

**DEPARTMENT OF COMMERCE****International Trade Administration****[C-475-819]****Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") From Italy****AGENCY:** Import Administration, International Trade Administration, Department of Commerce.**EFFECTIVE DATE:** July 24, 1996.**FOR FURTHER INFORMATION CONTACT:** Todd Hansen, Jennifer Yeske, Vincent Kane, or Cynthia Thirumalai, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-1276, 482-0189, 482-2815, or 482-4087, respectively.**Case History**

On June 14, 1996, the Department of Commerce (the "Department") published its final determination in the countervailing duty investigation of pasta from Italy (61 FR 30288). We disclosed our calculations for the final determination to counsel for respondents and petitioners pursuant to their requests on June 5 through 28, 1996. None of the responding or petitioning parties alleged ministerial errors on the part of the Department.

Upon further review of the calculations of countervailable subsidy rates, we discovered that ministerial errors were made in calculating the countervailable subsidy rate for Delverde, S.r.l. ("Delverde") and Tamma Industrie Alimentari di Capitanata ("Tamma"), and the countervailable subsidy rate for Industria Alimentare Colavita, S.p.A. ("Indalco"). The ministerial errors also affect the all-others rate.

On July 17, 1996, the U.S. International Trade Commission ("ITC") notified us of its final determination that an industry in the United States suffered material injury as a result of subsidized imports of pasta from Italy.

**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.

**Scope of Order**

The merchandise covered by this order is certain non-egg dry pasta in packages of five pounds (or 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 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 Associazione Marchigiana Agricoltura Biologica (AMAB) or by Bioagricoop srl.

On July 9, 1996, after the date of our final countervailing duty determination, Euro-USA Trading Co., Inc., of Pawcatuck, CT, submitted materials to the Department supporting its request for an exclusion for pasta certified to be "organic pasta." Among the documents submitted are a decree from the Italian Ministry of Agriculture and Forestry authorizing Bioagricoop srl to certify foodstuffs as organic for the implementation of EEC Regulation 2029/91. Also submitted is a letter (with an accompanying translation into English) from the Director of Controls of Processing and Marketing Firms at Bioagricoop stating that the organization will take responsibility for its organic pasta certificates and will supply and necessary documentation to U.S. authorities. On this basis, imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by Bioagricoop srl are excluded from the scope of this order.

The merchandise covered by this order is currently classifiable under items 1902.19.20 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

**Ministerial Errors in Final Results of Investigation**

We discovered ministerial errors in our calculations after the publication of our final determination for the countervailing duty investigation. The ministerial errors resulted from an error in the application of the 0.5 percent test in the case of Delverde and Tamma, and the use of an inappropriate sales denominator in the case of Indalco, for

calculations concerning certain industrial development grants and loans received pursuant to Law 64/86 and predecessor laws. The corrected countervailable subsidy rate for industrial development grants received is 2.21 percent *ad valorem* for Delverde and Tamma and 0.46 percent *ad valorem* for Indalco. The corrected countervailable subsidy rate for industrial development loans for Indalco is 0.07 percent *ad valorem*. For a further discussion of these ministerial errors, a public version of the memorandum to file dated July 5, 1996, is on file in the Central Records Unit in room B-099 in the main Commerce Building.

The ministerial errors resulted in an increase in the final countervailable subsidy rate for Delverde and Tamma, a decrease in the final subsidy rate for Indalco, and an increase in the final countervailable subsidy rate for producers and exporters of pasta from Italy which are subject to the all-others rate. The corrected countervailable subsidy rates are published in the *Countervailing Duty Order* section of this notice, below.

**Countervailing Duty Order**

On July 17, 1996, pursuant to section 705(d) of the Act, the ITC notified the Department that an industry in the United States is materially injured by imports of the subject merchandise from Italy within the meaning of section 705(b)(1)(A) of the Act. Therefore, countervailing duties will be assessed on all unliquidated entries of pasta from Italy entered or withdrawn from warehouse for consumption on or after October 17, 1995, the date on which the Department published its preliminary countervailing duty determination in the Federal Register, and before February 14, 1996, the date the Department instructed the U.S. Customs Service to terminate the suspension of liquidation in accordance with section 703(d) of the Act, and on all entries and withdrawals made on or after the date of publication of this countervailing duty order in the Federal Register. Section 703(d) states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months. Entries of pasta made on or after February 14, 1996, and prior to the date of publication of this order in the Federal Register are not liable for the assessment of countervailing duties due to the Department's termination, effective February 14, 1996, of the suspension of liquidation.

In accordance with section 706 of the Act, the Department will direct United

States Customs officers to reinstate suspension of liquidation and to assess, upon further advice by the administering authority pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rate for the subject merchandise.

On or after the date of publication of this notice in the Federal Register, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the countervailable subsidy rates as noted below. The *ad valorem* countervailable subsidy rates are as follows:

Company	Ad valorem rate
Agritalia, S.r.l. ....	2.55
Arrighi S.p.A. Industrie Alimentari	2.44
Barilla G. e R. F.lli S.p.A. ....	0.65
De Matteis Agroalimentare S.p.A.	2.47
Delverde, S.r.l. ....	5.90
F.lli De Cecco di Filippo Fara S. Martino S.p.A. ....	3.37
Gruppo Agricoltura Sana S.r.L. ....	0.00
Industria Alimentare Colavita, S.p.A. ....	2.04
Isola del Grano S.r.L. ....	11.23
Italpasta S.p.A. ....	11.23
Italpasta S.r.L. ....	2.44
La Molisana Alimentari S.p.A., ....	4.17
Labor S.r.L. ....	11.23
Molino e Pastificio De Cecco S.p.A. Pescara ....	3.37
Pastificio Guido Ferrara ....	1.21
Pastificio Campano, S.p.A. ....	2.59
Pastificio Riscossa F.lli Mastromauro S.r.L. ....	6.91
Tamma Industrie Alimentari di Capitanata ....	5.90
All Others ....	3.85

The "All Others" rate applies to all exporters and producers of pasta from Italy not specifically listed.

Since the estimated net countervailable subsidy rate for Barilla G. e R. F.lli S.p.A. ("Barilla") and Gruppo Agricoltura Sana S.r.L. ("Gruppo") is either zero or *de minimis*, these companies are excluded from the application of the countervailing duty order on pasta from Italy. Pursuant to section 705(c)(3) of the Act, we are instructing the U.S. Customs Service to liquidate all pasta from Italy entered or withdrawn from warehouse for consumption by Barilla between October 17, 1995 and February 14, 1996, and to proceed with liquidation of merchandise from Barilla and Gruppo which enter the United States on or after the date of publication of this countervailing duty order in the Federal

Register without regard to countervailing duties. Additionally, we are instructing the U.S. Customs Service that any cash deposit or bond collected with respect to countervailing duties on pasta from Barilla should be released or refunded. Gruppo was assigned a zero margin in our preliminary determination, and, accordingly, was excluded from the suspension of liquidation which resulted from our preliminary determination.

This notice 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 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice constitutes the countervailing duty order with respect to pasta from Italy. Interested parties may contact the Central Records Unit, room B-099 of the main Commerce Building, for copies of an updated list of countervailing duty orders currently in effect.

This notice of amendment of final determination and countervailing duty order is published in accordance with sections 705 (d) and (e) and 706(a) of the Act.

Dated: July 17, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96-18702 Filed 7-23-96; 8:45 am]

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#### [A-489-805]

#### Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Turkey

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

**EFFECTIVE DATE:** July 24, 1996.

**FOR FURTHER INFORMATION CONTACT:** John Brinkmann at (202) 482-5288, Jennifer Katt at (202) 482-0498, or Sunkyu Kim at (202) 482-2613, Office of Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

#### 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 by the Uruguay Round Agreements Act (URAA).

#### Amended Final Determination

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), on June 3, 1996, the Department made its final determination that certain pasta (pasta) from Turkey is being, or is likely to be, sold in the United States at less than fair value (61 FR 30309 (June 14, 1996)) (Final Determination). Subsequent to the final determination, we received a submission, timely filed pursuant to 19 CFR 353.28(b), from Borden, Inc., Hershey Foods Corp., and Gooch Foods, Inc. (collectively the petitioners) alleging a ministerial error in the Department's final determination for Maktas Makarnicilik ve Ticaret T.A.S. (Maktas). Maktas submitted comments on the petitioners' ministerial error allegation on June 20, 1996. In addition, Maktas submitted a ministerial error allegation on July 2, 1996.

We determine, in accordance with section 735(e) of the Act, that ministerial errors were made in our margin calculation for Maktas. Specifically, we erroneously did not revise Maktas's reported cost of production (COP) and constructed value (CV) to include certain depreciation expenses which the Department determined were excluded improperly by Maktas. Further, we incorrectly calculated these depreciation expenses. Additionally, in preparing the recalculation for the ministerial errors described above, we noted a minor inadvertent error in the programming for Maktas which constitutes a ministerial error within the meaning of section 735(e) of the Act. Although not noted by other parties, we are correcting this error for Maktas. For a detailed discussion of the above-cited ministerial errors and the Department analysis, see Memorandum from Case Analysts to Barbara R. Stafford, dated June 27, 1996 and Memorandum from William H. Jones to Christian B. Marsh dated July 15, 1996. In accordance with 19 CFR 353.28(c), we are amending the final determination of the antidumping duty investigation of pasta from Turkey to correct these ministerial errors. The revised final weighted-average dumping margins are as follows: