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Sunset Reviews  
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January 30, 2007

MEMORANDUM TO: David M. Spooner  
Assistant Secretary  
for Import Administration

FROM: Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum

RE: Expedited Sunset Reviews of the Antidumping Duty Orders on  
Certain Pasta from Italy and Turkey

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### Summary

We have analyzed the responses of the interested parties in the second sunset reviews of the antidumping duty orders covering certain pasta (“pasta”) from Italy and Turkey. We received no responses from respondent interested parties in the review of Italy and one response, which was filed after the deadline and was returned to the interested party, in the review of Turkey. We recommend that you approve the positions described in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margins likely to prevail

## History of the Orders

The Department of Commerce (“the Department”) published antidumping duty orders on pasta from Italy and Turkey on July 24, 1996.<sup>1</sup> In the first five-year (“sunset”) reviews of these orders, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”), the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping<sup>2</sup> and the International Trade Commission (“ITC”) determined, that revocation of these antidumping duty orders would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. As a result, on November 16, 2001, the Department published the notice of continuation of these antidumping duty orders.<sup>3</sup>

Since the continuation of these orders, the Department has conducted administrative, new shipper, and changed circumstances reviews of the order on Italy.<sup>4</sup> With regard to Turkey, the

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<sup>1</sup> 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); Notice of Second Amendment to the Final Determination and Antidumping Duty Order: Certain Pasta From Italy, 61 FR 42231 (August 14, 1996) (“Italy Antidumping Duty Order”). See also Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Turkey, 61 FR 38545 (July 24, 1996) (“Turkey Antidumping Duty Order”).

<sup>2</sup> See Final Results of Expedited Sunset Reviews: Certain Pasta From Italy and Turkey, 66 FR 51015 (October 5, 2001), where the Department reported the rates from the investigations to the ITC as the rates likely to prevail.

<sup>3</sup> See Continuation of Countervailing and Antidumping Duty Orders: Pasta from Italy and Turkey, and Clad Steel Plate from Japan, 66 FR 57703 (November 16, 2001).

<sup>4</sup> See Notice of Final Results of Antidumping Duty Administrative Review, Partial Rescission of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Order in Part: Certain Pasta From Italy, 67 FR 300 (January 3, 2002), covering July 1, 1999 - June 30, 2000, ten producers, and revoking the order with respect to CO.R.EX S.p.A. (“COREX”) and N. Puglisi & F. Industria Paste Alimentari S.p.A (“Puglisi”), and rescinding the review of Delverde S.p.A. and its affiliate, Tamma Industrie Alimentari de Capitanata, S.r.L (collectively “Delverde”) because Delverde had been excluded from the order as a result of litigation; Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part: Certain Pasta from Italy, 68 FR 6882 (February 11, 2003), covering July 1, 2000 - June 30, 2001, and four companies; Notice of Final Results of the Sixth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy and Determination Not to Revoke in Part, 69 FR 6255 (February 10, 2004), covering July 1, 2001 - June 30, 2002, and ten producers; Notice of Final Results of the Seventh Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy and Determination Not to Revoke in Part, 70 FR 6832 (February 9, 2005), covering July 1, 2002 - June 30, 2003, and eight producers, and revoking the order with respect to Pasta Lensi S.r.l. (“Lensi”) and Pastificio Guido Ferrara S.r.l. (“Ferrara”); 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, 70 FR 71464 (November 29, 2005), covering July 1, 2003 - June 30, 2004, six producers, and revoking the order with respect to merchandise produced and exported by Pastificio Antonio Pallante S.r.L. and its affiliate Vitelli Foods LLC (“Pallante”); Notice of Final Results of New Shipper Review of the Antidumping Duty Order on Certain Pasta from Italy; 70 FR 30083 (May 25, 2005), covering the period July 1, 2003 - June 30, 2004, and Atar S.r.L.; and Notice of Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews: Certain Pasta From Italy,

Department has conducted administrative and changed circumstances reviews.<sup>5</sup> In the most recently completed administrative reviews of these orders, the Department continued to find sales at less than normal value. The antidumping duty order remains in effect for all manufacturers, producers, and exporters of pasta from Italy with the exception of COREX, De Cecco,<sup>6</sup> Delverde, De Matteis,<sup>7</sup> Ferrara, Lensi, Puglisi, and Pallante, for which the order has been revoked. The antidumping duty order remains in effect for all manufacturers, producers, and exporters of pasta from Turkey.

## Background

On October 2, 2006, the Department published the notice of initiation of the second sunset reviews of the antidumping duty orders on pasta from Italy and Turkey pursuant to section 752(c) of the Act. See Initiation of Five-Year (“Sunset”) Reviews, 71 FR 57921 (October 2, 2006).

The Department received notices of intent to participate filed on behalf of the following domestic interested parties: New World Pasta Company, Dakota Growers Pasta Company, A. Zerga’s Sons, Inc., Philadelphia Macaroni Company, and American Italian Pasta (hereinafter, collectively “domestic interested parties”) within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as U.S. producers of the domestic like product. We received complete substantive responses from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).

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68 FR 41553 (July 14, 2003), finding that Lensi is the successor-in-interest to Italian American Pasta Company Italia S.r.l. (“IAPC”).

<sup>5</sup> See Certain Pasta From Turkey: Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke the Antidumping Duty Order in Part, 67 FR 298 (January 3, 2002), covering July 1, 1999 - June 30, 2000, and Pastavilla Makarnacilik Sanayi ve Ticaret A.S. (“Pastavilla”) and Filiz Gida Sanayi ve Ticaret A.S. (“Filiz”); Certain Pasta from Turkey: Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke the Antidumping Duty Order in Part, 68 FR 6880 (February 11, 2003), covering July 1, 2000 - June 30, 2001, and Filiz; Certain Pasta From Turkey: Final Results of Antidumping Duty Administrative Review, 70 FR 6834 (February 9, 2005), covering July 1, 2002 - June 30, 2003, and Filiz and Tat Konserve Sanayi A.S. (“Tat”); Notice of Final Results of Changed Circumstances Antidumping and Countervailing Duty Administrative Reviews: Certain Pasta From Turkey, 68 FR 41554 (July 14, 2003), finding Gidasa Sabanci Gida Sanayi ve Ticaret A.S. (“Gidasa”) to be the successor-in-interest to Maktas Makarnacilik ve Ticaret A.S. (“Maktas”); and Notice of Final Results of Changed Circumstances Antidumping and Countervailing Duty Administrative Reviews: Certain Pasta From Turkey, 69 FR 1280 (January 8, 2004), finding Tat to be the successor-in-interest to Pastavilla.

<sup>6</sup> The order was revoked with respect to F.lli De Cecco di Filippo Fara S. Martino S.p.A (“De Cecco”) prior to the first sunset review. See Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review, 65 FR 77852 (December 13, 2000).

<sup>7</sup> De Matteis Agroalimentare S.p.A. (“De Matteis”) was exempt from the order based on a de minimis margin in the investigation.

The Department did not receive a substantive response from any respondent in the sunset review of the antidumping duty order on pasta from Italy. The Department received an untimely filed substantive response from one Turkish producer of pasta; however, because it was submitted after the November 1, 2006, deadline, it was returned. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited reviews of these orders.

### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted these sunset reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the investigations and subsequent reviews and the volume of imports of the subject merchandise for the periods before and after the issuance of the antidumping duty orders. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the ITC the magnitude of the margins of dumping likely to prevail if the orders were revoked. Below we address the comments of the interested parties.

#### 1. Likelihood of Continuation or Recurrence of Dumping

### Interested Party Comments

In their substantive responses, the domestic interested parties state that revocation of these antidumping duty orders would be likely to lead to a continuation or recurrence of dumping of pasta from Italy and Turkey.

Italy: The domestic interested parties state that Italian producers have continued to dump at levels above de minimis since the issuance of the order. In addition, they note that although import statistics cover a much broader range of products than is covered by the scope of the order, available data indicates that the order has had a direct affect on respondents' behavior, including efforts to circumvent the order. See substantive response from domestic interested parties to the Department, Certain Pasta From Italy: Five-Year ("Sunset") Review of Antidumping Duty Order (November 1, 2006) at 22-24 ("Domestic Substantive Response on Italy").

Turkey: The domestic interested parties state that Turkish producers have continued to dump pasta at levels above de minimis since the issuance of the order. They also assert that although import statistics cover a much broader range of products than is covered by the scope of the order, available data indicates that imports of Turkish pasta have been significantly below pre-order levels for the majority of the post-order periods of review. See substantive response from domestic interested parties to the Department, Certain Pasta From Turkey: Five-Year ("Sunset") Review of Antidumping Duty Order (November 1, 2006) at 12-15 ("Domestic Substantive Response on Turkey").

## Department's Position

Consistent with its practice, the Department's determinations of likelihood will be made on an order-wide basis. The Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly. In addition, pursuant to section 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping order.

With respect to each of these orders, the Department finds that dumping has continued at above de minimis levels since the issuance of the orders. Using imports statistics from the ITC Dataweb, the Department finds that imports of pasta from Italy are below pre-order levels, while imports of pasta from Turkey continue to be down significantly from pre-order levels. See Attachment 1. Irrespective of the import volumes, dumping at above de minimis levels has continued by producers and exporters of subject merchandise from each of the countries covered by these reviews. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed. Therefore, the Department determines that dumping is likely to continue or recur if these orders were revoked.

## 2. Magnitude of the Margins Likely to Prevail

### Interested Party Comments

In their November 1, 2006, substantive responses, the domestic interested parties request that the Department report to the ITC the margins that were determined in the final determination of the original less-than-fair-value investigations of Italy and Turkey. See Domestic Substantive Responses for Italy, at 24-25 and for Turkey, at 15-16.

### Department's Position

The Department will normally provide to the ITC the company-specific margin from the investigation for each company. For companies not investigated specifically or that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "All Others" rate from the investigation. See, e.g., Internal-Combustion Forklift Trucks from Japan; Final Results of the Expedited Sunset Review of the Antidumping Order, 70 FR 58373 (October 6, 2005), and accompanying Issues and Decision Memorandum at "Magnitude of the Margin Likely to Prevail." The Department prefers to select a margin from the investigation because it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.

Italy: With respect to pasta from Italy, the Department has issued final results for nine administrative reviews since the order was issued. In this sunset review, the domestic interested parties request that the Department continue to use the investigation rates. The Department finds that it is appropriate to provide the ITC with the rates from the investigation because these are the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Thus, the Department will report to the ITC the same margins as listed in the Final Results of Reviews section.

Turkey: With respect to pasta from Turkey, the Department has issued final results for six administrative reviews since the order was issued. In this sunset review, the domestic interested parties request that the Department continue to use the investigation rates. The Department finds that it is appropriate to provide the ITC with rates from the investigation because these are the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Thus, the Department will report to the ITC the margins of dumping found in the Turkey Antidumping Duty Order and listed in the Final Results of Reviews section of this memo.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on pasta from Italy and Turkey would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin
<b>Italy</b>	
Arrighi S.p.A. Industrie Alimentari .....	21.34%
La Molisana Industrie Alimentari S.p.A. ....	14.78%
Liguori Pastificio Dal 1820 S.p.A. ....	12.41%
Pastifico Fratelli Pagani S.p.A .....	18.30%
All Others <sup>8</sup> .....	12.09%
<b>Turkey</b>	
Filiz Gida Sanayi ve Ticaret A.S. ....	63.29%
Gidasa Sabanci Gida Sanayi ve Ticaret A.S. <sup>9</sup> .....	60.87%
All Others .....	60.87%

<sup>8</sup> Does not apply to COREX, De Cecco, Delverde, De Matteis, Ferrara, Lensi, Puglisi, or Pallante because these companies are excluded from the order.

<sup>9</sup> Gidasa is the successor-in-interest to Maktas, a respondent in the original investigation.

Recommendation

Based on our analysis of the responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of these reviews in the Federal Register.

AGREE \_\_\_\_\_

DISAGREE \_\_\_\_\_

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David M. Spooner  
Assistant Secretary  
for Import Administration

\_\_\_\_\_  
(Date)

# Attachment 1