

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-428-602]

Brass Sheet and Strip From Germany: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on brass sheet and strip (BSS) from Germany. For the period of review (POR) March 1, 2008, through February 28, 2009, we have preliminarily determined that U.S. sales have not been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* April 13, 2010.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or George McMahon, 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 or (202) 482-1167, respectively.

SUPPLEMENTARY INFORMATION:**Background**

The Department published in the **Federal Register** the antidumping duty order on BSS from Germany on March 6, 1987 (52 FR 6997), amended on September 23, 1987 (52 FR 35750).

On May 5, 2008, the Department published a notice of opportunity to request an administrative review of this order for the POR. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 74 FR 9077 (March 2, 2009). On March 30, 2009, the Department received a timely request for an administrative review of this antidumping duty order from Wieland-Werke AG (Wieland). On April 27, 2009, we published a notice initiating an administrative review of the antidumping duty order on BSS from Germany covering one respondent, Wieland. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 19042 (April 27, 2009).

On May 7, 2009, the Department issued an antidumping duty

questionnaire to Wieland. We received Wieland's response to Section A of the Department's questionnaire on June 11, 2009 (Section AQR), Sections B-C on July 1, 2009 (Section B-C QR), and Section D on July 21, 2009 (Section DQR). The Department received comments from the Petitioners¹ regarding Wieland's questionnaire responses on June 25, 2009, July 2, 2009, October 22, 2009, and February 4, 2010.

After reviewing the Sections A through D responses from Wieland, the Department issued supplemental questionnaires to Wieland. The Department issued additional supplemental questions, after reviewing Wieland's supplemental questionnaire responses. On November 18, 2009, the Department issued an extension of the deadline for the preliminary results of this antidumping duty administrative review from December 1, 2009, until March 31, 2010. *See Brass Sheet and Strip from Germany: Notice of Extension of Time Limit for Preliminary Results of Administrative Review*, 74 FR 59523 (November 18, 2009). As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for the preliminary results of this antidumping duty administrative review is now April 7, 2010. *See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm,"* dated February 12, 2010."

In letters to the Department dated March 4, 2010, and March 12, 2010, the Petitioners state that Wieland was the importer of record for the U.S. sale made during the POR and, therefore, Wieland is liable for any antidumping duties assessed. Pursuant to Wieland's role as the importer, the Petitioners allege that Wieland has put itself in a position to make payment or reimbursement of any antidumping duties related to its U.S. sale. As such, the Petitioners assert that the transaction in question is subject to a reduction in the export price, pursuant

¹ The Petitioners include GBC Metals, LLC of Global Brass and Copper, Inc., doing business as Olin Brass, Heyco Metals, Inc., Luvata Buffalo, Inc., PMX Industries, Inc., and Revere Copper Products, Inc.

to 19 CFR 351.402(f).² In a letter to the Department dated March 8, 2010, at page 6, Wieland rebuts the Petitioners' assertion that its single U.S. sale is subject to the aforementioned regulation, arguing that Wieland "was both the exporter and importer and thus cannot reimburse itself."

The Department has considered the facts of the instant review. Consistent with the Department's practice with respect to this issue, we do not find that Wieland's sale to the United States during the POR is subject to 19 CFR 351.402(f). Our decision as to reimbursement is based upon our interpretation of this regulation, which is that two separate corporate entities must exist to invoke the reimbursement regulation. *See Circular Welded Non-Alloy Steel Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review*, 63 FR 33041, 33044 (June 17, 1998). In this instance, though it is both an exporter and importer, there is still only one corporate entity, Wieland, not two.

Scope of the Order

The scope of this order covers shipments of brass sheet and strip, other than leaded and tinned, from Germany. The chemical composition of the covered products is currently defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C2000; this review does not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the products covered by this review have a solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (transverse wound), and cut-to-length products are included. The merchandise is currently classified under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7409.21.00 and 7409.29.00. Although the HTSUS item numbers are provided for convenience and customs purposes, the Department's written description of the scope of this order remains dispositive.

Period of Review

The period of review is March 1, 2008, through February 28, 2009.

² 19 CFR 351.402(f) states: (f) Reimbursement of antidumping duties and countervailing duties—(1) In general. (i) In calculating the export price (or the constructed export price), the Secretary will deduct the amount of any AD duty or CVD duty which the exporter or producer: (A) Paid directly on behalf of the importer; or (B) Reimbursed to the importer.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), we intend to verify the information relied upon prior to the final results of the instant review. Our verification results will be outlined in the public version of our verification report, which will be on file in the Department's Central Records Unit (CRU), Room 1117 of the Main Commerce Building.

Analysis

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent that are covered by the description contained in the "Scope of the Order" section above and were sold in the home market during the POR, to be the foreign like product for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix V of the initial antidumping questionnaire we provided to Wieland.³ 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.

Normal Value Comparisons

To determine whether sales of subject merchandise to the United States were made at less than NV, we compared the export price (EP) to the NV, as described in the "Export Price" and "Normal Value" sections of this notice. During the POR, Wieland had only one shipment of BSS to the United States.

In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to the individual U.S. transaction price. In order to lessen the potential distortion to sales prices which result from significantly changing costs, we are using a quarterly costing approach; we have not made price-to-

price comparisons outside of a quarter. See below and Memorandum through James Terpstra from Dennis McClure, titled "Sales Analysis Memorandum—Wieland-Werke AG (Sales Analysis Memo—Wieland)," dated April 7, 2010, and available in the CRU.

Export Price

For the price to the United States, we used 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 reported delivery term to the first unaffiliated customer in, or for exportation to, the United States.

In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses including inland freight from plant or warehouse to port of exportation, foreign brokerage, handling and loading charges, international freight, insurance, U.S. inland freight expenses, other transportation expenses for cargo scanning and port charges, and U.S. duties. See Sales Analysis Memo—Wieland.

As stated at 19 CFR 351.401(i), the Department will use the respondent's invoice date as the date of sale unless another date better reflects the date upon which the exporter or producer establishes the essential terms of sale. Wieland reported the order confirmation date as the date of sale for the U.S. market and the earlier of fabrication order confirmation date, shipment date, or invoice date as the sale date in the home market, claiming that these dates reflect the date on which the material terms of sale were finalized. See Section B–C QR at B–12–B–13 and C–7.

We have examined the information on the record and preliminarily find that the invoice date better reflects the date upon which the producer established its material terms of sale in both the U.S. and home markets. Specifically, Wieland reported that its "written general terms of delivery, applicable to both domestic and export sales, provide that Wieland is entitled to make excess or short deliveries up to 10 percent of the agreed weights or units. However, Wieland has unwritten understandings/established practices with certain customers allowing for greater variations without prior approval." See Wieland's Section A–C Supplemental Questionnaire Response (Section A–C SQR), dated September 29, 2010, at SAC–29. Thus, Wieland has reported sales transactions, in both the U.S. and

home markets, in which the quantity exceeds its standard tolerance, and the basis for such increases can only be supported by "unwritten understandings/established practices." Based on the fact that there is no written contract or sales agreement documenting agreement to the change in terms, the Department finds that the invoice date represents the date in which the material terms of sale are finalized.⁴ Because the data specific to the date of sale discussion are proprietary in nature, see the Department's sales calculation memorandum from Dennis McClure through James Terpstra to the File titled, "Sales Analysis Memo—Wieland" for additional details.

Normal Value

A. Home Market Viability

In accordance with section 773(a)(1)(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 Wieland's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.404(b), because Wieland's aggregate volume of home 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 home market was viable.

Arm's-Length Test

Sales to affiliated customers in the home market not made at arm's length were excluded from our analysis. 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 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. See 19 CFR 351.403(c); see also *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of the Antidumping Duty Administrative Review*, 74 FR

⁴ See *Notice of Final Determination of Sales at Less Than Fair Value: Citric Acid and Certain Citrate Salts from Canada*, 74 FR 16843 (April 13, 2009), and accompanying Issues and Decision Memorandum at Comment 1.

³ See the Department's Antidumping Duty Questionnaire issued to Wieland, dated May 7, 2009, on the record in the CRU.

46110, 46112 (September 8, 2009); unchanged in the final, *see Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of the Fifteenth Administrative Review*, 75 FR 13490 (March 22, 2010). Conversely, where the affiliated party did not pass the arm's-length test, all sales to that affiliated party have been excluded from the NV calculation. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). For the arm's-length test, we matched only affiliated sales to unaffiliated sales within the same quarter in which the sale occurred, because we are using a quarterly costing approach, to lessen the potential distortion to sales prices which result from significantly changing costs.

B. Cost Reporting Period

The Department's normal practice is to calculate an annual weighted-average cost for the entire POR. *See, e.g., Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review*, 65 FR 77852 (December 13, 2000) (*Pasta from Italy*), and accompanying Issues and Decision Memorandum at Comment 18 and *Notice of Final Results of Antidumping Duty Administrative Review of Carbon and Certain Alloy Steel Wire Rod from Canada*, 71 FR 3822 (January 24, 2006) (*Wire Rod from Canada*), and accompanying Issues and Decision Memorandum at Comment 5 (explaining the Department's practice of computing a single weighted-average cost for the entire period). This methodology is predictable and generally applicable in all proceedings. However, the Department recognizes that possible distortions may result when our annual average cost method is used during a period of significant cost changes.

In these circumstances, in determining whether to deviate from our normal methodology, the Department has evaluated the case-specific record evidence using two primary factors: (1) the change in the cost of manufacturing (COM) recognized by the respondent during the POR must be deemed significant; and, (2) the record evidence must show that sales during the shorter averaging periods could be reasonably linked with the cost of production (COP) or CV during the same shorter averaging periods. *See, e.g., Stainless Steel Plate in Coils From Belgium: Final Results of Administrative Review*, 73 FR 75398, 75399 (December 11, 2008) (*SSPC from Belgium*) and *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of*

Administrative Review, 74 FR 6365 (February 9, 2009) (*2006–2007 Final Results*).

a. Significance of Cost Changes

Record evidence indicates that Wieland experienced significant changes in the total COM during the POR and that the change in COM is primarily attributable to the price volatility for copper and zinc, major inputs consumed in the production of the merchandise under consideration. The record indicates that copper and zinc prices have decreased dramatically throughout the POR. Specifically, the record data show that the percentage difference between the high and low quarterly costs for brass products exceeded 25 percent during the POR. As a result, we have determined for the preliminary results that the changes in COM for Wieland are significant.

b. Linkage Between Cost and Sales Information

If the Department finds cost changes to be significant in a given administrative review or investigation, the Department subsequently evaluates whether there is evidence of linkage between the cost changes and the sales prices for the given POI/POR. Our definition of linkage does not require direct traceability between specific sales and their specific production cost, but rather relies on whether there are elements which would indicate a reasonable correlation between the underlying costs and the final sales prices levied by the company. These correlative elements may be measured and defined in a number of ways depending on the associated industry, and the overall production and sales processes.

In the instant case, Wieland's sales process is effectively the sale of two separate products: commodity metal (*i.e.*, copper and zinc) and fabrication. For metal, which represents a significant part of the total price, customers are charged a price that is determined, for the most part, on the London Metal Exchange (LME) metal price on the date of the customer's choosing (the "metal fixation date").

We find that, because both the metal costs and prices charged for the metal are reasonably linked to the market prices promulgated by the LME, there is a reasonable link between the underlying costs and sales prices.

In light of the two factors discussed above, we have preliminarily determined that a quarterly costing approach with respect to Wieland would lead to more accurate comparisons in our antidumping duty

calculations. Thus, we used quarterly indexed annual average direct material costs and annual weighted-average fabrication costs in the COP and CV calculations.

C. Cost of Production Analysis

Because we found that Wieland did not act to the best of its ability in providing information to the Department in the most recently completed administrative review in which it participated, we applied total adverse facts available which included a finding on that basis that Wieland's sales were made below cost. Therefore, the Department disregarded sales below the COP in the last completed review in which Wieland participated.⁵

Therefore, the Department finds reasonable grounds to believe or suspect, pursuant to section 773(b)(2)(A)(ii) of the Act, that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below COP. Thus, pursuant to section 773(b)(1) of the Act, we examined whether sales from Wieland in the home market were made at prices below the COP.

We compared sales of the foreign like product in the home market with model-specific COP figures. In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general and administrative (SG&A) expenses, financial expenses and all costs and expenses incidental to placing the foreign like product in packed condition and ready for shipment.

In our sales-below-cost analysis, we relied on home market sales and COP information provided by Wieland in its questionnaire responses, except where noted below.

As discussed above, we used quarterly indexed annual average direct material costs and annual weighted-average conversion costs in the COP and CV calculations. *See Sales Analysis Memo—Wieland and Memorandum from Ernest Gziryan to Neal Halper "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Wieland-Werke AG (Wieland)," dated April 7, 2010 (Wieland Cost Calculation Memo—Wieland).*

Volatility in Raw Materials

Wieland explains that it offers three types of sales: single date (release)

⁵ *See Final Results of Antidumping Duty Administrative Review: Brass Sheet and Strip from Germany*, 64 FR 43342 (August 10, 1999).

pricing, split date pricing, and tolling. See Section AQR at 34–35. In its Section AQR, Wieland asserts that the volatility in daily commodity metal prices experienced during the POR poses unique issues that the Department's traditional antidumping methodology does not adequately account for. For example, Wieland states that in the case of split pricing sales in the home market, a U.S. sale with a metal fixation date occurring on one date would be compared with home market sales in which that metal fixation date falls, not only on a different date, but also in completely different months (since metal fixation can occur both before and after the fabrication order confirmation date). Wieland states that customers in the United States and Germany that purchased metal with the same metal fixation date will pay the same price for the LME metal price component of their metal purchase. However, Wieland asserts that if the price comparison is made such that sales with different metal fixation dates are compared, margins will be artificially created or masked simply because LME metal prices fluctuate.

Wieland asserts that, because the LME metal price is a full pass through to the customer, and is treated as such by Wieland both in its sales and cost accounting, the Department should make a circumstance of sale (COS) adjustment which adjusts for the price difference resulting from differences in metal fixation dates between U.S. and home market sales. More specifically, Wieland proposes that the Department adjust all U.S. and Home Market sales prices by the LME metal price for the alloy on the metal fixation date associated with the specific sale. In its letter dated June 25, 2009, at 14, the Petitioners state that the Department has never, to the best of its knowledge, adjusted metal pricing components as a circumstance of sale. The Petitioners state that if Wieland believes that changes in the prices of copper and zinc during the POR were (1) Very significant, (2) related to long-term changes and (3) that in and of themselves, (*i.e.*, apart from other cost factors), unduly changed total production costs, then the proper methodological remedy might be a potential change in the temporal structure of the cost of production. *Id.*

The Department does not find that a COS adjustment is warranted in the instant review, because it is the Department's practice to limit such adjustments to direct selling expenses. However, the Department preliminarily finds that, based on the sales pricing structure reported by Wieland and the

volatility experienced in commodity metal prices in this particular POR, the date of sale methodology and transaction-to-average price comparisons may not adequately account for the volatility in metal prices which occurred during the POR. Therefore, for these preliminary results, we are accounting for the volatility in commodity metal prices by ensuring that the home market sales selected for comparison purposes will first be matched based on the invoice date as the date of sale, and secondly, will have a metal fixation date in the same month as the metal fixation date of the U.S. sale. Absent a metal fixation date in the same month, we will make comparisons based on the same quarter of the POR as the metal fixation date reported for Wieland's U.S. sale. Absent such a match, we will use CV as the basis for comparison to Wieland's U.S. sale. We find that by limiting the comparisons to sales made within the same quarter of the POR and the same month for the metal fixation date, we reasonably account for the volatility experienced by Wieland during the POR associated with its split date pricing structure, thereby, preventing potential distortions in the Department's transaction-to-average price comparison methodology.

1. Calculation of COP

Before making any comparisons to NV, we conducted a quarterly COP analysis of Wieland pursuant to section 773(b) of the Act to determine whether Wieland comparison market sales were made at prices 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 SG&A expenses and packing, in accordance with section 773(b)(3) of the Act.

2. Test of Comparison Market Prices

As required under section 773(b)(2) of the Act, we compared the quarterly weighted-average COP to the per-unit price of the comparison market sales of the foreign like product based on the metal fixation date 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 below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses (also subtracted from the COP), and packing

expenses. See Sales Analysis Memo—Wieland.

3. Results of COP Test

Where less than 20 percent of the respondent's home market sales of a given model were at prices below the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of the respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the indexed POR weighted-average COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Therefore, for Wieland, we disregarded below-cost sales of a given product of 20 percent or more and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. See Sales Analysis Memo—Wieland.

D. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on the reported delivery terms to comparison market customers. We made deductions from the starting price, when appropriate, for handling, loading, inland freight, warehousing, inland insurance, discounts, and rebates. 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 adjustments for direct expenses, including imputed credit expenses, in accordance with section 773(a)(6)(C)(iii) of the Act. Where appropriate, we added other revenue and applied billing adjustments to the gross unit price.

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 variable cost of manufacture (VCOM) for the foreign like product and subject merchandise, using weighted-average costs.

E. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. 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, 61732 (November 19, 1997) (*Plate from South Africa*). Consistent with 19 CFR 351.412, to determine whether comparison market sales were at a different LOT than the U.S. sales, 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, including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale. If the comparison market sales were 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.

Wieland reported that its U.S. sale and home market sales were made at the same LOT. Wieland has two channels of distribution for U.S. sales: (1) manufacture to order and ship directly to customer, and (2) sales through Wieland Metals, Inc. The one sale occurring during the POR was made through channel (1) to an end-user. Wieland reported that during the POR, it sold subject merchandise through one channel of distribution in both the U.S. and home market, which is direct to the customer, to one customer category in the United States and three customer categories in the home market, consisting of OEM/end users, broker/distributors, and service center/slitting center.

Our analysis of the selling activities for Wieland shows that there is overlap in these activities for channels of distribution and customer categories. Wieland performs similar selling activities for all customer categories and channels of distribution. Wieland reports that its sales functions are basic services provided for all sales. For example, every sale involves packing,

order processing, the salesperson's time, and logistics support. Furthermore, Wieland states that its selling functions do not vary by type of customer. See Section AQR at Section A–C SQR at SAC–7.

In the U.S. market, Wieland reported that its sale was made through one channel of distribution to one customer category, and therefore, at one LOT. The Department has determined that Wieland's home market sales were made at one LOT and at the same stage of marketing as the U.S. sales LOT. Therefore, the Department will not make an LOT adjustment for Wieland's sale to the United States.

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 margin exists for the period March 1, 2008, through February 28, 2009, for Wieland:

Manufacturer/exporter	Margin (percent)
Wieland-Werke AG	0.00

The Department will disclose the calculations performed for these preliminary results 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). Pursuant to section 782(i) of the Act, the Department intends to verify the information upon which we will rely in making our final determination. As a result, we intend to establish the briefing schedule upon the completion of verification.

Pursuant to section 751(3)(A) of the Act and 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 POR 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 Wieland, we divided its total dumping margin by the total net value of its 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 BSS from Germany 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 rate for companies subject to this review 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*, no cash deposit will be required; (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 for a review 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 7.30 percent, the all-others rate established in the LTFV investigation. See *Antidumping Duty Order: Brass Sheet and Strip from the Federal Republic of Germany*, 52 FR 6997 (March 6, 1987), amended at 52 FR 35750 (September 23, 1987). These cash deposit requirements, when imposed, shall remain in effect until further notice.

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 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: April 7, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-475-819]

Certain Pasta From Italy: Preliminary Results of the 13th (2008) Countervailing Duty Administrative Review

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

SUMMARY: The Department of Commerce ("Department") is conducting an administrative review of the countervailing duty order on certain pasta from Italy for the period January 1, 2008, through December 31, 2008. We preliminarily find that Pastificio Lucio Garofalo S.p.A. ("Garofalo") received countervailable subsidies and that F.lli De Cecco di Filippo Fara San Martino

S.p.A. ("De Cecco Pastificio")/Molino e Pastificio De Cecco S.p.A. ("De Cecco Pescara"), members of the De Cecco group of companies, received *de minimis* countervailable subsidies. See the "Preliminary Results of Review" section, below. Interested parties are invited to comment on these preliminary results. See the "Public Comment" section of this notice.

DATES: *Effective Date:* April 13, 2010.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, the Department published a countervailing duty order on certain pasta ("pasta" or "subject merchandise") from Italy. See *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta From Italy*, 61 FR 38544 (July 24, 1996). On July 1, 2009, the Department published a notice of "Opportunity to Request Administrative Review" of this countervailing duty order for calendar year 2008, the period of review ("POR"). See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 74 FR 31406 (July 1, 2009). On July 2, 2009, we received such a request from De Cecco Pastificio. On July 31, 2009, we received additional review requests from De Matteis Agroalimentare S.p.A. ("De Matteis"); Agritalia S.r.L. ("Agritalia"); F. Divella S.p.A. ("Divella"); and Garofalo. In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of this review on August 25, 2009. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 42873 (August 25, 2009).

On October 9, 2009, the Department selected De Cecco Pastificio and Garofalo as mandatory respondents. See Memorandum to Susan H. Kuhbach, Senior Office Director, "Certain Pasta from Italy: Thirteenth Countervailing Duty Administrative Review—Respondent Selection," dated October 9, 2009 which is on file in the Department's Central Records Unit ("CRU") in Room 1117 of the main Department building.

On November 10, 2009, we issued countervailing duty questionnaires to

the Commission of the European Union ("EU"), the Government of Italy ("GOI"), De Cecco Pastificio and Garofalo. We received responses to our questionnaires in December 2009. We issued supplemental questionnaires to De Cecco Pastificio, Garofalo, and the GOI in January and March 2010, and we received responses to our supplemental questionnaires in February, March, and April 2010.

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for the preliminary results of this review is now June 7, 2010. See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

Period of Review

The POR for which we are measuring subsidies is January 1, 2008, through December 31, 2008.

Scope of the Order

Imports covered by the 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 the scope of the order 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 the 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, Bioagricoop S.r.l., QC&I International Services, Ecocert Italila, Consorzio per il Controllo dei Prodotti Biologici, Associazione Italiana per l'Agricoltura Biologica, or Codex S.r.l. In addition, based on publicly available information, the Department has determined that, as of August 4, 2004, imports of organic pasta from Italy that are accompanied by