

values with U.S. dollar-denominated freight values in the margin calculation for packing expenses.

**Department's Position:**

We agree with SLK that we erroneously used Indian rupee-denominated freight values instead of U.S. dollar-denominated freight values

in its margin calculation for packing expenses. For these amended final results, we corrected this ministerial error and used freight values that were converted to U.S. dollars before adding these values to the U.S. dollar-denominated surrogate values for the packing inputs in SLK's margin calculation program.

**Amended Final Results**

As a result of the correction of ministerial errors and amended margin calculation, the following weighted-average margin exists for SLK, for the period of December 2, 2003, through November 30, 2004.

Producer/Exporter	Original Weighted-average percentage margin	Amended Weighted-average percentage margin
LDR Industries Inc. and Beijing Sai Lin Ke Hardware Co., Ltd. ....	14.69	9.24

The Department will disclose calculations performed for the amended final results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

**Assessment Rates**

The Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries based on the amended final results. For details on the assessment of antidumping duties on all appropriate entries, see Final Results, 71 FR 37051, 37056.

These amended final results are published in accordance with sections 751(h) and 777(i)(1) of the Act.

Dated: July 31, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

(A-475-818)

**Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Ninth 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, 2004, through June 30, 2005.

We preliminarily determine that during the POR, both Corticella Molini e Pastifici S.p.A. and its affiliate Pasta

Combattenti S.p.A. (collectively, "Corticella/Combattenti") and Atar, S.r.L. ("Atar") 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 and normal value ("EP").

Further, requests for review of the antidumping duty order for the following companies were withdrawn: Barilla G.e.R. Fratelli, S.p.A./Barilla Alimentare, S.p.A. ("Barilla"), Moline e Pastificio Tomasello S.r.L. ("Tomasello"), and Pastificio Laporta S.a.s ("Laporta"). Because the withdrawal requests were timely and there were no other requests for review of these companies, we are rescinding the review for these companies. See 19 CFR 351.213(d)(1).

Furthermore, we are preliminarily rescinding the review with respect to Italpasta/Pasta Berruto S.p.A. ("Italpasta")<sup>1</sup> because Italpasta submitted a letter stating that it had no shipments of subject merchandise during the POR. See 19 CFR 351.213(d)(3). As discussed in the *Partial Rescission* section below, customs data did not contradict Italpasta's claim that it did not have shipments of subject merchandise during the POR.

Finally, we are rescinding the review with respect to Pastificio Antonio Pallante S.r.L./Industrie Alimentari Molisane, S.r.L./Vitelli Foods, LLC ("Pallante") because, since the initiation of the current review, the Department has revoked the order in part, with respect to Pallante, effective July 1, 2004. See *Notice of Final Results of the Eighth Administrative Review of the*

<sup>1</sup> In its September 20, 2005 letter, counsel for Italpasta S.p.A. informed the Department that it merged with its affiliate, Arrighi S.p.A. into a new company Pasta Berruto S.p.A.. See Letter to the Department from Italpasta, Re: Pasta from Italy; Response to Questionnaire (September 20, 2005).

*Antidumping Order on Certain Pasta From Italy and Determination to Revoke in Part*, 70 FR 71464 (November 29, 2005) ("*Pasta Eighth Review Final Results*").

Interested parties are invited to comment on these preliminary results and partial rescission. 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:** August 8, 2006.

**FOR FURTHER INFORMATION CONTACT:** Dennis McClure, Maura Jeffords 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) 482-3146 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 (July 24, 1996).

On July 1, 2005, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on certain pasta from Italy. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 70 FR 38099 (July 1, 2005). We received

requests for review from petitioners<sup>2</sup> and from individual Italian exporters/producers of pasta, in accordance with 19 CFR 351.213(b)(1)&(2). On August 29, 2005, the Department published the notice of initiation of this antidumping duty administrative review covering the period July 1, 2004, through June 30, 2005, listing these seven companies as respondents: Barilla, Atar, Italpasta, Tomasello, Laporta, Corticella/Combattenti, and Pallante. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 51009 (August 29, 2005) (“*Initiation Notice*”).

On October 13, 2005, Laporta timely withdrew its request for an administrative review of certain pasta from Italy. On November 9, 2005, Barilla timely withdrew its request for an administrative review of certain pasta from Italy. On November 14, 2005, Tomasello timely withdrew its request for an administrative review of certain pasta from Italy. No other party requested a review of these three entities.

Between October 2005 and July 2006, the Department issued its initial questionnaire and supplemental questionnaires to each respondent, as applicable. In the initial questionnaire to Corticella/Combattenti, the Department requested that Corticella/Combattenti submit its cost of production information because during the Department’s most recently completed review, we disregarded sales made by Corticella/Combattenti at less than cost of production. *See* sections 773 (b)(1) and (2)(A)(ii) of the Tariff Act of 1930, as amended (“the Act”); *Pasta Eighth Review Final Results*, 70 FR 71464 (November 29, 2005). We received responses to the Department’s initial and supplemental questionnaires on October 31, 2005, February 2, March 15, June 27, June 30 and July 18, 2006 from Atar. Corticella/Combattenti provided responses to the Department’s initial and supplemental questionnaires on February 6, February 16, and March 30, 2006. On November 21, 2005, January 4, and May 1, 2006, the petitioners filed comments on Atar’s response. Atar filed rebuttal comments on December 1, 2005, February 6, and May 8, 2006. On March 10, 2005, the Department extended the due date for the preliminary results of review from April 3, to May 18, 2006. *See Certain Pasta from Italy: Extension of Time Limits for the Preliminary Results of*

*Antidumping Duty Administrative Review*, 71 FR 13584 (March 16, 2006). On May 17, 2006, we fully extended the due date for the preliminary results of review from May 18, to July 31, 2006. *See Certain Pasta from Italy: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 29615 (May 23, 2006). We issued additional supplemental questionnaires to Atar between May 31 and July 7, 2006.

#### Affiliation and Collapsing

During the seventh administrative review in this proceeding, the Department collapsed Corticella/Combattenti and its affiliated toll producer, CLC. The Department found, among other things, that Corticella/Combattenti and CLC had common ownership, common control and management, and significant potential for manipulation of price and production; therefore, the Department collapsed the companies for purposes of that 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, 6833 (February 9, 2005) (*Pasta Seventh Review Final Results*) (citing the February 2, 2005, memorandum from the Team to Melissa G. Skinner, Director, AD/CVD Operations, Office 3, entitled, “The relationship of Coopertive Lomellina Cerealicoltori S.r.l. (CLC) with Corticella Molini e Pastifici S.p.A. (Corticella) and its affiliate Pasta Combattenti S.p.A. (Combattenti, collectively Corticella/Combattenti),” a proprietary document, the public version of which is available in the Central Records Unit (“CRU”), room B-099 of the main Department building.) This memo has been placed on the record of this review. *See* Memo to File, dated July 31, 2006. The Department also found Corticella/Combattenti and CLC to be a single entity for the purposes of the eighth administrative review. *See Pasta Eighth Review Final Results*, 70 FR 6832, 6833. As the facts are the same for this POR as they were for both the *Pasta Seventh Review Final Results* and the *Pasta Eighth Review Final Results*, we continue to find that there is significant potential for manipulation of price and production between these affiliated parties, and therefore, we have treated Corticella/Combattenti and CLC as a single entity for this review.

#### 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.

In addition, based on publicly available information, the Department has determined that, as of March 13, 2003, imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by Istituto per la Certificazione Etica e Ambientale (“ICEA”) are also excluded from this order. *See* Memorandum from Audrey Twyman to Susan Kubbach, dated February 28, 2006, entitled “Recognition of Istituto per la Certificazione Etica e Ambientale (“ICEA”) as a Public Authority for Certifying Organic Pasta from Italy” which is on file in the Department’s CRU.

The merchandise subject to this order is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States* (“”). Although the *HTSUS* subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

#### Partial Rescission

Between October 13 and November 14, 2005, Laporta, Barilla, and Tomasello timely withdrew their requests for administrative review of the antidumping order. Because their withdrawal requests were filed within 90 days of publication of the *Initiation Notice*, and because there were no other requests for review of the above-mentioned companies, we are rescinding the review with respect to Laporta, Barilla, and Tomasello in accordance with 19 CFR 351.213(d)(1).

On November 29, 2005, the order was revoked, in part with respect to Pallante. *See Pasta Eighth Review Final Results*,

<sup>2</sup>New World Pasta Company; Dakota Growers Pasta Company; and American Italian Pasta Company.

70 FR 71464 (November 29, 2005). Consequently, we are rescinding the administrative review with respect to Pallante.

On September 20, 2005, Italtapa submitted a letter stating that it had no shipments of subject merchandise during the period of review. We confirmed this information through customs data. See Memorandum to the File from the Team regarding Customs Query dated May 18, 2006, the public version of which is on file in the CRU. In accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the review in part as to Italtapa because it made no sales or shipments of subject merchandise during the review period.

### 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 comparison 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 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 for Corticella/Combattenti and CV for Atar and compared these to individual U.S. transactions. See the company-specific calculation memoranda, available in the CRU.

### Export Price

For both Corticella/Combattenti and Atar, for the price to the United States,

we used, as appropriate, EP, in accordance with section 772(a) 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. We based EP 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, rebates, and freight revenue.

In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses including inland freight from the plant to the distribution warehouse, from plant or warehouse to port of exportation, 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, by an amount equal to the countervailing duty rate attributed to export subsidies in the most recently completed administrative review of the countervailing duty order applicable to the POR, in accordance with section 772(c)(1)(C) of the Act. Corticella/Combattenti 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 and Notice of Determination Not to Revoke Order*, 63 FR 50867, 50876 (September 23, 1998). Because we determined in prior reviews that virtually all enriched pasta is sold to the United States, we preliminarily determine, as we did in prior reviews, 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. See, e.g., *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*, 70 FR 42303, 42306 ("Pasta Eighth Review Prelim"); *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; *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, 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. See, e.g., *Pasta Eighth Review Prelim*, 70 FR 42303, 42306 (July 22, 2005); *Pasta Eighth Review Final Results*, 70 FR 71464 (November 29, 2005).

### Normal Value

#### A. Selection of Comparison Markets

Pursuant to sections 773(a)(1)(B) and (C) of the Act, 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. Where a 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. Based on the data Corticella/Combattenti reported for its home market sales, we determined that its home market was a viable basis for calculating NV. Atar's home market sales were less than five percent of its aggregate sales to the United States; therefore, Atar's home market sales are not viable for calculating NV.

When sales in the home market are not suitable to serve as the basis for NV, section 773(a)(1)(B)(ii) of the Act provides that sales to a third-country market may be utilized if the prices in such market are representative; the aggregate quantity or, if the quantity is not appropriate, the value of the foreign like product sold by the producer or exporter in the third-country market is five percent or more of the aggregate quantity of the subject merchandise sold in or to the United States; and the Department does not determine that a particular market situation in the third-

country market prevents a proper comparison with the U.S. price.

Atar reported Angola as its largest and only third-country market during the POR, in terms of volume of sales (and the aggregate quantity of such sales is five percent or more of sales to the United States). While the volume of Atar's third-country market sales exceeded five percent, the Department preliminarily determines that a particular market situation exists which prevents proper comparison between Atar's third-country market sales and its U.S. sales. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from Melissa G. Skinner, Director, AD/CVD Operations, Office 3: Particular Market Situation, July 31, 2006 (a public version is on file in the CRU). Therefore, consistent with section 773(a)(1)(B)(4) of the Act, we are calculating NV based on CV. We calculated NV as noted in the "Calculation of Normal Value Based on Constructed Value" section of this notice.

#### B. Arm's-Length Test

Corticella/Combattenti reported sales of the foreign like product to affiliated end-users and affiliated resellers.<sup>3</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 *Stainless Steel Bar from Germany: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 70651, 70652 (December 7, 2004); *Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Italy*, 69 FR 48205, 48208 (August 9, 2004); see also 19 CFR

351.403(c). Conversely, where all 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, 69187 (Nov. 15, 2002).

#### C. Cost of Production Analysis

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

We conducted a COP analysis of Corticella/Combattenti 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 ("SG&A") expenses and packing, in accordance with section 773(b)(3) of the Act. We relied on home market sales and COP information provided by Corticella/Combattenti in its questionnaire responses, except where noted below:

Molini Certosa, a semolina producer affiliated with Corticella and Combattenti, sold Corticella/Combattenti semolina, a major input to the production of pasta. Section 773(f)(3) of the Act, the "major input rule", states that "if, in the case of a transaction between affiliated persons involving the production by one of such persons of a major input to the merchandise, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the cost of production of such input, then the administering authority may determine the value of the major input on the basis of the information available regarding such cost of production, if such cost is greater than the amount that would be determined for such input under paragraph (2)." Section 773(f)(2), the "transactions disregarded rule," states that transactions between affiliated persons "may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales of merchandise under consideration in the market under consideration." We evaluated the transfer prices between Molini Certosa and Corticella and Combattenti accordingly. The Department normally determines the market price of a particular input by looking at the average price of any transactions made between the respondent and unaffiliated suppliers.

See Section D at question II. A. 8. c. in the Department's September 7, 2005, questionnaire. Such transactions were available in this case, and we determined the market price of the semolina input by determining the weighted-average price of all such transactions between Corticella/Combattenti and their unaffiliated suppliers, as applicable, in this POR.

In its February 16, 2006, response to the section D supplemental questionnaire, Corticella claimed that transactions between Combattenti and a certain unaffiliated supplier are not reflective of a market price, and therefore the Department should not use prices between Combattenti and this supplier in determining the market price for the purposes of applying the major input rule. Corticella also claimed, in its March 30, 2006, response to the section D supplemental questionnaire, that transactions between Combattenti and this unaffiliated company are functionally a "tolling" arrangement, even though Combattenti takes ownership of the semolina. Corticella claims that Combattenti recovers the semolina price through a conversion fee charged to the customer/supplier.

We disagree with Corticella that we should exclude the purchases of semolina from the supplier in question. First, the supplier is not affiliated with Combattenti. Second, even Corticella concedes that the supplier is not a toller. See also 19 CFR 351.401(h). Indeed, Combattenti acquires ownership and controls the relevant sale through its contractual agreement; therefore, Combattenti is the producer of pasta, not a subcontractor or toller. See *Notice of Final Results of New Shipper Review of the Antidumping Duty Order on Certain Pasta from Italy*, 69 FR 18869 (April 9, 2004). Furthermore, Corticella failed to provide any evidence that these purchases were not at arm's length or anything other than market transactions. Therefore, we have included them in our calculation of market price used to test Corticella's affiliated purchases of semolina.

Because the market price was higher than the transfer prices between Molini Certosa and both Corticella and Combattenti and higher than Molina Certosa's COP, consistent with section 773(f)(3) of the Act, we increased the reported direct material cost to reflect the market price. For further details regarding these adjustments, see the Department's "Cost of Production and Constructed Value Calculation Adjustments for Preliminary Results - Corticella" (COP Memorandum) (July 31, 2006).

<sup>3</sup> We note that sales from Corticella/Combattenti to each affiliated customer constitute less than 5 percent of Corticella/Combattenti's total sales in the foreign market and we did not require it to report the sales from its affiliated resellers to the unaffiliated customers. See 19 CFR 351.403(d).

## 2. Test of Comparison Market Prices

As required under section 773(b)(1) of the Act, for Corticella/Combattenti 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 sections 773(b)(1) and 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." In contrast, 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 Corticella/Combattenti, 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

For Corticella/Combattenti, we calculated NV based on ex-works, FOB or delivered prices to comparison market customers. When appropriate, we made adjustments to these prices to reflect billing adjustments, discounts, and rebates. We made deductions from

the starting price, when appropriate, for handling, loading, inland freight, international freight, and warehousing. 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 United States 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" section of this notice.

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

For Atar, we calculated CV in accordance with section 773(e) of the Act, which states that CV shall be based on the sum of a respondent's cost of materials and fabrication for the subject merchandise, plus amounts for SG&A expenses, profit, and U.S. packing costs. We relied on Atar's submitted materials and fabrication costs, G&A expenses and U.S. packing costs. We adjusted Atar's reported total cost of manufacture to account for an unreconciled difference between its reported costs and its financial accounting records. Further, we calculated selling expenses and profit, in accordance with section 773(e)(2)(B)(iii) of the Act, as detailed in the Memorandum to Neal Halper from LaVonne Clark, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results

(July 31, 2006) ("Preliminary Results Cost Calculation Memo").

Because the Department has determined for purposes of these preliminary results that Atar does not have a viable comparison market, we could not determine selling expenses and profit under section 773(e)(2)(A) of the Act. Therefore, we relied on section 773(e)(2)(B) of the Act to determine these selling expenses and profit. Specifically, we used the weighted-average selling expenses and profit rate derived from the comparison market data of the respondents in the previous administrative review. See *Pasta Eighth Review Final Results*. See Memo to the File from LaVonne Clark through Taija Slaughter, Final Results Calculations from the Eighth Administrative Review (July 31, 2006) (placing selling expense and profit data submitted by respondents in the Eighth Administrative Review on the record of the Ninth Administrative Review). The statute does not establish a hierarchy for selecting among the alternative methodologies provided in section 773(e)(2)(B) of the Act for determining selling expenses and profit. See Statement of Administrative Action Accompanying the URAA, H.R. Rep. No. 103-316, vol. 1, at 840 (1994). Nonetheless, we examined each alternative in searching for an appropriate method.

Alternative (i) of section 773(e)(2)(B) of the Act specifies that selling expenses and profit may be calculated based on "actual amounts incurred by the specific exporter or producer...on merchandise in the same general category" as subject merchandise. The Department could not rely on this alternative because Atar does not produce any products other than the subject merchandise. Alternative (ii) of section 773(e)(2)(B) of the Act provides that selling expenses and profit may be calculated based on "the weighted average of the actual amounts incurred and realized by [other] exporters or producers that are subject to the investigation or review." We could not calculate selling expenses and profit based on this alternative because there is only one other respondent in this case and relying on that respondent's indirect selling expenses and profit would reveal the business-proprietary information. Therefore, we calculated Atar's CV selling expenses and profit based on alternative (iii) of section 773(e)(2)(B) of the Act, which is any other reasonable method.

We calculated Atar's CV selling expense and profit ratios using the comparison market selling expense and profit ratios calculated for the

respondents in the *Pasta Eighth Review Final Results* in this administrative proceeding (*i.e.*, Barilla, Corticella/Combattenti, Industrie Alimentare Colavita, S.p.A., Pastificio F.lli Pagani S.p.A., Pallante, and Pastificio Riscossa F.lli Mastromauro, S.r.l.). We computed weighted-average ratios and applied the selling expense ratios to the sum of the cost of materials and fabrication to determine CV selling expenses, and applied the profit ratio to the sum of the cost of materials, fabrication, and general expenses to calculate an amount for profit.

Pursuant to alternative (iii), the Department has the option of using any other reasonable method, as long as the result is not greater than the amount realized by exporters or producers "in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise" (*i.e.*, the "profit cap"). In the instant case, we are using the weighted-average profit rate derived from the comparison market data of the respondents in the immediately preceding administrative review. Accordingly, this weighted-average profit rate represents an amount normally realized by exporters or producers in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise. As such, in accordance with section 773(e)(2)(B)(iii) of the Act, the weighted-average profit rate of the respondents in the *Pasta Eighth Review Final Results* establishes a profit cap. Thus, the reasonable method used by the Department to calculate profit does not exceed the profit cap.

Atar submitted to the Department the financial statements of four Italian companies, which Atar claims are "leading pasta manufacturers," and calculated profit ratios of those companies based on the companies' profits realized during fiscal year 2004. Although these four companies are producers of the same general category of products as the subject merchandise, the financial statements do not provide information that would allow the Department to determine if or the extent to which the companies' sales were made in the comparison market.

Further, to determine the most appropriate profit rate under alternative (iii), we weighed several factors. Among them are: (1) The similarity of the potential surrogate companies' business operations and products to those of respondent; (2) the extent to which the financial data of the surrogate

companies reflect sales in the United States as well as the home market; (3) the contemporaneity of the surrogate data with the POR; and (4) the similarity of the customer base. The greater the similarity in business operations, products, and customer base, the more likely that there is a greater correlation between the profit experience of the companies in question. Because the Department typically compares U.S. sales to an NV based on sales in the home market or third country, the Department does not normally construct an NV based on financial data derived from exclusively or predominantly U.S. sales. Finally, contemporaneity is a concern because markets change over time and the more current the data, the more reflective it will be of the market in which the respondent is operating. See *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Israel*, 66 FR 49349 (September 27, 2001), and accompanying Issues and Decision Memorandum at Comment 8, and *Notice of Final Determination of Sales at Not Less Than Fair Value: Certain Color Television Receivers from Malaysia*, 69 FR 20592 (April 16, 2004), and accompanying Issues and Decision Memorandum at Comment 26). We determined that the use of the weighted-average profit rate of the respondents in the *Pasta Eighth Review Final Results* is a reasonable method. First, the products sold by the other respondents in the comparison market are substantially similar to those sold by Atar. Second, the CV profit rate for the respondents in the *Pasta Eighth Review Final Results* excludes sales to the United States. Third, the respondents in the *Pasta Eighth Review Final Results* sold to distributor/wholesalers similar to Atar's U.S. customers (*i.e.*, they had the same type of customer base). We note that the weighted-average CV profit rate calculated for the respondents in the *Pasta Eighth Review Final Results* covers a time frame that is not contemporaneous with the POR. The *Pasta Eighth Review Final Results* period was July 1, 2003 through June 30, 2004, while the instant POR is July 1, 2004, through June 30, 2005. However, we note that the profit rate experience from the *Pasta Eighth Review Final Results* period reflects the time immediately prior to the instant review. In addition, there is no information on the record to suggest that the profit rate experience from that period is so different from the instant period to render those profit rates distortive.

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 the weighted-average direct selling expenses incurred or realized by the respondents in the *Pasta Eighth Review Final Results*, and adding Atar's U.S. direct selling expenses. See Preliminary Results Cost Calculation Memo.

#### F. Level of Trade

Pursuant to 19 CFR 351.412, to determine whether comparison market sales are at a different level of trade ("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.

In the home market, Corticella reported three different LOTs corresponding to two differing channels of distribution and five selling activities. Combattenti reported two LOTs and one channel of distribution and five selling activities. The Department has determined that differing channels of distribution, alone, are not sufficient evidence for finding separate LOTs in the home market, when selling functions performed for each customer class are sufficiently similar. See 19 CFR 351.412(c)(2). Based on our overall analysis, we found that the three home market distribution channels reported by respondents were not distinct enough to constitute more than one LOT. Therefore, we found only one LOT in the home market.

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, see calculation memoranda for Corticella/Combattenti, 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.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average percentage

margins exist for the period July 1, 2004, through June 30, 2005:

Manufacturer/exporter	Margin (percent)
Atar .....	18.48
Corticella/Combattenti ..	3.32

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, 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 case briefs, may be filed no later than five days after the time limit for filing the case briefs, unless the Department alters this time limit. 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 written comments are requested to provide the Department with an additional copy of the public version of any such comments on diskette. Pursuant to 19 CFR 351.213(h), the Department intends to 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 appraisal 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.

The Department clarified its "automatic assessment" regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by companies included in these preliminary results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the All-Others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

#### 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 and 19 CFR 351.221(b)(4).

Dated: July 31, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-808]

#### Continuation of Antidumping Duty Order: Stainless Steel Wire Rods From India

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

**SUMMARY:** As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty order on stainless steel wire rods from India would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing notice of continuation of this antidumping duty order.

**EFFECTIVE DATE:** August 8, 2006.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline Arrowsmith or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-5255 and (202) 482-1391, respectively.