

On January 7, 2004, the Department forwarded a no-shipment inquiry to U.S. Bureau of Customs and Border Protection (CBP) for circulation to all CBP ports. CBP did not indicate to the Department that there was any record of consumption entries during the POR of OCTG from Mexico exported by TAMSA.

As part of this investigation, the Department investigated proprietary information from CBP for all HTSUS numbers covered by the scope of this review. After reviewing the customs information, the Department determines that the merchandise entered during the POR was exported from a third country or party without TAMSA's knowledge and properly identified Mexico as the country of origin. See Memo to File dated January 22, 2004.

The Department has not been able to identify any other entries for consumption from TAMSA during the POR. Since there were no entries for consumption during the POR of OCTG from TAMSA, and because Hylsa timely withdrew its request for review, see 19 CFR 351.213(d)(1), we are rescinding this review in accordance with the Department's practice. The cash deposit rates for these firms will continue to be the rates established in the most recently completed segment of this proceeding.

This notice is issued and published in accordance with sections 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: February 3, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc.04-2859 Filed 2-9-04; 8:45am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-475-818]

#### Notice of Final Results of the Sixth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy and Determination Not to Revoke in Part

**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 7, 2003, the Department of Commerce published the preliminary results and partial rescission of the sixth administrative

review and intent not to revoke the order in part, for the antidumping duty order on certain pasta from Italy. The review covers ten manufacturers/exporters of the subject merchandise: (1) Pastificio Guido Ferrara S.r.l. ("Ferrara"), (2) Pastificio Lucio Garofalo S.p.A. ("Garofalo"), (3) Pasta Lenzi S.r.l. ("Lenzi")<sup>1</sup>, (4) Industria Alimentare Colavita, S.p.A. ("Indalco") and its affiliate Fusco S.r.l. ("Fusco") (collectively "Indalco"), (5) PAM S.p.A. ("PAM"), (6) Pastificio Fratelli Pagani S.p.A. ("Pagani"), (7) Pastificio Antonio Pallante S.r.l. ("Pallante") and its affiliate Industrie Alimentari Molisane S.r.l. ("IAM") (collectively "Pallante"), (8) Rummo S.p.A. Molino e Pastificio ("Rummo"), (9) Molino e Pastificio Tomasello S.r.l. ("Tomasello"), and (10) Pastificio Zaffiri S.r.l. ("Zaffiri"). The period of review ("POR") is July 1, 2001, through June 30, 2002.

As a result of our analysis of the comments received, these final results differ from the preliminary results. For our final results, we have found that during the POR, Garofalo, Indalco, PAM, Tomasello, and Zaffiri, sold subject merchandise at less than normal value ("NV"). We have also found that Ferrara, Pallante, Pagani, Lenzi and Rummo 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. The final results are listed in the section "Final Results of Review" below.

**EFFECTIVE DATE:** February 10, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Alicia Kinsey or Mark Young, AD/CVD Enforcement Office VI, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482-4793 or (202) 482-6397, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 7, 2003, the Department published the preliminary results of the sixth administrative review of the antidumping duty order on certain pasta

<sup>1</sup> The Department determined that Lenzi is the successor-in-interest to Italian American Pasta Company Italia S.r.l. ("IAPC"), and that Lenzi retains the antidumping and countervailing duty deposit rates assigned to IAPC by the Department in the most recently completed antidumping and countervailing duty administrative reviews. See *Notice of Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews: Certain Pasta from Italy*, 68 FR 41553 (July 14, 2003).

from Italy. See *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent Not to Revoke in Part: For the Sixth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy*, 68 FR 47020 (August 7, 2003) ("Preliminary Results"). Although the Department initiated the review of twelve companies, we rescinded the review of two of those companies. See Partial Rescission section of the *Preliminary Results* for a more detailed explanation. The review covers the remaining ten manufacturers/exporters. We invited parties to comment on our *Preliminary Results*. Petitioners<sup>2</sup> filed case briefs on September 24, 2003, regarding Rummo, Ferrara, Zaffiri, Garofalo, Indalco, and Pagani. On September 22 through September 24, 2003, PAM, Tomasello, Zaffiri, Lenzi, Garofalo, and Rummo filed case briefs. On October 1, 2003, petitioners, Ferrara, Indalco, Pagani, Zaffiri, Garofalo, and Rummo submitted rebuttal briefs. On October 21, 2003, a public hearing was held at the Department of Commerce with respect to PAM. On November 21, 2003, the Department published the extension of final results of the antidumping administrative review of pasta from Italy. See *Certain Pasta from Italy: Extension of Final Results of Antidumping Administrative Review*, 68 FR 65679 (November 21, 2003).

**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

<sup>2</sup> Petitioners are New World Pasta Company, Dakota Growers Pasta Company, Borden Foods Corporation and American Italian Pasta Company.

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 Assistant 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.

(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). On September 19, 2003, we published an affirmative finding 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).

### Intent Not to Revoke Order

For the reasons outlined in the "Issues and Decision Memorandum" ("Decision Memo") from Holly A. Kuga, Acting Deputy Assistant Secretary for Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated February 3, 2004, 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 Adverse Facts Available

As discussed in detail in the *Preliminary Results*, we have determined to use facts otherwise available for PAM, in arriving at the final dumping margin; and as noted in the *Preliminary Results*, we determine that, in accordance with sections 776(a) and (b) of the Act, the use of adverse facts available is appropriate for PAM, who failed verification. The Department received comments from PAM and petitioners. The comments are addressed in the Decision Memo. As a result of our analysis of the arguments presented in the briefs, the Department confirms its decision to use adverse facts available to arrive at the final dumping margin for PAM.

### Use of Partial Facts Available

There were several errors in Indalco's reporting of its selling expenses, and Indalco did not bring these errors to the Department's attention until after Indalco's submission of minor corrections at verification. Consequently, in the *Preliminary Results*, we applied partial facts available to determine Indalco's dumping margin. See also Memorandum to Eric Greynolds, Program Manager, from Mark Young and Tipten Troidl, Case Analysts, Re: Verification of the Sales Response of Industria Alimentare Colavita, S.p.A. ("INDALCO") and Fusco S.r.l. ("Fusco") in the 01/02 Administrative Review of the Antidumping Duty Order of Certain Pasta from Italy, which is available in the CRU. We received no comments on this issue. Therefore, pursuant to section 776(a)(2)(A) of the Act, we continue to apply partial facts otherwise available to determine Indalco's dumping margin in the final results.

### Analysis of Comments Received

All issues raised in the case and rebuttal brief by parties to this administrative review are addressed in the Decision Memo, which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the Decision Memo, is attached to this notice as an Appendix. In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the Decision Memo are identical in content.

### Final Results of Review

We determine that the following weighted-average margins exist for the period July 1, 2001, through June 30, 2002:

Manufacturer/exporter	Margin (percent)
Ferrara .....	0.24
Garofalo .....	2.55
Lensi .....	0.36
Indalco .....	2.85
Pagani .....	0.21
Pallante .....	0.12
PAM .....	45.49
Rummo .....	0.94
Tomasello .....	4.59
Zaffiri .....	7.23
All Others .....	11.26

### Assessment

The Department shall determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific duty assessment rates by aggregating the dumping margins for the examined U.S. sales for each importer and dividing the amount by the total entered value of the sales for that importer. In situations in which the importer-specific assessment rate is above *de minimis*, we will instruct CBP to assess antidumping duties on that importer's entries of subject merchandise. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

### 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 of these final results, 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 CBP 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 and/or countervailing duties occurred and the subsequent increase in antidumping duties by the amount of antidumping and/or countervailing duties reimbursed.

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, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

### Appendix I

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

List of Comments:

#### Pasta Lensi S.r.l.

*Comment 1:* Clerical Error

*Comment 2:* Exclusion of Sales of Pasta Produced by Other Manufacturers

#### Industria Alimentare Colavita, S.p.A. and Fusco S.r.l.

*Comment 3:* Clerical Error

*Comment 4:* Disallowed Credit

*Comment 5:* Credit Amortization

*Comment 6:* Double Counted Amortization

*Comment 7:* Offsetting Positive Margins

*Comment 8:* Calculation of Entry Value

#### PAM S.p.A.

*Comment 9:* Rescission of the Administrative Review

*Comment 10:* Department's Application of Adverse Facts Available ("AFA")

*Comment 11:* The Reasonableness of the AFA Rate Applied by the Department

#### Pastificio Fratelli Pagani S.p.A.

*Comment 12:* Revocation

#### Rummo S.p.A. Molino e Pastificio

*Comment 13:* Treatment of Rummo USA's Customer's Note Receivable as a Rebate

*Comment 14:* Reimbursement of Antidumping Duties

*Comment 15:* Error in the Home Market Credit Expense Calculation

*Comment 16:* Inconsistencies in Rummo's Reporting of Certain Sales of Subject Merchandise

*Comment 17:* Exclusion of Political Contributions from General & Administrative Expenses ("G&A")

Expense Ratio

#### Molino e Pastificio Tomasello S.r.l.

*Comment 18:* Incorrect Denominator Used in Calculation of U.S. Credit Expense

*Comment 19:* Calculation of Packing Costs for Home Market Net Prices

*Comment 20:* Calculation of DIRSEL3U for One U.S. Invoice

*Comment 21:* Change in Wheat Inventory

*Comment 22:* Pasta Scrap Production

*Comment 23:* Cost of Goods Sold ("COGS") used in the G&A and Interest Expense Ratio Calculation

*Comment 24:* Other G&A and Interest Adjustments

#### Pastificio Lucio Garofalo S.p.A.

*Comment 25:* The Department Should Collapse Garofalo and Amato

*Comment 26:* The Department Should Not Accept Garofalo's Definition of a Third Wheat Code

*Comment 27:* Matching of Wheat Codes

*Comment 28:* Subtracting DISCREBH from NETPRICOP

*Comment 29:* Incorporation of Only Home Market Sales that Passed the Cost Test

*Comment 30:* Revised Interest Amounts Should be Used in the Calculation of Constructed Value ("CV")

*Comment 31:* Conversion of Home Market Sales Data into Italian Lire rather than to Euros

*Comment 32:* Semolina Purchases

*Comment 33:* Failure to Include Commingled Sales in Garofalo's Margin Calculation

*Comment 34:* Use of Wrong Affiliated Party Arm's Length Test

*Comment 35:* Non-Use of Revised Total Cost of Manufacturing ("RTOTCOM")

**Pastificio Zaffiri S.r.l.**

*Comment 36:* Proper Matching of Zaffiri's Sales at the Same Level of Trade ("LOT")

*Comment 37:* Calculation of Imputed Credit Expense

*Comment 38:* Treatment of Piazzista Expenses

*Comment 39:* Treatment of the U.S. Billing Adjustment

*Comment 40:* Treatment of Free Pasta Program in the United States

*Comment 41:* Currency Conversions in Computer Program

*Comment 42:* Purchased Pasta

*Comment 43:* By-product Revenue Offset in the COGS Denominator of the Interest Expense and G&A Expense Ratios

*Comment 44:* Packing Cost in the COGS Denominator of the G&A and Interest Expense Ratios

*Comment 45:* Trade Show Revenue as Offset to G&A Expense

*Comment 46:* Foreign Exchange Loss

*Comment 47:* Expenses on Invoice Payables and Loss on Sale of Assets

*Comment 48:* Packing Costs

**Pastificio Guido Ferrara S.r.l.**

*Comment 49:* Offset to Ferrara's Depreciation for Italian Subsidies

*Comment 50:* Offset to Fixed Overhead Relating to Ferrara's Performance Bond Claim

*Comment 51:* Use of "Die Type" as a Product Matching Hierarchy

[FR Doc. 04-2862 Filed 2-9-04; 8:45 am]

BILLING CODE 3510-DS-S

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

[A-570-504]

**Petroleum Wax Candles from the People's Republic of China: Rescission, in Part, of Antidumping Duty Administrative Review**

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

**SUMMARY:** The Department of Commerce ("the Department") is rescinding its administrative review of twenty-one companies under the antidumping order on petroleum wax candles from the People's Republic of China (PRC) for the period August 1, 2002 through July 31, 2003. This rescission, in part, is based on the timely withdrawal of the request for review by the only interested party that requested a review of these twenty-one companies. A complete list of the companies for which the administrative review is being rescinded is provided in the *Rescission, in Part, of*

*Administrative Review* section below. The Department is not rescinding its review of Dongguan Fay Candle Co., Ltd. (Fay Candle) and Qingdao Kingking Applied Chemistry Co., Ltd. (Qingdao Kingking), because each of these companies self-requested an administrative review.

**EFFECTIVE DATE:** February 10, 2004

**FOR FURTHER INFORMATION CONTACT:** Javier Barrientos or Sally Gannon at (202) 482-2243 and (202) 482-0162, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

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

The Department published in the **Federal Register** an antidumping duty order on petroleum wax candles from the PRC on August 28, 1986 (51 FR 30686). Pursuant to its *Notice of Opportunity to Request an Administrative Review*, 68 FR 45218 (August 1, 2003), and in accordance with section 751(a)(1)(B) of the Act and section 351.213(b) of the Department's regulations, the Department received a timely request by the National Candle Association ("Petitioner") to conduct an administrative review of the antidumping duty order on petroleum wax candles from the PRC for twenty-three companies. Two of the twenty-three companies requested by the Petitioner (Fay Candle and Qingdao Kingking) individually requested a review. As such, the Petitioner was the sole requestor for twenty-one companies.

On September 30, 2003, the Department published its *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Review*, 68 FR 56262 (September 30, 2003) (*Initiation Notice*), initiating on all twenty-three candle companies for which an administrative review was requested. On December 24, 2003, the Department received a timely withdrawal from the Petitioner of its request for an administrative review of all twenty-three companies for which it had requested a review.

**Rescission, in Part, of Administrative Review**

Pursuant to section 351.213(d)(1) of the Department's regulations, the Department may rescind an administrative review, "if a party that requested the review withdraws the request within 90 days of the date of

publication of notice of initiation of the requested review." Because the Petitioner has timely withdrawn its request for review within the ninety-day period, and because Petitioner was the sole party to request a review for twenty-one of the twenty-three companies for which a review was requested, we are rescinding this administrative review, in part, for the period August 1, 2002 to July 31, 2003, for the following companies: Amstar Business Co., Ltd.; AtHome America; Avon Products, Inc.; Candle World Industrial Co.; Dalian Hanbo Lighting Co., Ltd.; Generaluxe Factory; Guangdong Xin Hui City Si Qian Art & Craft Factory; Jiangsu Holly Corporation; Li & Fung Trading Ltd.; Premier Candle Co. Ltd.; Shandong Jiaye Gen. Merch.; Shanghai Charming Wax Co., Ltd.; Simon Int'l Ltd.; Sincere Factory Company; Smartcord Int'l Co., Ltd./Rich Talent Trading; Suzhou Ind'l Park Nam Kwong; Taizhou Int'l Trade Corp.; Two's Company Inc.; Universal Candle Co., Ltd.; Zen Continental Co., Inc.; and, Zhong Hang-Scanwell International/Scanwell Freight Express (LAX), Inc. However, we will continue the administrative review with respect to Fay Candle and Qingdao Kingking, as these companies individually submitted a request for review.

The Department will issue appropriate assessment instructions directly to the U.S. Customs and Border Protection (Customs) within 15 days of the publication of this notice. The Department will direct Customs to assess antidumping duties for these companies at the cash deposit rate in effect on the date of entry for entries during the period August 1, 2002 to July 31, 2003.

**Notification to Parties**

This notice serves as a reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of time. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double 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 section 351.305(a)(3) of the Department's regulations. Timely written notification of the return or