficiently high levels to be considered commercial quantities. Therefore, we can reasonably conclude that the “zero” or *de minimis* margins calculated for De Cecco in each of the last three administrative reviews are reflective of the company’s normal commercial experience. See Memorandum from Jarrod Goldfeder to File, “Shipments of Pasta to the United States by De Cecco,” dated July 31, 2000.

With respect to 19 CFR 351.222(b)(2)(ii), the likelihood issue, “when additional evidence is on the record concerning the likelihood of future dumping, the Department is, of course obligated to consider the

evidence by the parties which relates to the likelihood of future dumping.” *Steel Wire Rope From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order*, 63 FR 17986, 17988 (April 13, 1998) (citing *Brass Sheet and Strip From Germany: Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part*, 61 FR 49727, 49730 (September 23, 1996)). In doing so, the Department may consider such “factors as conditions and trends in the domestic and home market industries, currency movements, and the ability of the foreign entity to compete in the U.S. marketplace without [sales at less than normal value].” *Id.*; see also *Proposed Regulation Concerning the Revocation of Antidumping Duty Orders*, 64 FR 29818, 29820 (June 3, 1999) (explaining that when additional evidence as to whether the continued application of an antidumping duty order is necessary to offset dumping is placed on the record, “the Department may consider trends in prices and costs, investment, currency movements, production capacity, as well as all other market and economic factors relevant to a particular case”). Thus, based upon three consecutive reviews resulting in zero or *de minimis* margins, the Department presumes that the company requesting revocation is not likely to resume selling subject merchandise at less than the NV in the near future unless the Department has been presented with evidence to demonstrate that dumping is likely to resume if the order were revoked. In this proceeding, we have not received any evidence that would demonstrate that De Cecco is likely to resume dumping in the future if the order were revoked. Therefore, we also preliminarily determine that the order is no longer necessary to offset dumping.

Because all requirements under the regulation have been satisfied, if these preliminary findings are affirmed in our final results, we intend to revoke the antidumping duty order with respect to merchandise produced and exported by De Cecco. In accordance with 19 CFR 351.222(f)(3), if these findings are affirmed in our final results, we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption on or after the first day after the period under review, and will instruct the U.S. Customs Service to refund any cash deposit.

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, 1998, through June 30, 1999:

Manufacturer/exporter	Margin (percent)
Corex	Zero.
De Cecco	0.23 (<i>de minimis</i>).
La Molisana	5.41.
Pagani	0.49 (<i>de minimis</i>).
Pallante	0.08 (<i>de minimis</i>).
PAM	11.18.
Puglisi	0.07 (<i>de minimis</i>).

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 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 rates 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.

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.

[FR Doc. 00-19946 Filed 8-7-00; 8:45 am]

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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 questionnaire¹ 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

¹ 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.