

review was withdrawn within the ninety-day deadline.

As a result of the withdrawal of the request for review and because the Department received no other request for review, the Department is rescinding this administrative review.

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: December 26, 2001.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-489-805]

Certain Pasta From Turkey: Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke the Antidumping Duty Order in Part

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Duty Order in Part: Certain Pasta from Turkey.

SUMMARY: On June 28, 2001, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain pasta from Turkey. This review covers the following exporters/producers of subject merchandise: (1) Pastavilla Makarnacilik Sanayi ve Ticaret A.S. (Pastavilla); and (2) Filiz Gida Sanayi ve Ticaret A.S. (Filiz). The period of review (POR) is July 1, 1999, through June 30, 2000.

Based on our analysis of the comments received, these final results differ from the preliminary results. The final results are listed in the section

"*Final Results of Review.*" For our final results, we have found that during the POR, Pastavilla sold subject merchandise at less than normal value (NV). In addition, we are not revoking the antidumping order with respect to Pastavilla, because it has not had three years of sales in commercial quantities at less than NV. See "*Determination Not to Revoke*" section of this notice. We have also found that during the POR, Filiz did not make sales of the subject merchandise at less than NV (*i.e.*, it had "zero" or *de minimis* dumping margins).

EFFECTIVE DATE: January 3, 2002.

FOR FURTHER INFORMATION CONTACT:

James Terpstra or Lyman Armstrong, 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) 482-3965 or (202) 482-3601, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations refer to the regulations codified at 19 CFR part 351 (2000).

Case History

On June 28, 2001, the Department published the preliminary results of its administrative review of the antidumping duty order on certain pasta from Turkey. See *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta from Turkey*, 66 FR 34410 (June 28, 2001) (*Preliminary Results*). The review covers two manufacturers/exporters. The POR is July 1, 1999, through June 30, 2000. We invited parties to comment on our preliminary results of review. In response to the Department's invitation to comment on the preliminary results of this review, New World Pasta, a petitioner¹ in the case, filed a case brief on August 2, 2001, and the respondents filed case briefs on August 6, 2001. We received rebuttal briefs from New World Pasta and Pastavilla on August 13, 2001.

¹ The petitioners are Borden Inc., Hershey Foods Corp. (Hershey Pasta), Grocery Corp Inc., and Gooch Foods, Inc. (effective January 1, 1999, Hershey Pasta and Grocery Corp., Inc. became New World Pasta, Inc.).

A public hearing was not held with respect to this review because no party requested one. On September 26, 2001, respondents requested that the Department extend its final results in order to incorporate in our margin calculation programs the results from the most recently completed reviews of the countervailing duty order on pasta from Turkey. On November 1, 2001, the Department published a notice postponing the final results of this review until December 25, 2001 (66 FR 55160). The Department has conducted this administrative review in accordance with section 751(a) of the Act.

Scope of Review

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of this review are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

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).

Determination Not To Revoke

Pastavilla has had zero or *de minimis* dumping margins for the previous two review periods. See *Notice of Final Results of Antidumping Duty Administrative Review: Certain Pasta from Turkey* 64 FR 69493 (December 13, 1999); see also, *Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review: Certain Pasta from Turkey* 63 FR 68429 (December 11, 1998). However, as shown in the final results of this review, Pastavilla's weight-averaged dumping margin is 2.78 percent, which is above the *de minimis* rate of 0.50 percent. See 19 CFR 351.106(c). Consequently, Pastavilla has not made sales of subject merchandise "at not less than NV for a period of at least three consecutive years" as required by the Department's regulations. Because one of the requirements to qualify for revocation has not been met, the Department has not addressed the issues of commercial quantities and whether the continued application of the antidumping duty order is necessary to offset dumping with regard to Pastavilla. Thus, we determine not to revoke this order with respect to Pastavilla.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the *Issues and Decision Memorandum for the Fourth Antidumping Duty Administrative Review (Decision Memorandum)* from Bernard Carreau, Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated concurrently with this notice, which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculations. We calculated the export price and normal

value using the same methodology stated in the *Preliminary Results*, except as follows:

- For the countervailing duty field (*i.e.*, CVDU) reported by Filiz, in the preliminary results, the Department mistakenly divided Filiz's reported figure by one thousand, on the premise that the figure was reported in \$/metric ton and therefore must be converted to \$/kilogram. We have corrected this error by not converting this field for purposes of these final results. In addition, we have reevaluated the appropriate amount of countervailing duties applicable to the dumping calculations for Filiz and Pastavilla.
- The Department has deleted its re-indexing of Pastavilla's fixed overhead (FOH) field and, instead, accepted Pastavilla's indexing of its FOH reported in the cost database.
- The Department corrected a typographical error for the amount to be indexed for hyper-inflation for the month of August 1999 in its affiliated party program.

These changes are discussed in the relevant sections of the *Decision Memorandum*.

Final Results of Review

As a result of our review, we determine that the following weighted-average percentage margins exist for the period July 1, 1999, through June 30, 2000:

Manufacturer/exporter	Margin (percent)
Filiz	0.00
Pastavilla	2.78

Assessment Rate

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates 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 the importer-specific assessment rate is above *de minimis*, we will instruct Customs to assess antidumping duties on that importer's entries of subject merchandise. We will direct Customs to assess the resulting percentage margins against the entered Customs values for the subject merchandise on each of that importer's entries under the order during the POR.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of

this notice of final results of administrative review for all shipments of certain pasta from Turkey entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be the rates shown above, except where the margin is *de minimis* or zero we will instruct Customs not to collect cash deposits; (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 period; (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 period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to 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 38545 (July 24, 1996). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final 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 doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 26, 2001.

Richard W. Moreland,
Acting Assistant Secretary for Import
Administration.

Appendix

List of Comments and Issues in the Decision
Memorandum

Filiz and Pastavilla

1. Calculation of the Countervailing Duty
(CVD) Field

Pastavilla

2. Calculation of Warranty Expense
3. Application of Negative Interest Cost
4. Indexing Fixed Overhead Costs
5. Revocation of the Antidumping Duty
Order with Respect to Pastavilla
6. Clerical Error in the Affiliated Party
Program

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818]

Notice of Final Results of Antidumping Duty Administrative Review, Partial Rescission of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Order in Part: Certain Pasta From Italy

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

ACTION: Notice of final results of
antidumping duty administrative
review, partial rescission of
antidumping duty administrative review
and revocation of antidumping duty
order in part.

SUMMARY: On June 28, 2001, the
Department of Commerce (the
"Department") published the
preliminary results of the administrative
review of the antidumping duty order
on certain pasta from Italy. This review
covers the following exporters/
producers of subject merchandise: (1)
Barilla G.e.R. F.lli S.p.A. ("Barilla"), (2)
CO.R.EX S.p.A. ("Corex"), (3) Delverde
S.p.A. and its affiliate, Tamma Industrie
Alimentari di Capitanata, S.r.L.
(collectively, "Delverde"), (4) Pastificio
Guido Ferrara S.r.l. ("Ferrara"), (5)
Pastificio F.lli Pagani S.p.A. ("Pagani"),
(6) Pastificio Antonio Pallante S.r.l. and
its affiliate, Industrie Alimentari
Molisane S.r.l. (collectively, "Pallante"),
(7) P.A.M., S.r.l. and its affiliate, Liguori
(collectively, "PAM"), (8) N. Puglisi & F.
Industria Paste Alimentari S.p.A.
("Puglisi"), (9) Pastificio Riscossa F.lli
Mastromauro S.r.l. ("Riscossa"), and (10)
Rummo S.p.A. Molino e Pastificio

("Rummo"). The period of review
("POR") is July 1, 1999, through June
30, 2000.

Based on our analysis of the
comments received, these final results
differ from the preliminary results. The
final results are listed in the section
"*Final Results of Review.*" For our final
results, we have found that during the
POR, Barilla, Ferrara, Pallante, PAM,
and Riscossa sold subject merchandise
at less than normal value ("NV"). We
have also found that during the POR,
Corex, Pagani, Puglisi and Rummo did
not make sales of the subject
merchandise at less than NV (*i.e.*, they
had "zero" or de minimis dumping
margins). Based on a decision of the
U.S. Court of Appeals for the Federal
Circuit, we are rescinding the review
with respect to Delverde. *See*
Determination to Rescind section of this
notice. In addition, we are revoking the
antidumping order with respect to
Corex and Puglisi, based on three years
of sales in commercial quantities at not
less than NV. *See Determination to*
Revoke section of this notice.

EFFECTIVE DATE: January 3, 2002.

FOR FURTHER INFORMATION CONTACT:
James Terpstra or Geoffrey Craig, AD/
CVD Enforcement, Office VI, Group II,
Import Administration, U.S. Department
of Commerce, Room 4012, 14th Street
and Constitution Avenue, NW.,
Washington, DC 20230; telephone (202)
482-3965, or (202) 482-4161,
respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all
citations to the Tariff Act of 1930, as
amended ("the Act"), are references to
the provisions effective January 1, 1995,
the effective date of the amendments
made to the Act by the Uruguay Round
Agreements Act. In addition, unless
otherwise indicated, all citations to the
Department's regulations are to 19 CFR
part 351 (2000).

Background

On June 28, 2001, the Department
published the preliminary results of
administrative review of the
antidumping duty order on certain pasta
from Italy. *See Notice of Preliminary*
Results and Partial Rescission of
Antidumping Duty Administrative
Review and Intent To Revoke
Antidumping Duty Order in Part:
Certain Pasta From Italy, 66 FR 34414
(June 28, 2001) ("*Preliminary Results*").
The review covers ten manufacturers/
exporters. The POR is July 1, 1999,
through June 30, 2000. We invited
parties to comment on our preliminary

results of review. We received case
briefs on August 6, 2001, from Ferrara,
Pallante, and PAM. On August 6, 2001,
Riscossa submitted a letter with one
clerical error allegation. A public
hearing was not held with respect to
this review.¹ On November 1, 2001, the
Department published a notice
extending the final results until no later
than December 25, 2001. *See Certain*
Pasta from Italy and Turkey: Extension
of Final Results of Antidumping Duty
Administrative Reviews, 66 FR 55160
(November 1, 2001). We also received a
letter from PAM dated December 5,
2001.² The Department has conducted
this administrative review in
accordance with section 751 of the Act.

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

¹ On July 22, 2001, PAM requested a hearing.
However, instead the Department and PAM held an
ex parte meeting. *See* Memorandum from Melissa
G. Skinner to the File, "Ex Parte Meeting with
Counsel for PAM S.r.l. in the Antidumping Duty
Administrative Review of Certain Pasta from Italy,"
dated August 22, 2001, on file in the Central
Records Unit, room B-099, of the Department's
main building (the "CRU").

² This letter requests that the Department
combine shape categories 5 (short cuts), 6 (specialty
short cuts) and 7 (souppettes). PAM argues that the
Department has acknowledged that it erred with
respect to this issue in the judicial review of the
third administrative review. In its brief to the Court
of International Trade, the Department stated, "We
respectfully request that the Court remand this
issue to Commerce for the limited purpose of
reviewing the record with regard to shape
categories." *See* United States' Memorandum in
Opposition to Plaintiff's Motion for Judgment
Pursuant to Rule 56.2," dated November 2, 2001.
PAM has inferred from this statement that "this is
a clear and unequivocal statement in which the U.S.
concedes that it erred in the original determination
in the 98/99 administrative review." Therefore,
PAM has requested that the Department modify the
final results of the current review (*i.e.*, combine
shape categories 5, 6, and 7) in light of the
Department's request to the Court for a remand. To
the contrary, we simply requested from the Court
the opportunity "to review the record with regard
to shape categories."