

attempted export referenced above, between on or about December 11, 1997 and July 8, 1998, Kashani, with intent to evade the provisions of Section 746.7 of the Regulations with respect to export to Iran, told the supplier of the replacement parts that those goods were bound for an end-user in Saudi Arabia, when Kashani knew that the good were, in fact, bound for an end-user in Iran. Kashani's false assertion that the end-user was located in Saudi Arabia was intended to induce the supplier to ship the goods from the United States.

BIS and Kashani having entered into a Settlement Agreement pursuant to § 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me; It is therefore ordered:

First, that for a period of five years from the date of this Order, Kashani, and when acting for or on behalf of Kashani, his representatives, agents, assigns or employees ("denied person") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been

or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that after notice and opportunity for comment as provided in § 766.23 of the Regulations, any person, firm, corporation, or business organization related to Kashani by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 gay street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18 of the Regulations.

Sixth, that the amended charging letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 29th day of December 2003.

**Julie L. Myers,**

*Assistant Secretary of Commerce for Export Enforcement.*

[FR Doc. 04-101 Filed 1-2-04; 8:45 am]

BILLING CODE 3510-DT-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-475-818]

#### Notice of Preliminary Results of New Shipper Review of the Antidumping Duty Order on Certain Pasta From Italy

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

**ACTION:** Notice of preliminary results of new shipper antidumping duty review.

**SUMMARY:** In response to a request by Pastificio Carmine Russo S.p.A. ("Russo"), the Department of Commerce ("the Department") is conducting a new shipper review of the antidumping duty order on certain pasta ("pasta") from Italy for the period of review ("POR") July 1, 2002, through December 31, 2002. We preliminarily determine that during the POR, Russo sold subject merchandise at less than normal value ("NV"). If these preliminary results are adopted in the final results of this new shipper review, we will instruct the U.S. Customs and Border Protection ("CBP") to assess antidumping duties equal to the difference between the export price ("EP") and NV. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** January 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** Alicia Kinsey or Brian Ledgerwood, 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) 482-4793 or (202) 482-3836, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on pasta from Italy. See *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy*, 61 FR 38547. On December 17, 2002, we received a request from Russo to initiate a new shipper review of Russo's sales of pasta from Italy. On February 24, 2003,

Russo submitted additional factual information regarding the new shipper review. On March 7, 2003, the Department published the notice of initiation of this new shipper antidumping duty review covering the period July 1, 2002, through December 31, 2002, listing Russo as the sole respondent. *See Certain Pasta from Italy: Notice of Initiation of New Shipper Antidumping Duty Review*, 68 FR 11044 (March 7, 2003) ("Initiation Notice").

On March 11, 2003, we sent a questionnaire to Russo, and instructed Russo to fill out sections A–C of the questionnaire. The Department did not require Russo to respond to section D of the questionnaire at that time.

On April 1, 2003, the Department requested additional information from Russo regarding the date of Russo's first sale. Respondent submitted its response on April 10, 2003.

On May 7, 2003, after several extensions, Russo submitted its response to sections A–C of the original questionnaire.

On May 22, 2003, petitioners<sup>1</sup> submitted cost allegations against Russo. On June 6, 2003, respondent submitted a response to petitioners' cost allegations. We determined that petitioners' cost allegations provided a reasonable basis to initiate a cost of production ("COP") investigation, and as a result, we initiated a cost investigation of Russo. *See* the COP initiation memorandum, dated June 24, 2003, in the case file in the Central Records Unit, main Commerce building, room B–099 ("the CRU").

Also on June 24, 2003, we informed Russo that it was now required to respond to section D of the antidumping questionnaire. *See* June 24, 2003, letter from the Department to the respondent, on file in the CRU. On August 4, 2003, after one extension, we received Russo's response to section D of the questionnaire.

On July 28, 2003, the Department published a 120-day extension of the preliminary results of this review. *See Certain Pasta from Italy: Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Review*, 68 FR 44284 (July 28, 2003).<sup>2</sup>

On September 26, 2003, the Department issued a supplemental questionnaire to Russo. On October 2,

2003, we issued a letter clarifying information requested in the September 26, 2003, supplemental questionnaire. On October 24, 2003, after one extension, we received Russo's response to the supplemental questionnaire, including a response to the Department's clarification letter. On October 14, 2003, the Department issued another supplemental questionnaire to Russo. The Department received the response to this supplemental questionnaire on October 31, 2003. On November 7, 2003, the Department issued a third supplemental questionnaire, the response to which Russo filed on November 12, 2003.

We conducted verification of Russo's sales and cost information from November 10, 2003, through November 21, 2003.

### Scope of Review

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds four ounces 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, 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 and Anti-Circumvention Inquiries

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, on file 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 requested 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.

(5) On April 27, 2000, the Department self-initiated an anti-circumvention inquiry to determine whether importation by Pastificio F.lli Pagani S.p.A. ("Pagani") of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or

<sup>1</sup> New World Pasta Company; Dakota Growers Pasta Company; Borden Foods Corporation; and American Italian Pasta Company.

<sup>2</sup> Note: due to a clerical error, this **Federal Register** notice was published reporting a preliminary results due date of January 2, 2004. The correct deadline for these preliminary results is December 29, 2003.

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). On September 19, 2003, we published affirmative final determinations on the anti-circumvention inquiry. *See Anti-circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003).

### Verification

As provided in section 782(i) of the Act, we conducted verification of the sales and cost information provided by Russo. We used standard verification procedures, including on-site inspection of the manufacturer's and its affiliate's facilities and examination of relevant sales and financial records. Our verification results are detailed in the verification reports placed in the case file in the CRU. We made certain minor revisions to certain sales and cost data based on verification findings. *See* December 24, 2003, memorandum to James Terpstra from Alicia Kinsey and Brian Ledgerwood, regarding verification of the sales response of Pastificio Carmine Russo S.p.A. (Russo) in the New Shipper Review of the Antidumping Duty Order of Certain Pasta from Italy ("Russo's sales verification report"); *see also* December 24, 2003, memorandum to Neal M. Halper, through Theresa L. Caherty, from Michael P. Harrison, regarding verification of the cost of production and constructed value response of Russo in the New Shipper Review of the Antidumping Duty Order of Certain Pasta from Italy ("Russo's cost verification report"); *see also* December 24, 2003, Analysis Memorandum for Pastificio Carmine Russo S.p.A. ("Russo's calculation memorandum"), on file in the CRU.

### Affiliation and Collapsing

In Russo's May 7, 2003, response to the Department's questionnaire, Russo indicated that it is affiliated with a company that produces subject merchandise. On September 26, 2003, the Department issued a supplemental questionnaire to Russo seeking additional information about its affiliate. On October 2, 2003, petitioners submitted comments on Russo's May 7, 2003, questionnaire response.

Petitioners' comments included a request that the Department seek additional information about its affiliate. In Russo's October 24, 2003, response to the Department's supplemental questionnaire, Russo provided additional information regarding the nature of the company and its production of subject merchandise. Although Russo acknowledges that the companies are affiliated, it has argued that the two companies should not be collapsed for purposes of this new shipper review.

Section 771(33) of the Act considers the following persons, among others, to be affiliated: Any officer or director of an organization and the organization; persons directly or indirectly owning, controlling, or holding, with power to vote, five percent or more of the outstanding stock or shares of an organization and the organization; two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and any person who controls any other person and that person.

Section 351.401(f)(1) of the Department's regulations states that in an antidumping proceeding, the Department "will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Secretary concludes that there is a significant potential for the manipulation of price or production." Section 351.401(f)(2) identifies factors to be considered to determine whether a significant potential for manipulation exists. However, it is not necessary to consider these factors if, under section 351.401(f)(1), the production facilities would require substantial re-tooling to restructure manufacturing priorities. *See Slater Steels Corp. v. United States*, Slip Op. 03-108 (CIT August 21, 2003) at 7, fn. 8; *see also Notice of Final Determination of Sales at Less than Fair Value: Stainless Steel Bar from Germany*, 67 FR 3159 (January 23, 2002) and accompanying Issues and Decisions Memorandum at Comment 15 (January 23, 2002).

During the POR, Russo's affiliate held a controlling interest of Russo's outstanding shares. Based on this information, and documentation presented in the questionnaire responses and at verification that evidence a corporate grouping, the Department has determined that Russo has sufficiently established that the two companies are affiliated. *See the*

December 24, 2003, memorandum to Melissa Skinner from James Terpstra, Re: Whether to Collapse Pastificio Carmine Russo S.p.A. ("Russo") and its affiliate in the Preliminary Results ("Russo Collapsing Memo"), in the case file in the CRU. *See also* Russo's sales and cost verification reports, also in the case file in the CRU.

Having determined that the two companies are affiliated, the Department must next examine whether the producers have production facilities for similar or identical products that would not require "substantial retooling \* \* \* in order to restructure manufacturing priorities." Based on Russo's questionnaire responses, and evidence gathered at verification, the Department has preliminarily determined that the two companies' production facilities would require substantial retooling to restructure manufacturing priorities. Russo produces only commodity pasta through automation, while its affiliate only produces hand-made pasta using artisan production techniques. Russo's affiliate is not capable of producing commodity pasta shapes, nor is Russo capable of producing hand-made pasta using artisan production techniques without substantial retooling. Due to the proprietary nature of the facts on which this determination is based, *see the Russo Collapsing Memo* for a more detailed analysis.

On the basis of this information, the Department has preliminarily determined not to collapse Russo and its affiliate, pursuant to section 351.401(f)(1) of the Department's regulations.

### 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.

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 to the NV, as described in the "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 Russo's sale verification report and Russo's calculation memorandum, available in the CRU.

### Export Price

For the price to the United States, we used EP in accordance with section 772(a) of the Act. We calculated EP because all of Russo's U.S. sales of subject merchandise were sold directly to the first unaffiliated purchaser in the United States prior to importation. We based EP on the packed free-on-board ("FOB") prices to the first unaffiliated customer in, or for exportation to, the United States. When appropriate, we reduced these prices to reflect any discounts.

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, and export duties. In addition, when appropriate, we increased EP 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) of the Act.

Russo reported the resale of subject merchandise that it 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 the instant 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). This decision was upheld in the final results of that review. Accordingly, consistent with our methodology in prior reviews (see *id.*), when Russo 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.

### Normal Value

#### A. Selection of Comparison Markets

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 Russo'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 Russo had an aggregate volume of home market sales of the foreign like product that was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that Russo's home market was viable.

#### B. Cost of Production Analysis

##### 1. Calculation of COP

Before making any comparisons to NV, we conducted a COP analysis of Russo, 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 data with minor revisions based on verification findings. See Russo's calculation memorandum on file in the CRU, for a description of any minor revisions that we made.

##### 2. Test of Comparison Market Prices

As required under section 773(b)(2) 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)(i) of the Act, where less than 20 percent of Russo's sales of subject merchandise 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 Russo's sales of subject merchandise were at prices less than the COP, we determined such sales to have been made in "substantial quantities." See section 773(b)(2)(C) of the Act. Russo's sales were made within an extended period of time in accordance with section 773(b)(2)(B) of the Act, because they were made over the course of the POR, which was a period of not less than six months. We compared prices to POR-average costs and we 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 Russo's below-cost sales made in substantial quantities and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. See Russo's calculation memorandum on file in the CRU, for our calculation methodology and results.

#### C. 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, discounts, and rebates. 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, and commissions, 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 351.411 of the Department's regulations. We based this adjustment on the difference in VCOM between the foreign like product and subject merchandise, using POR-average costs.

Sales of pasta purchased by the respondent from unaffiliated producers and resold in the comparison market were treated in the same manner described above in the "Export Price" section of this notice.

#### D. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the home market at the same level of trade ("LOT") as the EP sales.

Pursuant to section 351.412(c)(2) of the Department's regulations, to determine whether home 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 home 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.

Based on our analysis of the facts of this new shipper review, we preliminarily determine that there is no appreciable difference in the selling functions between the sales on which NV is based and the export transactions. Therefore, we did not find different levels of trade in the two markets. For a detailed description of our LOT methodology and a summary of our LOT findings for these preliminary results, see Russo's calculation memorandum, 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.

#### Preliminary Results of New Shipper Review

As a result of our review, we preliminarily determine that the following percentage weighted-average margin exists for Russo for the period July 1, 2002, through December 31, 2002:

Manufacturer/exporter	Margin (percent)
Pastificio Carmine Russo S.p.A.	9.75

The Department will disclose the 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, ordinarily will be held 44 days after the date of publication of these preliminary results, 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. See 19 CFR 351.309(c)(ii). Rebuttal briefs limited to issues raised in such briefs, may be filed no later than 35 days after the date of publication. See 19 CFR 351.309(d).

Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Further, parties submitting briefs are requested to provide the Department with an additional copy of the public version of any such briefs on diskette. The Department will issue the final results of this 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 will calculate an assessment rate for each importer of the subject merchandise produced by Russo. Upon issuance of the final results of this new shipper 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 appraisal instructions directly to the CBP 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 produced by Russo 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.

#### Cash Deposit Requirements

To calculate the cash deposit rate for Russo in this new shipper review, we divided its total dumping margin by the total net value of Russo's sales during the review period.

The following deposit rate will be effective upon publication of the final results of this new shipper review for shipments of certain pasta produced by Russo entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: the cash deposit rate for Russo will be the rate established in the final results of this review; if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero. 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 and countervailing duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 24, 2003.

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04-77 Filed 1-2-04; 8:45 am]

BILLING CODE 3510-DS-P

#### DEPARTMENT OF COMMERCE

##### National Institute of Standards and Technology

##### Fire Test Measurement Needs

AGENCY: National Institute of Standards and Technology, Commerce.