

## Assessment

The Department will determine, and CBP will assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these final results of review. For the companies subject to this review, we calculated exporter-specific assessment rates because there is no information on the record which identifies the importers of record. Specifically, for CFP/Three Star/First/Great Wall/Fang Zheng, SFTC and Rongxin, we calculated duty assessment rates for subject merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of those sales. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

## Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 C.F.R. 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.

## Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 C.F.R. 351.305. 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 violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 771(i) of the Act.

Dated: July, 11, 2005.

**Susan H. Kubach,**  
Acting Assistant Secretary for Import Administration.

## Appendix Issues in Decision Memorandum

### Comments

*Comment 1:* CFP and Three Star Affiliation/Collapsing

*Comment 2:* Surrogate Valuation of Writing Cores

*Comment 3:* Surrogate Financial Ratios

*Comment 4:* Pencil Slat Valuation

*Comment 5:* Clerical Errors: Inland Transportation Charges, Packing Labor, Slat Usage Factors

*Comment 6:* Regression-Based Labor Rate Calculation

*Comment 7:* CFP's Subsidiaries

*Comment 8:* Surrogate Value for Kaolin Clay

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-570-827)

#### Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

**EFFECTIVE DATE:** July 22, 2005.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz or Erin Begnal, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4474 and (202) 482-1442, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Background

On December 28, 1994 the Department of Commerce (the Department) published and antidumping duty order on certain cased pencils from the Peoples' Republic of China. *See Antidumping Duty Order: Certain Cased Pencils from the People's Republic of China*, 59 FR 66909 (December 28, 1994) (the order). On January 31, 2005, the Department published a notice of initiation of administrative review of the order covering the period December 1, 2003, through November 30, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 4818 (January 31, 2005). The preliminary results are currently due no later than September 2, 2005.

#### Extension of Time Limit for Preliminary Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires

the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245-day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

We determine that it is not practicable to complete the preliminary results of this review within the original time limit due to complex issues relating to the calculation of certain surrogate values. Therefore, the Department is extending the time limit for completion of the preliminary results by 105 days until no later than December 16, 2005. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: July 13, 2005.

**Susan H. Kuhbach,**  
Acting Deputy Assistant Secretary for Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-475-818)

#### Notice of Preliminary Results, Partial Rescission of Antidumping Duty Administrative Review and Revocation of the Antidumping Duty Order in Part: Eighth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy

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

**SUMMARY:** In response to requests by interested parties, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain pasta ("pasta") from Italy for the period of review ("POR") July 1, 2003, through June 30, 2004.

We preliminarily determine that during the POR, Barilla G.e.R. Fratelli,

S.p.A. ("Barilla") (formerly Barilla Alimentare, S.p.A.), Corticella Molini e Pastifici S.p.A. and its affiliate Pasta Combattenti S.p.A. (collectively, "Corticella"),<sup>1</sup> Industrie Alimentare Colavita, S.p.A. and its affiliate Fusco S.r.L. (collectively, "Indalco"),<sup>2</sup> Pastificio Riscossa F.lli Mastromauro, S.r.L. ("Riscossa"), and Pastificio F.lli Pagani S.p.A. ("Pagani") sold subject merchandise at less than normal value ("NV"). If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties equal to the difference between the export price ("EP") or constructed export price ("CEP") and NV.

We preliminarily determine that during the POR, Pastificio Antonio Pallante S.r.L. and its affiliate Vitelli Food LLC ("Pallante") did not make sales of the subject merchandise at less than NV (*i.e.*, sales were made at a *de minimis* dumping margin). If these preliminary results are adopted in the final results of this administrative review, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.

Furthermore, requests for review of the antidumping duty order for the following companies were withdrawn: Pastificio Carmine Russo S.p.A. and its affiliate, Pastificio DiNola S.p.A. (collectively, "Russo"). Because the withdrawal requests were timely and there were no other requests for review of the companies, we are rescinding the review for these companies. *See* 19 CFR 351.213(d)(1).

Finally, we preliminarily intend to revoke the antidumping duty order with respect to subject merchandise produced and exported by Pallante because Pallante sold the merchandise

at not less than NV for a period of at least three consecutive years. *See* 19 CFR 351.222 (b)(2) and the "Revocation" section of this notice. In prior reviews, Pallante and Industrie Alimentari Molisane S.r.L. ("IAM") were found to be affiliated, and were treated as a single entity ("collapsed") because of common ownership, common sales activities, and family relationships. Pertinent facts concerning the affiliation of these two companies have changed. The record evidence of this review no longer supports a finding that Pallante and IAM are affiliated and, thus, there is no basis to collapse these two entities.<sup>3</sup> Therefore, this revocation will apply solely to Pallante.

Interested parties are invited to comment on these preliminary results, partial rescission, and revocation. Parties who submit comments in this segment of the proceeding should also submit with them: (1) a statement of the issues and (2) a brief summary of the comments. Further, parties submitting written comments are requested to provide the Department with an electronic version of the public version of any such comments on diskette.

**EFFECTIVE DATE:** July 22, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Dennis McClure, Stephanie Moore or Preeti Tolani, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5973, (202) 482-3692 or (202) 482-0395, 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 July 1, 2004, we published in the **Federal Register** the notice of *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review*, 69 FR 39903.

We received requests for review from petitioners<sup>4</sup> and from seven individual Italian exporters/producers of pasta, in accordance with 19 CFR 351.213(b)(2). In addition, on July 30, 2004, Pallante

and Pagani requested that the Department revoke the antidumping duty order with respect to their companies. *See* "Revocation" section of this notice.

On August 30, 2004, we published the notice of initiation of this antidumping duty administrative review covering the period July 1, 2003, through June 30, 2004, listing these seven companies as respondents: Barilla, Indalco, Riscossa, Russo, Corticella, Pagani, and Pallante.<sup>5</sup> *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 69 FR 52857 (August 30, 2004) ("Initiation Notice").

On December 7, 2004, the Department extended the due date for the preliminary results of review from April 4, 2005, to July 18, 2005. *See Certain Pasta from Italy: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 74493 (December 14, 2004).

During the months from January to June 2005, the Department issued supplemental questionnaires to each respondent, as applicable.

We conducted verification of the cost and sales information as follows: 1) Pagani sales verification from April 25 through April 29, 2005, and cost verification from May 16 through May 20, 2005; and 2) Pallante cost verification from May 23 through May 27, 2005, and sales verification from June 6 through June 10, 2005. We also verified the CEP information submitted by Pallante from June 20 through June 22, 2005.

**Partial Rescission**

On October 19, 2004, Russo withdrew its request for administrative review of the antidumping duty order. Because the request was timely filed, *i.e.*, with 30 days of publication of the *Initiation Notice*, and because there were no other requests for review of the above-mentioned company, we rescinded the review with respect to Russo in accordance with 19 CFR 351.213(d)(1). *See Certain Pasta from Italy: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 69 FR 74494 (December 14, 2004).

**Scope of the Order**

Imports covered by this order are shipments of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or

<sup>1</sup> During the seventh administrative review, an analysis of the record evidence indicated that Corticella and its toll producer, Coopertive Lomellina Cerealcoltori S.r.l. (CLC) were affiliated and the Department collapsed those companies for purposes of that review. The facts are the same for this POR; therefore, we have also treated them as a single entity for this review. *See Notice of Final Results of the Seventh Administrative Review of the Antidumping Duty Order on Certain Pasta From Italy and Determination to Revoke in Part*, 70 FR 6832 (February 9, 2005).

<sup>2</sup> During the sixth administrative review, an analysis of the record evidence indicated that Industrie Alimentare Colavita, S.p.A. and its affiliate Fusco S.r.L. were affiliated and the Department collapsed those companies for purposes of that review. The facts are the same for this POR; therefore, we have also treated them as a single entity for this review. *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, 47022 (August 7, 2003).

<sup>3</sup> *See* Pallante and IAM Affiliation Memo from the Team to Melissa G. Skinner, July 15, 2005.

<sup>4</sup> New World Pasta Company; Dakota Growers Pasta Company; and American Italian Pasta Company.

<sup>5</sup> Although the Department initiated this review on ten companies, included within that number were companies found to be affiliated in prior reviews, namely Corticella/Combattenti and Indalco/Fusco.

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 order 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 this order 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.

#### Verification

As provided in section 782(i) of Tariff Act of 1930, as amended ("the Act"), we conducted verification of the sales and cost information provided by Pagani and Pallante, and the CEP information provided by Pallante. We used standard verification procedures, including on-site inspection of the manufacturers' facilities and examination of relevant sales and financial records. Our verification results are detailed in the company-specific verification reports placed in the case file in the Central Records Unit ("CRU") located in room B-099 of the main Department building. We made minor revisions to certain sales and cost data based on verification findings. See the company-specific verification reports and calculation memoranda, in the CRU.

#### 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. When there were no appropriate comparison market sales of comparable merchandise, we compared the merchandise sold in the United States to constructed value ("CV"), in accordance with section 773(a)(4) of the Act.

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 or CEP to the NV, as described in the "Export Price and Constructed 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 the company-specific verification reports and calculation memoranda, available in the CRU.

#### Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP, in accordance with sections 772(a) and (b) of the Act. We calculated EP when the merchandise was sold by the producer or exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and when CEP was not otherwise warranted based on the facts on the record. We calculated CEP for those sales for which a person in the United States, affiliated with the foreign exporter or acting for the account of the exporter, made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. We based EP and CEP on the packed cost-insurance-freight ("CIF"), ex-factory, free-on-board ("FOB"), or delivered prices to the first unaffiliated customer in, or for exportation to, the United States. When appropriate, we made adjustments to these prices to reflect billing adjustments, discounts, and rebates.

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, insurance to port of exportation, domestic brokerage, handling and loading charges, export duties,

international freight, marine insurance, U.S. inland freight expenses, warehousing, and U.S. duties. In addition, when appropriate, we increased EP or CEP as applicable, 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.

In a "voluntary" submission to the Department, Pagani claimed an adjustment for "interest revenue" for certain U.S. sales during the POR. Petitioners objected to this adjustment on the grounds that the revenue had been received after the POR, and claimed that it was not a bona fide adjustment. We collected detailed information about this claimed adjustment and also examined it at verification. Based on our analysis of Pagani's submissions, we determine that Pagani has not adequately demonstrated that the underlying payments were related either to interest revenue or to the sales during the POR to which they were allocated. Therefore, we have disallowed this adjustment for purposes of the preliminary results.<sup>6</sup>

For CEP, in accordance with section 772(d)(1) of the Act, when appropriate, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (advertising, cost of credit, warranties, banking, slotting fees, and commissions paid to unaffiliated sales agents). In addition, we deducted indirect selling expenses that related to economic activity in the United States. These expenses include certain indirect selling expenses incurred by affiliated U.S. distributors. We also deducted from CEP an amount for profit in accordance with sections 772(d)(3) and (f)(2)(D) of the Act.

Barilla, Corticella, Indalco, Pagani, and Riscossa reported resales to the United States of subject merchandise 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*

<sup>6</sup> See Pagani's Analysis Memorandum for a detailed discussion.

and Notice of Determination Not to Revoke Order, 63 FR 50867, 50876 (September 23, 1998). In the instant review, we determine that it is 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, e.g., 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, 47028 (August 7, 2003); *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta from Italy*, 63 FR 42368, 42370 (August 7, 1998). Accordingly, consistent with our methodology in prior reviews (*see id.*), when a respondent 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 for that respondent.

Where the purchased pasta was commingled with the respondent's production and the respondent could not identify the portion of subject merchandise purchased from unaffiliated producers, we included the sale in our margin calculation. Inasmuch as the percentage of pasta purchased by any single respondent was an insignificant part of its U.S. sales database and the respondent was unable to identify the volume of purchased pasta in sales of commingled merchandise, we determined to include such sales in our margin calculations.

## 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 each respondent'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 (C) of the Act, because each respondent 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 the home market was viable for all producers.

### B. Arm's-Length Test

Barilla, Corticella, Pagani, and Pallante reported sales of the foreign like product to affiliated end-users and an affiliated resellers.<sup>7</sup> The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, sales at arm's length. *See* 19 CFR 351.403(c). To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we consider the sales to be at arm's-length prices and included such sales in the calculation of NV. *See* 19 CFR 351.403(c). Conversely, where sales to the affiliated party did not pass the arm's-length test, all sales to that affiliated party were excluded from the NV calculation. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (Nov. 15, 2002).

### C. Cost of Production Analysis

#### 1. Calculation of Cost of Production (COP)

We conducted a COP analysis of Barilla, Corticella, Indalco, Pagani, Pallante, and Riscossa, pursuant to section 773(b) of the Act, to determine whether the respondents' 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 COP data submitted by each respondent in its cost questionnaire responses, except in specific instances where based on our review of the submissions and, in some instances, our verification findings, we find that an adjustment is required, as discussed below:

<sup>7</sup> We note that sales from Barilla, Corticella, Pagani, and Pallante to all affiliated customers constitute less than 5% of their total sales in the foreign market and we did not require the companies to report the sales from the affiliated resellers to the unaffiliated customers.

### Pagani

1. We increased Pagani's total cost of manufacture ("COM") to correct an error in Pagani's yield calculation.

2. We increased Pagani's general and administrative ("G&A") expenses to include certain unreported expenses.

3. We increased Pagani's reported G&A expenses by adding its parent's general expenses to Pagani's.

*See* Memorandum from Nancy M. Decker to Neal M. Halper regarding Pagani's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results (July 15, 2005).

### Pallante

1. We increased Pallante's total COM to correct an error in Pallante's yield calculation and to include certain unreported expenses.

2. We increased Pallante's reported G&A expenses to include certain unreported expenses.

3. We increased Pallante's reported total packing costs to include certain unreported expenses.

*See* Memorandum from James Balog to Neal M. Halper regarding Pallante's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results (July 15, 2005).

### 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 sales-below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses (also excluded 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 sales of a given product 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 a respondent's sales of a given product during the POR 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. The 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. In such cases, because we compared prices to POR-average costs, we also 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. Based on this methodology, for Barilla, Corticella, Indalco, Pagani, Pallante, and Riscossa, for purposes of this administrative review, we disregarded certain below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. *See* the company-specific calculation memoranda on file in the CRU, for our calculation methodology and results.

#### *D. 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, warehousing, inland insurance, billing adjustments, 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, commissions, and bank charges, 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 in the home market or U.S. 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 adjustment to the amount of either the 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 19 CFR 351.411. We based this adjustment on the difference in the VCOM for the foreign like product and subject merchandise, using POR-average costs.

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

#### *E. Calculation of Normal Value Based on Constructed Value*

When we could not determine the NV based on comparison market sales because there were no contemporaneous sales of a comparable product, we compared the EP to CV. In accordance with section 773(e) of the Act, we calculated CV based on the sum of the COM of the product sold in the United States, plus amounts for SG&A expenses, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred in connection with the production and sale of the foreign like product in the comparison market.

For price-to-CV comparisons, we made adjustments to CV for COS differences, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. We made COS adjustments by deducting direct selling expenses incurred on comparison market sales and adding U.S. direct selling expenses.

#### *F. Level of Trade*

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade ("LOT") as the EP and CEP sales, to the extent practicable. When there were no sales at the same LOT, we compared U.S. sales to comparison market sales at a different LOT. When NV is based on CV, the NV LOT is that of the sales from which we derive SG&A expenses and profit.

Pursuant to 19 CFR 351.412, to determine whether comparison market sales are at a different LOT, we examine 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 comparison 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 will make an LOT adjustment under section 773(a)(7)(A) of the Act.

Finally, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the differences in LOT between

NV and CEP affected price comparability, we will grant a CEP offset, pursuant to section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732-33 (November 19, 1997). Specifically in this review, we did not make an LOT adjustment for any respondent. However, we are preliminarily granting a CEP offset for Barilla and Pallante.

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, *see* the company-specific calculation memoranda, all 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 Bank.

#### **Revocation**

On July 30, 2004, Pallante and Pagani submitted requests for revocation of the antidumping duty order with respect to their sales of the subject merchandise pursuant to 19 CFR 351.222(b). The Department "may revoke, in whole or in part" an antidumping duty order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires that one or more exporters and producers covered by the order and desiring revocation submit the following: (1) a certification that the company has sold the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in each of the three years forming the basis of the request in commercial quantities; and (3) an agreement to immediate reinstatement of the order if the Department concludes that the company, subsequent to the revocation, has sold subject merchandise at less than NV. *See* 19 CFR 351.222(e)(1). Both Pallante and Pagani provided the certifications and agreements required by 19 CFR 351.222(e)(1).

Upon receipt of such a request, the Department, pursuant to 19 CFR 351.222(b)(2), will consider the following in determining whether to revoke the order in part: (1) whether the

producer or exporter requesting revocation has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether the continued application of the antidumping duty order is otherwise necessary to offset dumping; and (3) whether the producer or exporter requesting revocation in part has agreed in writing to the immediate reinstatement of the order, as long as any exporter or producer is subject to the order, if the Department concludes that the exporter or producer, subsequent to revocation, sold the subject merchandise at less than NV.

Both Pallante and Pagani had *de minimis* or zero dumping margins in the two preceding years. See *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*, 69 FR 6255, 6257 (February 10, 2004) and *Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part: Certain Pasta from Italy*, 68 FR 6882, 6883 (February 11, 2003), respectively. However, in the current review we preliminarily find that Pagani sold subject merchandise at less than NV. See July 15, 2005, Memorandum to the File, RE: Preliminary Calculation Memorandum for Pagani. Because we preliminarily find that Pagani made sales of subject merchandise at less than NV, we preliminarily intend not to revoke the antidumping duty order with respect to Pagani. Regarding Pallante, the Department preliminarily finds a *de minimis* rate for the current review. See July 15, 2005, Memorandum to the File, RE: Preliminary Calculation Memorandum for Pallante. Therefore, we preliminarily find that Pallante sold subject merchandise at not less than NV for three consecutive years as required under 19 CFR 351.222(b).

In determining whether three years of no dumping establishes a sufficient basis to make a revocation determination, the Department must be able to determine that the company continued to participate meaningfully in the U.S. market during each of the three years at issue, *i.e.*, that the company made sales in commercial quantities during each of those years. See *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada; Final Results of Antidumping Duty Administrative Reviews and Determination To Revoke in Part*, 64 FR 2173, 2175 (January 13, 1999); see also *Pure Magnesium From Canada; Final Results of Antidumping Duty Administrative Review and*

*Determination Not to Revoke Order in Part*, 64 FR 12977, 12979 (March 16, 1999); and *Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Order: Brass Sheet and Strip from the Netherlands*, 65 FR 742 (January 6, 2000). The Department preliminarily finds that Pallante sold subject merchandise to the United States in commercial quantities during each of the consecutive three years within the meaning of 19 CFR 351.222(e)(1)(ii). See the July 7, 2005, Pallante Sales Verification Report at Exhibits S-27 and VF-19; see also Pallante's March 22, 2005, Questionnaire Response at Exhibit 1. Therefore, we reasonably conclude that the *de minimis* margins calculated for Pallante in the last three years are reflective of the company's normal commercial experience. Because Pagani sold at less than NV during the 2003 to 2004 POR, the Department did not determine whether Pagani sold in commercial quantities during each of the last three years.

With respect to 19 CFR 351.222(b)(2)(i)(C), in considering whether continued application of the order is necessary to offset dumping, "the Department may consider trends in prices and costs, investment, currency movements, production capacity, as well as all other market and economic factors relevant to a particular case." *Proposed Regulation Concerning the Revocation of Antidumping Duty Orders*, 64 FR 29818, 29820 (June 3, 1999). Based upon sales over three consecutive years resulting in *de minimis* margins, the Department presumes that the company requesting revocation is not likely to resume selling subject merchandise at less than NV in the near future unless the Department has been presented with evidence to demonstrate that dumping would likely resume if the order were revoked. In this proceeding, we have not received any evidence that demonstrates that Pallante would likely resume dumping in the future if the order were revoked. Therefore, we preliminarily determine that the order is no longer necessary to offset dumping for Pallante.

Because all requirements under the regulation have been satisfied, if these preliminary findings are affirmed in our final results, we intend to revoke the antidumping duty order with respect to subject merchandise produced and exported by Pallante. Also, in accordance with 19 CFR 351.222(f)(3), if these findings are affirmed in our final results, we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn

from warehouse, for consumption on or after the first day after the period under review, and will instruct CBP to refund any cash deposit.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine that the following percentage weighted-average margins exist for the period July 1, 2003, through June 30, 2004:

Manufacturer/exporter	Margin (percent)
Barilla .....	16.39
Corticella .....	3.41
Indalco .....	4.10
Pagani .....	2.76
Pallante .....	0.38 <i>de minimis</i>
Riscossa .....	2.03

The Department will disclose 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, 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 of review. Rebuttal briefs, limited to issues raised in such briefs, may be filed no later than 35 days after the date of publication. 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 written comments are requested to provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative 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 calculated an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative 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 appraisement instructions directly to 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 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. Where appropriate, to calculate the entered value, we subtracted international movement expenses (e.g., international freight) from the gross sales value.

#### Cash Deposit Requirements

To calculate the cash deposit rate for each producer and/or exporter included in this administrative review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of pasta from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed above will be the rates established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (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 final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value ("LTFV") investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 11.26 percent, the "All Others" rate established in the LTFV 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 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 duties occurred and increase the subsequent assessment of the antidumping duties by the amount of antidumping duties reimbursed.

These preliminary results of this administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 15, 2005.

**Susan H. Kubbach,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-879]

#### Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Polyvinyl Alcohol from the People's Republic of China

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

**EFFECTIVE DATE:** July 22, 2005.

**FOR FURTHER INFORMATION CONTACT:** Lilit Astvatsatryan, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6412.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department of Commerce ("the Department") published an antidumping duty order on polyvinyl alcohol ("PVA") from the People's Republic of China ("PRC") on October 1, 2003 (*see Antidumping Duty Order: Polyvinyl Alcohol from the People's Republic of China*, 68 FR 56620). On October 29, 2004, Petitioners<sup>1</sup> requested that the Department conduct an antidumping duty administrative review of Sinopec Sichuan Vinylon Works.

On November 19, 2004, the Department published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of PVA from the PRC for the period March 20, 2003, through September 30, 2004. *See Initiation of Antidumping and*

*Countervailing Duty Administrative Reviews*, 69 FR 67701 (November 19, 2004).<sup>2</sup> On June 23, 2005, the Department published in the **Federal Register** a notice extending the time limit for the preliminary results of the administrative review from July 3, 2005, to August 2, 2005. *See Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Polyvinyl Alcohol from the People's Republic of China*, 70 FR 36375 (June 23, 2005). The preliminary results of review are currently due no later than August 2, 2005.

#### Extension of Time Limit of Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), the Department shall issue preliminary results in an antidumping administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order.

The Act further provides, however, that the Department may extend the deadline for completion of the preliminary results of review from 245 days to 365 days if it determines that it is not practicable to complete the preliminary results within the 245-day period. Completion of the preliminary results of this review within the 245-day period is not practicable because the Department needs additional time to research and analyze a significant amount of information pertaining to the respondent company's large number of factors of production, review and issue supplemental questionnaires, and evaluate certain issues raised by Petitioners.

Because it is not practicable to complete this review within the time specified under the Act, we are extending the time period for issuing the preliminary results of review by an additional 45 days until September 16, 2005, in accordance with section 751(a)(3)(A) of the Act. The final results continue to be due 120 days after the publication of the preliminary results.

<sup>2</sup> We note that the beginning date (*i.e.*, March 20, 2003) of the announced period of review ("POR") was not correct. The Department inadvertently published an incorrect beginning date which was the date of the preliminary determination of the investigation. Because the only respondent in this proceeding had a *de minimis* rate in the preliminary determination, the correct beginning date for the POR should have been the date of the final determination in the investigation. Thus, the Department corrected the beginning date of the POR to reflect the correct POR which is August 11, 2003, through September 30, 2004. *See Memorandum to the File from Lilit Astvatsatryan, Case Analyst, through Robert Bolling, Program Manager*, dated May 9, 2005.

<sup>1</sup> Celanese, Ltd. and E.I. du Pont de Nemours & Co. (collectively "Petitioners").