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.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402 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 double antidumping duties.

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

Dated: August 2, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration

[FR Doc. 99–20447 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–805]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Certain Pasta From Turkey

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

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on certain pasta (pasta) from Turkey. This review covers shipments to the United States by two respondents during the period of review (POR) July 1, 1997, through June 30, 1998.

We preliminarily find that, for one respondent, sales of the subject merchandise have been made below normal value. If these preliminary results are adopted in the final results, we will instruct the Customs Service to assess antidumping duties on the subject merchandise exported by this company.

For the other respondent, we preliminarily find that sales of the subject merchandise have not been made below normal value. If these preliminary results are adopted in the final results, we will instruct the Customs Service not to assess antidumping duties on the subject merchandise exported by this company.

EFFECTIVE DATE: August 9, 1999.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5288.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR part 351 (1998).

Case History

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on pasta from Turkey (61 FR 38545). On July 1, 1998, we published in the **Federal Register** the notice of ''Opportunity to Request an Administrative Review'' of this order for the period July 1, 1997 through June 30, 1998 (63 FR 35909).

In accordance with 19 CFR 351.213(b), on July 31, 1998, Borden, Inc., Hershey Pasta and Grocery Group, Inc.,[1] and Gooch Foods, Inc. (the petitioners) requested a review of Pastavilla Kartal Makarnacilik Sanayi ve Ticaret A.S. (Pastavilla). On July 31, 1998, Maktas Makarnacilik ve Tic. A.S. (Maktas) and Pastavilla, requested an administrative review, in accordance with 19 CFR 351.213(b)(2). On August 27, 1998, we published the notice of initiation of this antidumping duty administrative review covering the period of July 1, 1997 through June 30, 1998 (*Notice of Initiation*, 63 FR 45796).

Because the Department had disregarded sales that failed the cost test during the preceding review of Pastavilla and during the investigation of Maktas, pursuant to section 773(b)(2)(A)(ii) of the Act, we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the cost of production. Therefore, we initiated cost investigations on these two companies at the time we initiated the antidumping review.

On September 1, 1998, we issued an antidumping questionnaire to Maktas and Pastavilla.[2] Pastavilla submitted its section A questionnaire response on October 6, 1998, and sections B, C, and D on November 5, 1998. We received Maktas's response to section A on September 23, 1998, and sections B, C, and D on October 26, 1998.

The Department issued supplemental questionnaires to Pastavilla for sections B and C on January 27, 1999, and section D on February 8, 1999. On February 17, 1999, we issued to Maktas a supplemental questionnaire for sections A, B, C, and D. Pastavilla submitted its response to our supplemental questionnaires for sections B, C, and D on February 24, 1999. Maktas submitted its response to our supplemental questionnaire on March 23, 1999.

We issued a second supplemental questionnaire to Pastavilla for sections B and D on March 11, 1999. Pastavilla submitted its response to our second supplemental questionnaire on March 18, 1999.

On March 12, 1999, the Department published a notice postponing the preliminary results of this review until June 30, 1999 (64 FR 12287). On June 16, 1999, the Department published a notice further postponing the preliminary results of this review until August 2, 1999 (64 FR 32213).

Scope of Review

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags, of varying dimensions.

Excluded from the scope of this review are refrigerated, frozen, or

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[1] Effective January 1, 1999, Hershey Pasta and Grocery Group, Inc., became New World Pasta, Inc.

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the sales of the merchandise in all of its markets. Sections B and C of the questionnaire request comparison market sales listings and U.S. sales listings, respectively. Section D requests additional information about the cost of production of the foreign like product and constructed value of the merchandise under review.

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.

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

Scope Rulings

The Department has issued the following scope rulings to date:

(1) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances may be within the scope of the antidumping and countervailing duty orders. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pound four ounces is within the scope of the antidumping and countervailing duty orders. *See Memorandum from John Brinkmann to Richard Moreland,* dated May 24, 1999.

Comparisons to Normal Value

To determine whether sales of pasta from Turkey were made in the United States at less than fair value, for Pastavilla, we compared the constructed export price (CEP) to the normal value (NV); for Maktas, we compared the export price (EP) to the NV. Because Turkey's economy experienced high inflation during the POR (over 60 percent), as is Department practice, we limited our comparisons to comparison market sales made during the same month in which the U.S. sale occurred and did not apply our ''90/60 contemporaneity rule'' (*see, e.g., Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey,* 63 FR 68429, 68430 (December 11, 1998) and *Certain Porcelain on Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review,* 62 FR 42496, 42503 (August 7, 1997)). This methodology minimizes the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred in the intervening time period between the U.S. and comparison market sales. We attempted to compare sales of products sold in the U.S. and comparison market within the same month that were identical with respect to the following characteristics: pasta shape; type of wheat; additives; and enrichment. When we did not find any comparison market sales of merchandise that were identical in these respects to the merchandise sold in the United States, we compared U.S. products with the most similar merchandise sold in the comparison market based on the characteristics listed above, in that order of priority.

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 where the merchandise was sold directly to the first unaffiliated purchaser in the United States or to an unaffiliated trading company in Turkey prior to importation and CEP was not otherwise warranted based on the facts on our record. We calculated CEP where sales to the first unaffiliated purchaser took place after importation into the United States. We based EP and CEP on packed CIF, ex-factory, FOB or delivered prices to the first unaffiliated customer in, or for exportation to, the United States. Where appropriate, we reduced these prices to reflect discounts.

In accordance with section 772(c)(2)(A) of the Act, we made deductions, where appropriate, for movement expenses including inland freight from plant or warehouse to port of exportation, foreign brokerage and handling, international freight, marine insurance, U.S. duties, and U.S. inland freight expenses (freight from port to the customer). In accordance with section 772(c)(1)(B) of the Act, for Maktas, we added to the EP the amount of duty drawback on imported durum wheat. In addition, we increased the EP and CEP by the amount of the countervailing duties paid that were attributable to an export subsidy, in accordance with section 772(c)(1)(C) of the Act.

For CEP, in accordance with section 772(d)(1) of the Act, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including imputed credit costs and indirect selling expenses that related to economic activity in the United States. We also deducted from CEP an amount for profit in accordance with section 772(d)(3) and (f) of the Act.

Normal Value

A. Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales in the comparison market to serve as a viable basis for calculating NV, we compared Pastavilla's and Maktas' volume of comparison market sales of the foreign like product to the volume of their U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1) (B) and (C) of the Act, because each respondent's aggregate volume of comparison market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the comparison market was viable for both Pastavilla and Maktas.

B. Cost of Production Analysis

Before making any comparisons to normal value, we conducted a COP analysis, pursuant to section 773(b) of the Act, to determine whether Pastavilla's and Maktas' comparison market sales were made below the cost of production. 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 Pastavilla's and Maktas' information as submitted, except in the specific instances discussed below.

As noted above, we determined that the Turkish economy experienced high inflation during the POR. Therefore, to avoid the distortive effect of inflation on our comparison of costs and prices, we requested that Pastavilla and Maktas submit the product-specific cost of manufacturing (COM) incurred during each month of the POR. We calculated a POR-average COM for each product after indexing the reported monthly costs during the POR to an equivalent currency level using the Turkish wholesale price index from the *International Financial Statistics* published by the International Monetary Fund (IMF). We then restated the POR-average COM to the cost respective of each month.

Pastavilla

We recalculated the G&A and interest factors, using the wholesale price index from the *International Financial Statistics* published by the IMF, to be consistent with our indexation of other costs used in calculating cost of production and constructed value. (*See Analysis Memorandum to John Brinkmann from Dennis McClure* dated August 2, 1999, for further details.)

Maktas

Maktas was not able to provide the requested production quantities for its revised control numbers. Therefore, we have calculated a weighted-average cost based on the production quantities

originally reported for each control number. (*See Analysis Memorandum to John Brinkmann from Cindy Robinson* dated August 2, 1999, for further details.)

Test of Comparison Market Prices

As required under section 773(b) of the Act, we compared the product-specific monthly COPs (less selling expenses) to comparison market sales of the foreign like product in order to determine whether sales had been made at prices below the COP. We determined the net comparison market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses, and packing expenses.

Results of COP Test

Pursuant to section 773(b)(2)(C) 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 12 month period were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time, in accordance with section 773(b)(2)(B) and (C) of the Act. In such cases, because we compared prices to POR-average costs (indexed for inflation), 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. Therefore, for purposes of this administrative review, we disregarded the below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on ex-factory or delivered prices to comparison market customers. We made deductions from the starting price for loading, inland freight, inland insurance, discounts, and rebates. In accordance with section 773(a)(6)(A) and (B) of the Act, we deducted comparison market packing costs and added U.S. packing costs. In addition, we made circumstance of sale adjustments for direct expenses, including imputed credit expenses, advertising, Export/Import Bank insurance against non-payment, and warranty expenses, in accordance with section 773(a)(6)(C)(iii) of the Act.

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. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise, using POR-average costs indexed for inflation.

Consistent with our methodology in prior reviews (*Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy*, 64 FR 6615, 6617 (February 10, 1999)), where possible we excluded sales of pasta purchased by the respondents from unaffiliated producers and resold in the comparison market from our analysis. However, where the purchased pasta was commingled with the respondent's production and we could not identify the resales, we examined both sales of the produced pasta and resales of the purchased pasta in the comparison market. Since we found the percentage of pasta purchased by any single respondent to be an insignificant part of its comparison market sales data base, we included the sales of commingled purchased pasta in our margin calculations.

Sales to Affiliated Parties

Pastavilla and its affiliated comparison market distributor made home-market sales to certain affiliated grocery stores during the POR. The individual sales of pasta by these affiliated grocery stores to their unaffiliated customers were not available. Therefore, in accordance with § 351.403(c) of the Department's regulations, we performed an analysis to determine whether the prices to the affiliated grocery stores were comparable to the prices to unaffiliated parties. Examining identical products only, we compared Pastavilla's and its comparison market distributor's prices to each affiliated party to prices charged to all unaffiliated customers, net of all movement charges, discounts, rebates, direct expenses, and packing. Where prices to an affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to that affiliated party were at arm's length (*see* 19 CFR 351.403(c) and *Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey*, 63 FR 68429, 68430 (December 11, 1998)). We only included in our margin analysis sales to affiliated parties that were made at arm's length.

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 as the U.S. EP and CEP sales, to the extent practicable. When there were no sales at the same level of trade, we compared U.S. sales to comparison market sales at a different level of trade.

To determine whether comparison market sales were at different levels of trade we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's length) customers. If the comparison-market sales were at a different level of trade and the differences affected 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 level of trade of the export transaction, we made a level-of-trade adjustment under section 773(a)(7)(A) of the Act.

Finally, if the NV level was more remote from the factory than the CEP level and there was no basis for determining whether the difference in levels between NV and CEP affected price comparability, we granted a CEP offset, as provided in 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 (November 19, 1997).)

For a detailed description of our level-of-trade methodology and company-specific level of trade findings for these preliminary results, *see* the August 2, 1999, *97/98 Administrative Review of Pasta from Italy and Turkey: Level of Trade Findings Memoranda* on file in the Import Administration's Central Records Unit (Room B–099) of the main Commerce building. The company-specific level of trade analysis is included in the analysis memorandum for each company.

The U.S. Court of International Trade (CIT) has held that the Department's practice of determining LOTs for CEP transactions after CEP deductions is an impermissible interpretation of section 772(d) of the Act. *See Borden, Inc.*, v. *United States*, 4 F. Supp.2d 1221, 1241–42 (CIT 1998) (*Borden*); *see also, Micron Technology, Inc.* v. *United States*, Court No. 96–06–01529, Slip Op. 99–02 at 8–15 (CIT, January 28, 1999). The Department believes, however, that its practice is in full compliance with the statute and that these CIT decisions do

not contain persuasive statutory analysis. On June 4, 1999, the CIT entered final judgment in *Borden* on the LOT issue. *See Borden, Inc.,* v. *United States,* Court No. 96–08–01970, Slip Op. 99–50 (CIT, June 4, 1999). The government is considering an appeal of *Borden*. The *Micron* case is on remand to the Department for application of the *Borden* LOT decision in the underlying administrative proceeding. Consequently, the Department has continued to follow its normal practice of adjusting CEP under section 772(d) prior to starting a LOT analysis, as articulated in the Department's regulations at § 351.412.

Company-Specific Issues

Maktas

We recalculated comparison market credit expenses to account for both reported billing adjustments, where appropriate. We also recalculated inventory carrying costs for the comparison market. *See Analysis Memorandum to John Brinkmann from Cindy Robinson* dated August 2, 1999, for further details.

Pastavilla

We reclassified Pastavilla's comparison market channel of trade and customer category for one observation. We recalculated comparison market imputed credit expenses, indirect selling expenses, and inventory carrying costs. In addition, we have recalculated inventory carrying costs for U.S. sales. *See Analysis Memorandum to John Brinkmann from Dennis McClure* dated August 2, 1999, for further details.

Currency Conversion

Because this proceeding involves a high-inflation economy, we limited our comparison of U.S. and comparison market sales to those occurring in the same month (as described above) and used daily exchange rates. (*See Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey,* 63 FR 68429, 68430 (December 11, 1998).)

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for the Turkish Lira. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones Service, as published in the Wall Street Journal.

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, 1997 through June 30, 1998:

Manufacturer/exporter	Margin (percent)
Maktas	1.57
Pastavilla	0.00

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice (*see* 19 CFR 351.224(b)). Any interested party may request a hearing within 30 days of the date of publication of this notice. (*see* 19 CFR 351.310(c)). Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Parties who submit case briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date of filing of case briefs. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments, within 120 days from the 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 completion of this review, the Department will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries by applying the assessment rate to its entered value of the merchandise. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties on Maktas' entries of the merchandise subject to the review. We will instruct Customs Service not to assess antidumping duties on Pastavilla's entries of the merchandise subject to the review.

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.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of pasta from Turkey 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 Pastavilla and Maktas will be the rate 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 51.49 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 Turkey,* 61 FR 38546 (July 24, 1996)).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

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 the subsequent assessment of double antidumping duties.

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

Dated: August 2, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–20448 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–DS–P