

## Duty Assessment and Cash Deposit Requirements

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisal instructions directly to CBP within 15 days of publication of the final results of review. Furthermore, the following deposit rates will be effective with respect to all shipments of certain hot-rolled carbon steel flat products from South Africa entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided for by section 751(a)(2)(C) of the Act: (1) For Iscor/Saldanha and Highveld, the cash deposit rate will be the rate indicated above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the 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 subject merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be the all other rate established in the LTFV investigation, which is 9.28 percent. These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

### Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under section 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 orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO as explained in the administrative order itself. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: November 6, 2003.

**Joseph A. Spetrini**,  
*Acting Assistant Secretary for Import Administration.*

## Appendix

### List of Issues

*Comment 1:* There Has Been Continued Injurious Dumping & Lack of Cooperation by Respondents.

*Comment 2:* The Statute and the Department's Practice Require It to Recalculate the Margin: The Margins Should Reflect Current Industry/Market Conditions and Trading Practices.

*Comment 3:* The Department Should Recalculate the Margin to Update It to the POR.

*Comment 4:* The Cases Cited in the Preliminary Results Provide No Basis for the Department's Determination.

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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.

**SUMMARY:** The Department of Commerce has received information sufficient to warrant the 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 Tat Konserve Sanayi A.S. is the successor-in-interest to Pastavilla Makarnacilik Sanayi ve Ticaret A.S., for purposes of determining antidumping and countervailing duty liabilities. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** November 17, 2003.

**FOR FURTHER INFORMATION CONTACT:** Melanie Brown (Countervailing) or Lyman Armstrong (Antidumping), 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) 482-4987 or (202) 482-3601, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On July 24, 1996, the Department of Commerce ("the Department") published in the **Federal Register** the antidumping and countervailing duty orders on pasta from Turkey (61 FR 38545-38547). On September 24, 2003, Tat Konserve Sanayi A.S. ("Tat"), submitted information stating that Tat is the successor-in-interest to Pastavilla Makarnacilik Sanayi ve Ticaret A.S. ("Pastavilla"), and, as such, Tat is entitled to receive the same antidumping and countervailing duty treatment accorded Pastavilla.

#### 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 ("CRU").

#### Initiation of Changed Circumstances

In November 2002, Koc Group, a Turkish conglomerate, and Pastavilla's parent company, announced its intent to reorganize and merge its four food-producing subsidiaries. On June 25, 2003, the Shareholders' General Assemblies for Tat and Pastavilla approved the merger. The merger plan called for three of the Koc Group companies to be merged into a fourth Koc Group company, Tat, a tomato products producer. The companies merged into Tat included: Pastavilla, a pasta producer; Maret Marmara Besicilik ve Et Sanayi ve Ticaret A.S., a meat processor; and Sek Süt Endustrisi Kurumu, a dairy products producer. On that same day, Tat's General Assembly approved amendments to Tat's articles of incorporation to include the operations of the merged companies. Therefore, the reorganization of the Koc companies was completed on June 25, 2003.

In the course of this reorganization, Tat acquired Pastavilla as an ongoing concern, *i.e.*, Tat took over Pastavilla's factory, operations, management, trade names (Pastavilla; Lunch & Dinner; and Kartal), and also all of Pastavilla's liabilities. Tat then began producing pasta using the same products, from the same suppliers, the same personnel and equipment, and selling them under the same brand names, to the same customers through the same channels, using the same management team as its predecessor, Pastavilla. On September 24, 2003, Tat advised the Department of the details of the reorganization, and requested that the Department conduct a changed circumstances review to determine that Tat is the successor-in-interest to Pastavilla.

Based on the information provided by Tat, and in accordance with section 751(b)(1) of the Tariff Act of 1930, as amended ("the Act") and 19 CFR 351.216(d) of the Department's regulations, the Department has determined that there is a sufficient basis to initiate a changed circumstances review to determine whether Tat is the successor-in-interest to Pastavilla.

#### Preliminary Results

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 (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 20460. 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 Tat is the successor-in-interest to Pastavilla. In its September 24, 2003 submission, Tat provided evidence illustrating that its production continues with the same equipment, the same management, the same raw materials purchased from the same suppliers, and the same production process, as Pastavilla. Tat also provided evidence that it continues to sell the same products to the same customers to which Pastavilla previously sold. Documentation attached to Tat's September 24, 2003 submission supports its claims that the acquisition of Pastavilla resulted in little or no changes in the production facilities, supplier relationships, customer base, or management. This documentation consisted of: (1) An independent valuation report which included, *inter alia*, Pastavilla's land, factory and trademark names; (2) Pastavilla's and Tat's Shareholders' General Assemblies and Board of Directors approval of the merger; (3) the merger agreement; (4) amendments to Tat's articles of incorporation; (5) Tat and Pastavilla's price lists; (6) Pastavilla's supplier lists, including Tat's list of affiliates; (6) Pastavilla's distributor lists; (7) Pastavilla, Koc Group, and Tat's sales history, and product catalogs; and (8) other documents supporting the transfer of assets and liabilities from Pastavilla to Tat. The documentation described above demonstrates that: (1) Substantially all employees of Pastavilla, including management, have been transferred to Tat; (2) the business was sold as a going concern; and (3)

there was little to no change in management structure, supplier relationships, production facilities, or customer base.

When it concludes that expedited action is warranted, the Department may publish the notice of initiation and preliminary results in a changed circumstances review concurrently. See 19 CFR 221(c)(3)(ii). The Department has determined that such action is warranted in this instance because Tat has provided *prima facie* evidence that it is the successor-in-interest to Pastavilla.

For these reasons, we preliminarily find that Tat is the successor-in-interest to Pastavilla and, thus, should receive the same antidumping and countervailing duty treatment with respect to certain pasta from Turkey as the former Pastavilla.

#### 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 this changed circumstances review, in accordance with 19 CFR 351.216(e), including the results of its analysis of issues raised in any written comments.

We are issuing and publishing these results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Act and section 19 CFR 351.216.

Dated: November 10, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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