

Dated: February 3, 2003.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

## APPENDIX I

### List of Comments and Issues in the Decision Memorandum

- Conversion of Filiz's Insurance Expense to Turkish Lira per Kilogram
- Clerical Error in Packing Cost in Filiz's Cost of Production (COP) Database
- Calculation of the Countervailing Duty (CVD) Field
- Inclusion of the Brand of Pasta in Product Match Characteristics
- Allowance of Certain Discounts on Filiz's Home Market Sales
- Adjustment of Filiz's COP to Reflect Actual Cost of Vitamins
- Revision of Filiz's COP to Reflect Verified Production Yields
- Revision of Filiz's COP to Reflect Depreciation Revaluation
- Clerical Errors Regarding Filiz's Foreign Exchange Gains and Losses [FR Doc. 03-3282 Filed 2-10-03; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-475-818]

#### Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke 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 and Determination Not to Revoke in Part.

**SUMMARY:** On August 9, 2002, the Department of Commerce published the preliminary results and partial rescission of the fifth administrative review and intent not to revoke the order in part, for the antidumping duty order on certain pasta from Italy. The review covers four manufacturers/exporters of the subject merchandise: (1) Pastificio Garofalo S.p.A. ("Garofalo"), (2) Italian American Pasta Company ("IAPC"), (3) Pastificio Guido Ferrara S.r.l. ("Ferrara") and (4) Pastificio Fratelli Pagani S.p.A. ("Pagani"). The period of review ("POR") is July 1, 2000, through June 30, 2001.

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" below. For

our final results, we have found that during the POR, Garofalo sold subject merchandise at less than normal value ("NV"). We have also found that IAPC, Ferrara, and Pagani did not make sales of the subject merchandise at less than NV (*i.e.*, they had "zero" or *de minimis* dumping margins). We have also determined not to revoke the antidumping duty order with respect to subject merchandise produced and also exported by Pagani.

**EFFECTIVE DATE:** February 11, 2003.

**FOR FURTHER INFORMATION CONTACT:** Brian Ledgerwood or Mark Young, AD/CVD Enforcement Office VI, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482-3836 or (202) 482-6397, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 9, 2002, 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 Not to Revoke in Part: Certain Pasta from Italy*, 67 FR 51827 (August 9, 2002) ("*Preliminary Results*"). Although the Department initiated the review on seven companies, we rescinded the review for three of those companies (two companies withdrew their requests; we had previously revoked the order with respect to the third company). See Partial Rescission section of the *Preliminary Results* for a more detailed explanation. The review covers the remaining four manufacturers/exporters. The POR is July 1, 2000, through June 30, 2001. We invited parties to comment on our *Preliminary Results*. We received case briefs on September 19, 2002, from petitioners, Ferrara, Garofalo, IAPC, and Pagani. On September 26, 2002, petitioners, Ferrara, and Garofalo submitted rebuttal briefs. On November 22, 2002, the Department extended the deadline for the final results of this review until February 3, 2003. See *Certain Pasta From Italy and Turkey: Extension of Final Results of Antidumping Duty Administrative Reviews*, 67 FR 71534 (December 2, 2002).

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

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, Senior Analyst, Office of AD/CVD Office V, to Richard Moreland, Deputy Assist Secretary, "Scope Ruling Concerning Pasta from Italy," dated August 25, 1997, which is on file in the Central Records Unit (CRU), room B-099 of the main Commerce Department Building.

(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 Tariff Act of 1930, as amended (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, Program Manager, Office of AD/CVD Enforcement VI, to Richard Moreland, Deputy Assistant Secretary, "Final Scope Ruling," dated May 24, 1999, which is available in the CRU.*

The following scope ruling is pending:

(5) 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).

#### Intent Not to Revoke Order

For the reasons outlined in the "Issues and Decision Memorandum" ("Decision Memorandum") from Bernard Carreau, Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated February

3, 2002, which is hereby adopted by this notice, we have determined not to revoke the antidumping duty order with respect to subject merchandise produced and also exported by Pagani because Pagani failed to demonstrate that for three consecutive years it sold the subject merchandise to the United States in commercial quantities in accordance with 19 CFR 351.222(e).

#### Use of Facts Available

Ferrara did not provide the Department with cost of production and constructed value information regarding two sales of tricolor pasta which did not have matches in the home market database. Consequently, in the *Preliminary Results*, we applied facts available (FA) to determine Ferrara's dumping margin. *See* the July 31, 2002 Analysis Memorandum for Pastificio Guido Ferrara s.r.l. Pursuant to section 776(a)(2)(A) of the Act, we have continued to apply FA to determine Ferrara's dumping margin in the final results. *See* Decision Memorandum, Comment 16, for further details.

#### Analysis of Comments Received

All issues raised in the case and rebuttal brief by parties to this administrative review are addressed in the Issues and Decision Memorandum ("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 is attached to this notice as an Appendix. 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.

#### Final Results of Review

We determine that the following weighted-average margin percentages exist for the period July 1, 2000, through June 30, 2001:

Manufacturer/exporter	Margin (percent)
Italian American Pasta Company (IAPC) .....	0.14
Pastificio Guido Ferrara S.r.l. (Ferrara) .....	0.38
Pastificio Garofalo S.p.A. (Garofalo) .....	0.55
Pastificio Fratelli Pagani S.p.A. (Pagani) .....	0.00

#### Assessment

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. In situations in which 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 the administrative review for all shipments of pasta from Italy 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 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 11.26 percent, the "All Others" rate established in the less than fair value 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 deposit requirements shall remain in effect until publication of the final results of the next administrative review.

#### Notification

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 or

countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement may 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 are sanctionable violations.

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

Dated: February 3, 2003.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

## APPENDIX I

### List of Comments and Issues in the Decision Memorandum

#### List of Issues:

#### Pagani

Comment 1. Revocation

#### IAPC

Comment 2. Unit of Measure Used in Calculation of Foreign Unit Price in Dollars

Comment 3. Use of Special Charges in the Calculation of U.S. Net Price

Comment 4. Application of Month Identifiers for U.S. and Home Market Sales

Comment 5. Calculation of Variables Used in CEP Profit

#### Garofalo

Comment 6. Affiliation between Garofalo and Amato

Comment 7. Exclusion of Home Market Sales Outside the Course of Ordinary Trade

Comment 8. Garofalo's Product Classification

Comment 9. Bank Charges for U.S. Sales

Comment 10. U.S. International Freight

Comment 11. Warranty Expenses Offset

Comment 12. Programming Errors

Comment 13. Home Market Commissions

Comment 14. Appropriate Handling of Entries from Certain Importers

Comment 15. Offset of Export Subsidies

#### Ferrara

Comment 16. The Department's Application of Facts Available  
Comment 17. Product Matching Criteria  
Comment 18. CVD Adjustment  
[FR Doc. 03-3402 Filed 2-10-03; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-813]

#### Certain Preserved Mushrooms from India: Final Results of Changed-Circumstances Review

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

**ACTION:** Notice of Final Results of Changed-Circumstances Review.

**SUMMARY:** On December 24, 2002, the Department of Commerce published a notice of initiation and preliminary results of changed-circumstances review of the antidumping duty order on certain preserved mushrooms from India, in which it preliminarily determined that KICM (MADRAS) Limited is the successor-in-interest to Hindustan Lever Limited for purposes of determining antidumping duty liability. The Department is now affirming its preliminary results.

**EFFECTIVE DATE:** February 11, 2003.

**FOR FURTHER INFORMATION CONTACT:** David J. Goldberger or Tinna E. Beldin, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-4136 or 482-1655, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 19, 1999, the Department of Commerce ("Department") published in the Federal Register an amended final determination and antidumping duty order on certain preserved mushrooms from India (64 FR 8311), which included a cash deposit rate for Ponds India Limited ("Ponds"). In the course of the first administrative review, the Department noted that Ponds had become Hindustan Lever Limited ("HLL"). See *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 66 FR 42507, 42508 (August 13, 2001). On October 17, 2002, HLL submitted a request that the Department initiate a changed-circumstances review

to confirm that its wholly-owned subsidiary, KICM (MADRAS) Limited, is its successor-in-interest and should be entitled to the same cash deposit rate. The Department determined that HLL's request was incomplete and could not serve as a basis to initiate a changed-circumstances review. See Letter from Department to HLL Re: Certain Preserved Mushrooms from India: Request for Changed-Circumstances Review (October, 28, 2002). On November 6, 2002, HLL submitted supplemental information and documentation, and renewed its request that the Department conduct a changed-circumstances review to determine whether KICM should receive the same antidumping duty treatment as HLL with respect to the subject merchandise.

On December 24, 2002, we published a notice of initiation and preliminary results of changed-circumstances review (67 FR 78416) in which we preliminarily found that KICM is the successor-in-interest to HLL for purposes of determining antidumping duty liability. We received no comments.

#### Scope of the Order

The product covered by this order are certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. "Preserved mushrooms" refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of the order are "brined" mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) all other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including "refrigerated" or "quick blanched mushrooms"; (3) dried mushrooms; (4) frozen mushrooms; and (5) "marinated," "acidified" or "pickled" mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this order are classifiable under subheadings 2003.10.0027, 2003.10.0031,