

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-475-818]

**Notice of Final Results of the Eighth Administrative Review of the Antidumping Duty Order on Certain Pasta From Italy and Determination to Revoke in Part**

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

**SUMMARY:** On July 22, 2005, the Department of Commerce ("the Department") published the preliminary results and partial rescission of the eighth administrative review and revocation of the antidumping duty order in part, for the antidumping duty order on certain pasta from Italy. The review covers six manufacturers/exporters: (1) Barilla G.e.R. Fratelli, S.p.A. ("Barilla") (formerly Barilla Alimentare, S.p.A.), (2) Corticella Molini e Pastifici S.p.A. and its affiliate Pasta Combattenti S.p.A. ("Corticella"), (3) Industrie Alimentare Colavita, S.p.A. ("Indalco"), (4) Pastificio F.lli Pagani S.p.A. ("Pagani"), (5) Pastificio Antonio Pallante S.r.l. and its affiliate Vitelli Foods LLC ("Pallante"), and (6) Pastificio Riscossa F.lli Mastromauro, S.r.l. ("Riscossa"). The period of review ("POR") is July 1, 2003, through June 30, 2004.

As a result of our analysis of the comments received, these final results differ from the preliminary results. We have also determined to revoke the antidumping duty order with respect to subject merchandise produced and also exported by Pallante because the company sold the subject merchandise at not less than normal value ("NV") for a period of at least three consecutive years. See 19 CFR 351.222(b)(2) and the "Revocation" section of this notice. The final results are listed in the "Final Results of Review" section below.

**EFFECTIVE DATE:** November 29, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dennis McClure and Robert Copyak, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-5973 and (202) 482-2209, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 22, 2005, the Department published the preliminary results of the eighth administrative review of the antidumping duty order on certain pasta from Italy. See *Notice of Preliminary*

*Results, Partial Rescission of Antidumping Duty Administrative Review and Revocation of the Antidumping Duty Order in Part: For the Eighth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy*, 70 FR 42303 (July 22, 2005) ("Preliminary Results").

We invited parties to comment on our *Preliminary Results*. On August 22, 2005, we received case briefs from petitioners<sup>1</sup> and from Barilla, Indalco, Pagani, and Pallante. On August 26, 2005, we received rebuttal briefs from petitioners and Indalco, and from Pagani and Barilla on August 29, 2005. On August 30, 2005, petitioners requested that the Department reject Pagani's and Barilla's rebuttal briefs because they failed to meet the filing deadline. Pagani and Barilla state in their August 31, 2005, letters that their rebuttal briefs were timely filed in accordance with 19 CFR 351.303(b). The due date of filing a rebuttal brief fell on Saturday, August 27, 2005. Pagani and Barilla filed their rebuttal briefs on the first business day—Monday, August 29, 2005. We accept Pagani's and Barilla's rebuttal briefs because they were timely filed within the meaning of 19 CFR 351.303(b). On October 5, 2005, a public hearing was held at the Department of Commerce with respect to Pagani.

**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 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.

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

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.

**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). In the *Preliminary Results*, we preliminarily determined to revoke the antidumping duty order with respect to subject merchandise produced and exported by Pallante. See 70 FR at 42304. We did not receive any comments from interested parties concerning our revocation with respect to Pallante. For the reasons set forth in the *Preliminary Results*, 70 FR at 42304, we continue to find that revocation is appropriate with respect to Pallante and, thus, we revoke the antidumping duty order with respect to subject merchandise produced and exported by Pallante. With regards to Pagani, we find that Pagani made sales of subject merchandise at less than NV. Therefore, we are not revoking the antidumping duty order with respect to Pagani.

**Analysis of Comments Received**

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

**Final Results of Review**

We determine that the following weighted-average margins exist for the period July 1, 2003, through June 30, 2004:

Manufacturer/Exporter	Margin (percent)
Barilla .....	20.68
Corticella .....	3.41
Indalco .....	2.59
Pagani .....	2.76
Pallante .....	<sup>1</sup> 0.34

Manufacturer/Exporter	Margin (percent)
Riscossa .....	2.03

<sup>1</sup> De minimis.

#### 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 certain 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 rates 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 and/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 the 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: November 21, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

#### Appendix I—List of Comments and Issues in the Decision Memorandum

**Barilla G.e.R. Fratelli, S.p.A.**

Comment 1: *Freight Expenses For Certain U.S. Sales.*

Comment 2: *U.S. Indirect Selling Expense.*

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

Comment 3: *Liquidation Instructions.*

Comment 4: *Treatment of Negative Dumping Margins.*

Comment 5: *Treatment of Affiliated Party G&A.*

Comment 6: *Ministerial Errors.*

Comment 7: *Home-Market Level of Trade.*

Comment 8: *Cost Data Used to Calculate the Difference-in-Merchandise Adjustment.*

**Pastificio F.lli Pagani S.p.A.**

Comment 9: *Interest/Exchange Revenue Claim.*

Comment 10: *Interest Expense—Interest Free Loan from Parent Company.*

Comment 11: *G&A Expenses—Adjustments.*

**Pastificio Antonio Pallante S.r.l. and Vitelli Food LLC**

Comment 12: *Treatment of Free Pasta.*

Comment 13: *Correction to Cost Calculations.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Application for Duty-Free Entry of Scientific Instrument

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

*Docket Number:* 05–045

*Applicant:* Department of Molecular Physiology and Biophysics, College of Medicine, HSFR Building, 149 Beaumont Avenue, Burlington, VT 05401.

*Instrument:* Electron Microscope, Model Morgagni 268

*Manufacturer:* FEI Company, Czech Republic.

*Intended Use:* The instrument is intended to be used to examine and photograph high-resolution digital images of the anatomical, physiological and pathological structures and processes of samples from a broad range of tissue specimens. The images can be conveniently stored for future use or shared with other researchers via the Internet. Application accepted by Commissioner of Customs: October 18, 2005.

**Gerald A. Zerdy,**

*Program Manager, Statutory Import Programs Staff.*

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