

**DEPARTMENT OF COMMERCE****International Trade Administration****Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review**

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

**ACTION:** Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

**Background**

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with section 351.213(2002) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

**Opportunity to Request a Review**

Not later than the last day of April 2003, interested parties may request an administrative review of the following order with an anniversary date in April for the following period:

**Antidumping Duty Proceedings**

The People's Republic of China:  
Automotive Replacement Glass  
Windshields  
A-570-867

**Period**

9/19/01-3/31/03

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers)

which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(1)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of April 2003. If the Department does not receive, by the last day of April 2003, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: April 2, 2003.

**Holly A. Kuga,**

*Acting Deputy Assistant Secretary, Group II for Import Administration.*

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**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-489-805][C-489-806]

**Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping and Countervailing Duty Administrative Reviews: Certain Pasta from Turkey**

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

**ACTION:** Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping and Countervailing Duty Administrative Reviews: Certain Pasta from Turkey.

**SUMMARY:** The Department of Commerce ("the Department") has received information sufficient to warrant initiation of changed circumstances administrative reviews of the antidumping and countervailing duty orders on certain pasta from Turkey. Based on this information, we preliminarily determine that Gidasa Sabanci Gida Sanayi ve Ticaret A.S. ("Gidasa") is the successor-in-interest to Maktas Makarnacilik ve Ticaret A.S. ("Maktas") for purposes of determining antidumping and countervailing duty liabilities. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** April 7, 2003.

**FOR FURTHER INFORMATION CONTACT:** Jim Neel or Eric Greynolds (Antidumping) or Jennifer D. Jones (Countervailing), Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4161, (202) 482-6071, or (202)482-1664, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On July 24, 1996, the Department published in the **Federal Register** the antidumping and countervailing duty orders on pasta from Turkey (61 FR 38545-38547). On February 12, 2003, Gidasa submitted information stating that Gidasa is the successor-in-interest to Maktas and, as such, Gidasa is entitled to the receive the same antidumping and countervailing duty treatment as is accorded Maktas. On March 5, 2003, petitioners entered their appearance and objected to an expedited treatment of these changed circumstances reviews on the basis that such treatment would preclude a "full and meaningful" participation of all

parties. Subsequently, on March 7, 2003, Gidasa submitted comments on petitioners' objections and provided further support for its expedited treatment request.

### Scope of Reviews

Imports covered by these reviews 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 these reviews 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 Ruling

On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package of pasta 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 ("CRU").

### Initiation and Preliminary Results of Changed Circumstances Antidumping and Countervailing Duty Reviews

In a submission dated February 12, 2003, Gidasa advised the Department that in December 2002, Gidasa had acquired all of Maktas' assets. The relevant facts in that process were as follows.

In December 2002, a Turkish holding company, Haci Omer Sabanci Holding

A. S. ("Sabanci"), incorporated Gidasa as a Turkish corporation. Once established, Gidasa bought the assets of Maktas, including its facilities and its brand name ("Piyale"), essentially taking over all the activities and functions of Maktas.

Gidasa then began producing the same products, under the Piyale name, with the same personnel and equipment and selling them to the same customers through the same channels, using the same management team as its predecessor, Maktas. In accordance with section 751(b) of the Tariff Act of 1930, as amended ("the Act") and 19 CFR 351.216, the Department has determined that there is a sufficient basis to initiate a review of changed circumstances to determine whether Gidasa is the successor-in-interest to Maktas.

In making a successor-in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. See, e.g., *Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Administrative Review*, 57 FR 20460, 20461 (May 13, 1992) ("*Canadian Brass*"). While no one or several of these factors will necessarily provide a dispositive indication, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is not materially dissimilar to that of its predecessor. See, e.g., *Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944 (February 14, 1994) and *Canadian Brass*, 57 FR at 20461. Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the former company, the Department will assign the new company the cash deposit rate of its predecessor.

We preliminarily determine that Gidasa is the successor-in-interest to Maktas. In its February 12, 2003, submission, Gidasa provided evidence that production continues with the same equipment, the same workers, the same raw materials purchased from the same suppliers, and the same production process. Gidasa also provided evidence that it continues to sell the same products to the same customers to which Maktas previously sold. Moreover, Gidasa has provided evidence that substantially all management and employees are the same as when the factory was managed by Maktas. Documentation attached to

Gidasa's February 12, 2003, submission supports its claims that the acquisition of Maktas resulted in little or no changes in either production facilities, supplier relationships, customer base, or management. This documentation consisted of: (1) Maktas and Gidasa's price lists, supplier lists, distributor lists, sales history, and product catalogs; (2) Sabanci, Maktas, and Gidasa's organization charts; and (3) documents supporting transfer of trademarks, equipment, and real property from Maktas to Gidasa. The documentation described above demonstrates that (i) substantially all employees of Maktas, including management, have been transferred to Gidasa, (ii) the business was sold as a going concern, and (iii) there was little to no change in management structure, supplier relationships, production facilities, or customer base. In its March 5, 2003, submission, petitioners objected to an expedited treatment of these changed circumstances reviews. However, petitioners offered no compelling reasons for the Department not to proceed with these changed circumstances reviews on an expedited basis.

When warranted, the Department may publish the notice of initiation and preliminary determination concurrently. See 19 CFR 221(c)(3)(ii). The Department has determined that such action is warranted because Gidasa has provided *prima facie* evidence that it is the successor-in-interest to Maktas.

For the forgoing reasons, we preliminarily determine that Gidasa is the successor-in-interest to Maktas and should receive the same antidumping and countervailing duty rates with respect to certain pasta from Turkey as the former Maktas.

### Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held no later than 44 days after the date of publication of this notice, or the first workday thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 351.303. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing. The Department will publish the final results of these changed circumstances reviews,

including the results of its analysis of issues raised in any written comments.

We are issuing and publishing these determinations and notice in accordance with sections 751(b) and 777(i)(1) of the Act and sections 19 CFR 351.216 and 351.221.

Dated: March 31, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-475-818][C-475-819]

#### Notice of Initiation and Preliminary Results of Antidumping and Countervailing Duty Changed Circumstances Reviews: Certain Pasta from Italy

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

**ACTION:** Notice of Initiation and Preliminary Results of Antidumping and Countervailing Duty Changed Circumstances Reviews: Certain Pasta from Italy.

**SUMMARY:** The Department of Commerce (the Department) has received information sufficient to warrant initiation of changed circumstances reviews of the antidumping and countervailing duty orders on certain pasta from Italy. Based on this information, we preliminarily determine that Pasta Lensi S.r.l. is the successor-in-interest to Italian American Pasta Company Italia S.r.l. (IAPC) for purposes of determining antidumping and countervailing duty liability. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** April 7, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Alicia Kinsey (Antidumping) or Stephen Cho (Countervailing), Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4793 or (202) 482-3798, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on pasta from Italy (61 FR 38547). Also, on July 24, 1996, the Department published in the

**Federal Register** the companion countervailing duty order (61 FR 38544). Five reviews of these orders have been conducted, and a sixth is underway. IAPC participated in the fifth review and is an interested party in the ongoing sixth review of these orders. On February 12, 2003, IAPC submitted a letter stating that it changed its corporate name to Pasta Lensi S.r.l. (Lensi), and that Lensi is the successor-in-interest to IAPC. As such, the former IAPC argues that Lensi is entitled to receive the same antidumping and countervailing cash deposit rates accorded to IAPC.

The former IAPC also requested that the Department conduct expedited changed circumstances reviews pursuant to 19 CFR 351.221(c)(3)(ii). Petitioners have not responded to IAPC's February 12, 2003 request for changed circumstances reviews.

**Scope of Review**

Imports covered by these reviews 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 these reviews 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 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, 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 to Barbara P. Sidari*, 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 to Richard Moreland*, 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*