

fair-value investigation of stainless steel wire rod from India.

As we explained in our FOP memorandum, we have not been able to locate financial information of a publicly-traded Indian fresh garlic producer or an Indian producer of other fresh vegetables. Of the publicly available financial information currently on the record, the financial information of three Indian producers of preserved mushrooms constitutes the information from the industry most comparable to the fresh garlic industry. Thus, to value factory overhead, selling, general and administrative expenses, and profit, we used rates based on data taken from the financial information of the mushroom producers. Specifically, we calculated the rates based on the 1999/2000 financial statements of Himalaya International Ltd., Flex Foods Ltd., and Agro Dutch Foods Ltd.

For labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate that appears on the website for Import Administration (<http://ia.ita.doc.gov/wages>) under the listing of wage rates for NME countries revised in May 2000. The source of the wage-rate data for the Import Administration's website is the International Labor Organization's 1999 *Year Book of Labour Statistics* (Geneva, 1999), ch.5B.

Preliminary Results of the Review

We preliminarily determine that the following dumping margins exist for the period November 1, 2000, through October 31, 2001:

| Exporter | Weighted-average percentage margin |
|---|------------------------------------|
| Golden Light Trading Company, Ltd. | 376.67 |
| Phil-Sino International Trading Inc. | 376.67 |
| Wo Hing (H.K.) Trading Co. | 376.67 |
| Taian Fook Huat Tong Kee Foods Co. ¹ | 0.00 |
| PRC-wide rate | 376.67 |

¹ For duty assessment purposes, the results of this review apply only to subject merchandise that was produced and exported to the United States by this company.

The Department will disclose calculations performed in connection with these preliminary results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Case briefs must be submitted within 30 days of the date of publication of this notice; case briefs regarding FHTK must be submitted no later than seven days after the issuance of the Department's verification report. Rebuttal briefs,

limited to issues raised in the case briefs, must be filed within five days after the deadline for submission of case briefs. Parties who submit argument in these proceedings are requested to submit with the argument a statement of the issue, a brief summary of the argument with an electronic version included, and a table of authorities.

Pursuant to 19 CFR 351.310, any interested party may request a hearing within 30 days of the date of publication of this notice. Any hearing, if requested, will be held three days after the deadline for submission of the rebuttal briefs or the first workday thereafter. In accordance with 19 CFR 351.309(c)(ii), issues raised in hearings will be limited to those raised in the case and rebuttal briefs.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief, not later than 120 days after the date of publication of this notice.

Assessment Rates

Upon completion of this administrative review, the Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an exporter/importer (or customer)-specific assessment value for merchandise subject to this review. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review. If these preliminary results are adopted in our final results of review, we will direct the Customs Service to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the importer's/customer's entries during the review period.

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) for merchandise exported by FHTK, the cash-deposit rate will be that established in the final results of this review, except if the rate is less than .50 percent and therefore *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash-deposit rate will be zero; (2) for all other PRC exporters, the rate will continue to be the PRC-wide rate of 376.67 percent;

(3) for Golden Light, Phil-Sino, and Wo Hing, the cash-deposit rate will be that established in the final results of this review; and (4) for all other non-PRC exporters of subject merchandise from the PRC, including Clipper, Top Pearl Ltd., and Good Fate International, the cash-deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also 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.

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

DATED: August 2, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.
[FR Doc. 02-20235 Filed 8-8-02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818]

Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent Not To Revoke in Part: Certain Pasta From Italy

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

ACTION: Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent Not to Revoke in Part.

SUMMARY: In response to requests by interested parties, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain pasta ("pasta") from Italy for the period of review ("POR") July 1, 2000 through June 30, 2001.

We preliminarily determine that during the POR, (1) Pastificio Garofalo S.p.A. ("Garofalo") and (2) Italian

American Pasta Company ("IAPC"), 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, (1) Pastificio Guido Ferrara S.r.l. ("Ferrara") and (2) Pastificio Fratelli Pagani S.p.A. ("Pagani") did not make sales of the subject merchandise at less than NV (*i.e.*, made sales at "zero" or *de minimis* dumping margins). If these preliminary results are adopted in the final results of this administrative review, we will instruct the U.S. Customs Service to liquidate appropriate entries without regard to antidumping duties. Furthermore, we preliminarily intend not to revoke the antidumping duty order with respect to subject merchandise produced and also exported by Pagani because its sales were not made in commercial quantities (see 19 CFR 351.222 (e)); *see Intent Not 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, parties submitting written comments are requested to provide the Department with an additional copy of the public version of any such comments on diskette.

EFFECTIVE DATE: August 9, 2002.

FOR FURTHER INFORMATION CONTACT:

Brian Ledgerwood or Mark Young, 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) 482-3836 or (202) 482-6397, 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. In addition, unless otherwise indicated, all citations to the Department's regulations refer to the regulations codified at 19 CFR part 351 (2001).

Case History

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on pasta from Italy (61 FR 38547). On July 2, 2001, we published in the **Federal Register** the notice of "Opportunity to Request Administrative Review" of this order, for the POR July 1, 2000 through June 30, 2001 (66 FR 34910).

On July 30 and July 31, 2001, we received requests for review from: (1) COREX S.p.A. ("Corex"), (2) Ferrara, (3) Pagani, (4) Garofalo, (5) IAPC, (6) La Molisana Industrie Alimentari S.p.A. ("La Molisana"), and (7) N. Puglisi & F. Industria Paste Alimentari S.p.A. ("Puglisi") in accordance with 19 CFR 351.213(b)(2). In addition, on July 31, 2001, Pagani requested that the Department revoke the antidumping duty order with respect to it. *See "Intent Not to Revoke"* section of this notice.

On August 20, 2001, we published the notice of initiation of this antidumping duty administrative review covering the period July 1, 2000, through June 30, 2001, listing these seven companies as respondents. *Notice of Initiation*, 66 FR 43570 (August 20, 2001).

On August 28, 2001, we sent questionnaires to all seven companies.

On September 19, and November 2, 2001, La Molisana and Puglisi, respectively, withdrew their requests for administrative review of the antidumping duty order.

On January 3, 2002, the Department revoked the antidumping order with respect to Corex and Puglisi, based on three years of sales in commercial quantities at not less than NV. *See 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*, 67 FR 300 (January 3, 2002).

During the most recently completed segment in which Pagani¹ participated, the Department disregarded sales that failed the cost test. Pursuant to section 773(b)(2)(A)(ii) of the Act, we have reasonable grounds to believe or suspect that sales by Pagani of the foreign like product under consideration for the determination of NV were made at prices below the cost of production ("COP"). Therefore, we initiated a cost

¹ The fourth administrative review covering the period July 1, 1999, through June 30, 2000, was the most recently completed review for Pagani. *See Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review*, 67 FR 300 (January 3, 2002).

investigation of Pagani in the instant review.

After several extensions, the remaining respondents submitted their responses to sections A through C of the questionnaire by October 25, 2001, and to section D by November 1, 2001. IAPC, Ferrara, and Garofalo were not required to respond to section D.

As stated in its questionnaire response, IAPC filed a Section D response because some of its U.S. sales had no contemporaneous home market matches during the appropriate window period. *See IAPC's response to the Section D questionnaire (November 1, 2002)*. Although IAPC had a viable home market, for those sales which did not have a home market match we used constructed value ("CV").

On March 12, 2002, the Department published an extension of preliminary results of this review until July 30, 2002.² *See Certain Pasta from Italy and Turkey: Extension of Preliminary Results of Antidumping Duty Administrative Reviews*, 67 FR 11095 (March 12, 2002).

During March, April, May, June, and July of 2002, the Department issued supplemental and second supplemental questionnaires.

In their March 8, and April 11, 2002, submissions, the petitioners argued that the Department should collapse Pastificio Antonio Amato & C. S.p.A. ("Amato") and Garofalo because of alleged affiliation between the two companies. In its rebuttal submission on March, 26, 2002, Garofalo rejected the petitioners' claims, citing a previous court decision as precedence. The Department has determined not to collapse Amato and Garofalo. For a more detailed discussion, *see Memorandum on "Whether To Collapse Garofalo and Amato in the Preliminary Results"*, dated July 31, 2002, in the case file in the Central Records Unit, main Commerce building, room B-099 ("the CRU").

On April 17, 2002, the Department extended the deadline for the submission of factual information regarding revocation of the antidumping duty order, in part. Submissions were received from the petitioners³ and Pagani on May 1, 2002, and rebuttal comments were received from the parties on May 8, 2002.

² There was a typographical error in the notice of "Extension of Preliminary Results of Antidumping Duty Administrative Reviews"; the preliminary results of this review are actually due on July 31, 2002.

³ New World Pasta Company; Dakota Growers Pasta Company; Borden Foods Corporation; and American Italian Pasta Company.

We verified the sales information submitted by: (1) Garofalo from June 3 through June 7, 2002; (2) IAPC from June 10 through June 14, 2002; (3) and Pagani from June 7 through June 12, 2002. We verified the cost information submitted by IAPC from June 11 through June 14, 2002, and Pagani from June 3 through June 6, 2002. We also verified revocation information submitted by Pagani on June 13, 2002.

Partial Rescission

We initiated a review of seven companies, *see Notice of Initiation, supra*. On September 19, 2001 and November 2, 2001, respectively, La Molisana and Puglisi withdrew their requests for a review. These requests were submitted within 90 days of the publication of the *Notice of Initiation*. Because there were no other requests for review of La Molisana and Puglisi, and because the letters withdrawing the requests were timely filed, we are rescinding the review with respect to La Molisana and Puglisi in accordance with 19 CFR 351.213(d)(1). Although Corex did not submit a letter withdrawing its request for review, because Corex is no longer covered by the antidumping order, effective July 1, 2000, we are also rescinding the review with respect to it.

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 Instituto Mediterraneo Di Certificazione, by Bioagricoop Scrl, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, or by Associazione Italiana per l'Agricoltura Biologica.

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 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 IAPC and Pagani, and the sales information provided by Garofalo. 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. We revised certain sales and cost data based on verification findings. *See the company-specific verification reports and calculation memoranda.*

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. When 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. When 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 ("VCOM") 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 NV, 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. See the company-specific verification reports and calculation memoranda.

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 when 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 for those sales where a person in the United States, affiliated with the foreign exporter, made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. 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. When 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, when appropriate, we increased EP or CEP as applicable, by an amount equal to the countervailing duty rate attributed to export subsidies in the most recently completed administrative review, in accordance with section 772(c)(1)(C).

For CEP, in accordance with section 772(d)(1) of the Act, when 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 by 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. In those situations in which 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 EP 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. *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*, 65 FR 4867, 4869 (August 8, 2000).

Accordingly, consistent with our methodology in prior reviews (*see id.*), when a respondent 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 for that respondent. 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 773(a)(1)(C) of the Act, because 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.

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, when the prices to the affiliated party were on average less than 99.5 percent of the prices to unaffiliated parties, we determined that the sales made to the affiliated party were not at arm's-length. *See e.g., Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Roller Chain, Other Than Bicycle, From Japan*, 62 FR 60472, 60478 (November 10, 1997), and *Antidumping Duties; Countervailing Duties: Final Rule (“Antidumping Duties”)*, 62 FR 27295, 27355–56 (May 19, 1997). We included in our NV calculations those sales to affiliated customers that passed the arm's-length test in our analysis. *See* 19 CFR 351.403; *Antidumping Duties*, 62 FR at 27355–56.

C. Cost of Production Analysis

1. Calculation of COP

Before making any comparisons to NV, we conducted a COP analysis of Pagani, pursuant to section 773(b) of the Act, to determine whether the respondent's 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 respondent's information as submitted, except in instances where we used revised data based on verification findings. *See* the company-specific calculation memoranda on file in the CRU, for a description of any changes that we made.

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 (also subtracted from the COP), 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 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 are preliminarily disregarding below-cost sales made by Pagani 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, when appropriate, for handling, loading, inland freight, warehousing, inland insurance, discounts, and rebates. We added interest revenue. 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, and billing adjustments, in accordance with section 773(a)(6)(C)(iii) of the Act.

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 will limit the amount of such allowance to the amount of the other selling expenses incurred in the one market or the commissions allowed in the other market, whichever is less.

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 VCOM for the foreign like product and subject merchandise, using POR-average costs.

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. Calculation of Normal Value Based on Constructed Value

For IAPC, when we could not determine the NV based on comparison market sales because there were no contemporaneous sales of a comparable product, 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 ("COM") 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 IAPC in connection with the production and sale of the foreign like product in the comparison market.

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

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade ("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 are at a different LOT and the differences affect 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 make a LOT adjustment under section 773(a)(7)(A) of the Act.

Finally, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the differences in LOT between NV and CEP affected price comparability, we grant 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). Specifically in this review, we did not make an LOT adjustment for any respondent. However, we granted a CEP offset for IAPC.

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, *see the company-specific verification reports, calculation memoranda, and LOT memoranda*, all on file in the CRU.

G. Company-Specific Issues

We relied on the respondents' information as submitted, except in instances where, based on verification findings, we made modifications to the calculation of NV and EP or CEP. *See the company-specific calculation memoranda* on file in the CRU.

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 Not To Revoke

On July 31, 2001, Pagani, submitted a letter to the Department requesting, pursuant to 19 CFR 351.222(e), revocation of the antidumping duty order with respect to its sales of the subject merchandise. Pagani submitted along with its revocation request a certification stating that: (1) the company sold subject merchandise at not less than NV during the POR, and that in the future it would not sell such merchandise at less than NV (see 19 CFR 351.222(e)(1)(i)); (2) the company sold the subject merchandise to the United States in commercial quantities during each of the past three years (see 19 CFR 351.222(e)(1)(ii)); and (3) the company agrees to immediate reinstatement of the order, if the Department concludes that the company, subsequent to revocation, has sold the subject merchandise at less than NV (see 19 CFR 351.222(b)(1)(iii)).

On April 4, 2002, the petitioners opposed the request for revocation, arguing that Pagani's sales to the United States during the past three periods (including the current period) were not made in commercial quantities, and if the order were revoked, Pagani would sell subject merchandise at less than NV in the United States in the future. At the request of the Department, the petitioners and Pagani submitted comments on Pagani's request for revocation (see May 1, and May 8, 2002, revocation submissions submitted by the parties).

The Department "may revoke, in whole or in part" an antidumping duty order upon completion of a review under section 751 of the Act. See section 751(d) 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. The regulation requires that exporters or producers covered by the order and desiring revocation 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 for at least three consecutive years 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 NV. 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 the continued application of the antidumping duty order is otherwise necessary to offset dumping; 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).

Pagani submitted the required certifications and agreements. However, after applying the criteria outlined in section 351.222(b) of the Department's regulations, and after considering the comments of the parties and of the evidence on the record, we have preliminarily determined that one of the Department's requirements for revocation has not been met. Specifically, although we preliminarily find that Pagani has demonstrated three consecutive years of sales at not less than NV, we also preliminarily find that, based on Pagani's U.S. shipment data, its sales to the United States have not been made in commercial quantities during each of the three review periods at issue, in accordance with 19 CFR 351.222(d) and 351.222(e)(1)(ii).

In particular, data on the record indicate that the amount of subject merchandise sold in the U.S. market by Pagani during the third, fourth, and fifth (i.e., the current) POR is small in quantity relative to Pagani's total U.S. sales volume during the period of investigation ("POI"). We conclude that Pagani's sales during these PORs do not provide any meaningful information concerning Pagani's normal commercial practice. Consequently, we find that Pagani's shipments during these PORs are not a reasonable basis for finding commercial quantities.⁴

Therefore, we have determined that the requirements for revocation have not been met because Pagani has not made sales to the United States in commercial quantities during the third, fourth, or

fifth segment of this proceeding.⁵ Based on our examination of these facts at verification and our review of Pagani's sales practices, we find that, consistent with Department practice, we do not have a sufficient basis to conclude that the *de minimis* dumping margin calculated for Pagani for the third, fourth, or fifth administrative review is reflective of the company's normal commercial experience. See, e.g., *Silicon Metal from Brazil*, 65 FR at 7498 (finding that because sales and volume figures were so small the Department could not conclude that the reviews reflected what the company's normal commercial experience would be absent an antidumping duty order). Because Pagani has not met the commercial quantities requirement, we have not examined the issue as to whether the antidumping duty order is necessary to offset future dumping (see *Silicon Metal from Brazil*, 65 FR at 7505).

Pagani attempts to explain that the significant decrease in its sales volume during the third, fourth, and fifth administrative review periods was due to the alleged effect of the antidumping duty cash deposit rate required on its U.S. shipments of pasta as a result of the final results of the first administrative review of the order on Pasta from Italy (64 FR 6615, February 10, 1999). Pagani states that the cash deposit rate was a major factor affecting its substantial reduction in U.S. sales during the subsequent PORs. Whether this is the case or not does not detract from the record evidence which unequivocally demonstrates that the volume of such sales was far below the volume of Pagani's sales prior to the imposition of the antidumping duty order.⁶ Moreover,

⁵ As we noted in *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) (*Pure Magnesium from Canada*), sales in commercial quantities is a threshold requirement that must be met by parties seeking revocation. We also note that while the regulation requiring sales in commercial quantities may have developed from the unreviewed intervening year regulation, its application in all revocation cases based on the absence of dumping is reasonable and mandated by the regulations. The application of this requirement to all such cases is reflected not only in the provision for unreviewed intervening years (see 19 C.F.R. 351.222 (d)(1)), but also in the new general requirement that parties seeking revocation certify to sales in commercial quantities in each of the years on which revocation is to be based. See 19 C.F.R. 351.222(e)(1)(ii). This requirement ensures that the Department's revocation determination is based upon a sufficient breadth of information regarding a company's normal commercial practice. See *Pure Magnesium from Canada*, 64 FR at 12979.

⁶ While we note that Pagani argues that the U.S. market is a vibrant and changing market, dominated by large integrated domestic producers (see Pagani's May 8, 2002 revocation rebuttal submission), it has not submitted any information on the record which

⁴ Pagani's history of subject merchandise pasta sales is as follows: Pagani's 3rd POR sales of subject pasta were 2.98% of its POI sales of subject pasta. Pagani's 4th POR sales of subject pasta were 0.94% of its POI sales of subject pasta. Pagani's 5th POR sales of subject pasta were 1.06% of its POI sales of subject pasta.

it is the volume of these sales (not Pagani's alleged reasons for their size in this case) that is the focus of the Department's analysis with respect to whether they can be considered to be in commercial quantities.

Based on the foregoing analysis, we have preliminarily determined that Pagani has not met one of the threshold requirements for revocation (*i.e.*, sales in commercial quantities during the three consecutive PORs). We therefore preliminarily intend not to revoke the order, with respect to pasta produced and also exported by Pagani, if these preliminary findings are affirmed in our final results.

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, 1999, through June 30, 2000:

| Manufacturer/exporter | Margin (percent) |
|-----------------------|------------------|
| IAPC | 7.04 |
| Ferrara | 0.38 |
| Garofalo | 0.77 |
| Pagani | 0.00 |

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 no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs limited to issues raised in such briefs, 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, parties

would indicate the U.S. consumer market has diminished since the imposition of the order, or that Pagani has made any permanent changes in its own business practices in the U.S. market. *See Professional Electric Cutting Tools From Japan: Final Results of the Fifth Antidumping Duty Administrative Review and Revocation of the Antidumping Order in Part*, 64 FR 71411 (December 21, 1999). *See also, Polyvinyl Alcohol From Taiwan: Final Results of Third Antidumping Duty Administrative Review and Determination Not To Revoke Order in Part*, 65 FR 60615 (October 12, 2000) and accompanying Decision Memorandum at Comment 1.a.: Application of the Commercial Quantities Regulation to Chang Chun's U.S. Sales of Subject Merchandise.

submitting written comments are requested to 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 appraisement 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.

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 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, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-851]

Amended Final Results of Antidumping Duty Administrative Review: Certain Preserved Mushrooms from the People's Republic of China

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

EFFECTIVE DATE: August 9, 2002.

FOR FURTHER INFORMATION CONTACT: Sophie Castro or Brian Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-0588 or (202) 482-1766, respectively.