

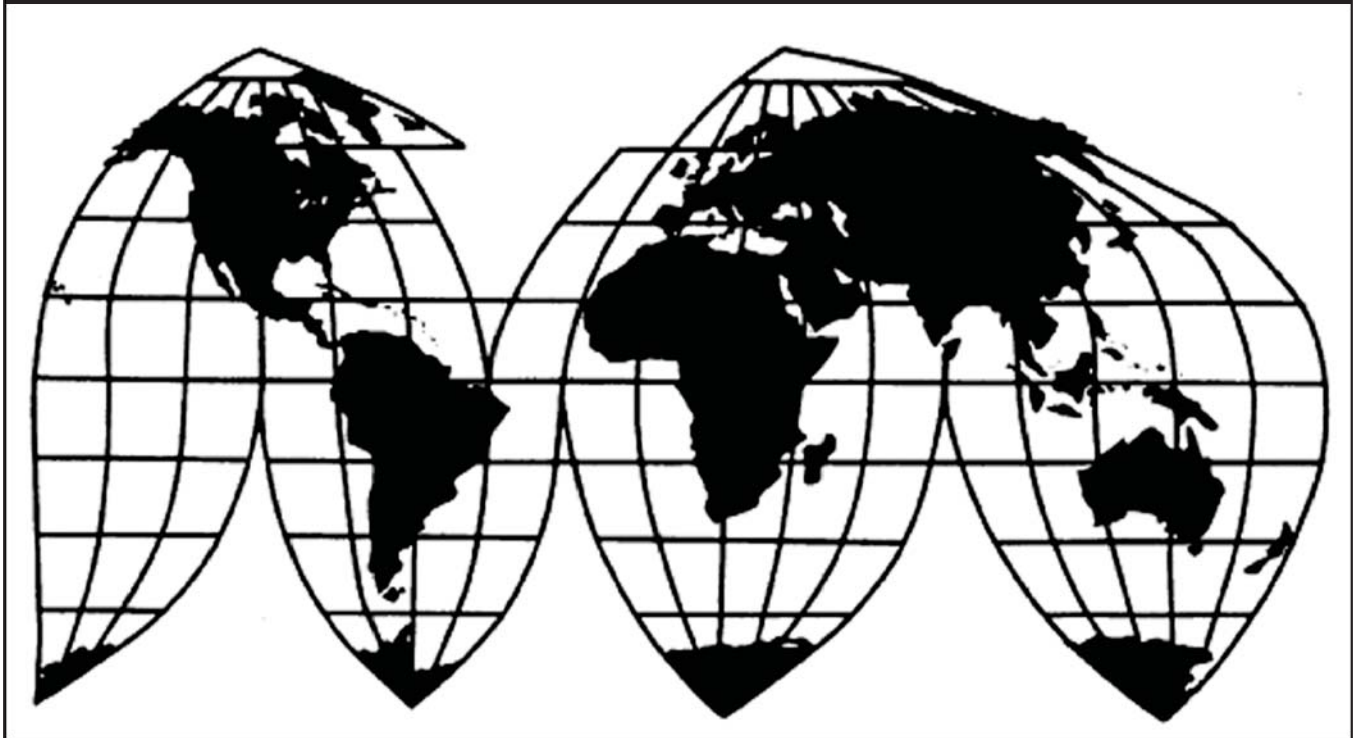
# **Certain Pasta from Italy and Turkey**

Investigation Nos. 701-TA-365-366 and 731-TA-734-735 (Third Review)

**Publication 4423**

**August 2013**

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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---

Robert B. Koopman

*Director, Office of Operations*

---

*Staff assigned*

Keysha Martinez, Investigator

John Giamalva, Industry Analyst

John Benedetto, Economist

David Boyland, Accountant

Jennifer Brinckhaus, Statistician

Carolyn Holmes, Statistical Assistant

John Henderson, Attorney

Elizabeth Haines, Supervisory Investigator

*Special assistance from*

Daniel Perkes, Investigations Intern

Andrew Warner, Investigations Intern

Address all communications to  
Secretary to the Commission  
United States International Trade Commission  
Washington, DC 20436

# **U.S. International Trade Commission**

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# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-365-366 and 731-TA-734-735 (Third Review)

## CERTAIN PASTA FROM ITALY AND TURKEY

### DETERMINATIONS

On the basis of the record<sup>1</sup> developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the countervailing and antidumping duty orders on certain pasta from Italy and Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>2</sup>

### BACKGROUND

The Commission instituted these reviews on September 4, 2012 (77 F.R. 53909) and determined on December 10, 2012 that it would conduct full reviews (78 F.R. 959, January 7, 2013). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on February 12, 2013 (78 F.R. 9937). A revised scheduling notice was subsequently published in the *Federal Register* on March 8, 2013 (78 F.R. 15046). The hearing was held in Washington, DC, on July 11, 2013, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

<sup>2</sup> Commissioners David S. Johanson and Meredith M. Broadbent dissenting with respect to imports of certain pasta from Turkey.



## Views of the Commission

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Tariff Act”), that revocation of the antidumping and countervailing duty orders on certain pasta from Italy and Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>1</sup>

### I. Background

*The Original Investigations:* In July 1996, the Commission found that a domestic industry was materially injured by reason of imports of certain pasta from Italy and Turkey that were subsidized and sold at less than fair value (“LTFV”).<sup>2</sup> The U.S. Department of Commerce (“Commerce”) issued antidumping and countervailing duty orders on certain pasta from Italy and Turkey on July 24, 1996.<sup>3</sup>

*First reviews:* The Commission determined to conduct expedited reviews of the orders on September 4, 2001.<sup>4</sup> In October 2001, the Commission found that revocation of the orders on certain pasta from Italy and Turkey would be likely to lead to continuation or recurrence of material injury to the domestic industry.<sup>5</sup> Commerce issued a notice of continuation of the antidumping and countervailing duty orders on subject imports from Italy and Turkey, effective November 16, 2001.<sup>6</sup>

*Second reviews:* The Commission determined to conduct full reviews of the orders on January 5, 2007.<sup>7</sup> In September 2007, the Commission found that revocation of the orders on certain pasta from Italy and Turkey would be likely to lead to continuation or recurrence of material injury to the domestic industry.<sup>8</sup> Commerce issued a notice of continuation of the

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<sup>1</sup> Commissioners Johanson and Broadbent determine that revocation of the antidumping and countervailing duty orders on certain pasta from Turkey would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Additional and Dissenting Views of Commissioners David S. Johanson and Meredith M. Broadbent.

<sup>2</sup> *Certain Pasta from Italy and Turkey*, Inv. Nos. 701-TA-365-366 and 731-TA-734-735 (Final), USITC Pub. 2977 (July 1996), at 1 (“Original Determinations”). Commissioner Watson dissented. *Id.* at 37-53.

<sup>3</sup> 61 Fed. Reg. 38544, 38545, 38546, 38547 (July 24, 1996).

<sup>4</sup> 66 Fed. Reg. 50453 (October 3, 2001).

<sup>5</sup> *Certain Pasta from Italy and Turkey*, Inv. Nos. 701-TA-365-366 and 731-TA-734-735 (Review), USITC Pub. 3462 (Oct. 2001) at 1 (“First Reviews”).

<sup>6</sup> 66 Fed. Reg. 577703 (Nov. 16, 2001).

<sup>7</sup> 72 Fed. Reg. 2558 (Jan. 19, 2007).

<sup>8</sup> *Certain Pasta from Italy and Turkey*, Inv. Nos. 701-TA-365-366 and 731-TA-734-735 (Second Review), USITC Pub. 3947 (Sept. 2007) at 1 (“Second Reviews”).

antidumping and countervailing duty orders on subject imports from Italy and Turkey, effective October 12, 2007.<sup>9</sup>

*Third reviews:* The Commission instituted these reviews on September 4, 2012,<sup>10</sup> and on December 10, 2012, determined to conduct full reviews.<sup>11</sup> The Commission received prehearing and posthearing submissions filed jointly by five U.S. domestic producers: A. Zerega's Sons, Inc. ("Zerega's"); American Italian Pasta Company ("AIPC"); Dakota Growers Pasta Company, Inc. ("Dakota Growers"); New World Pasta Company ("New World"); and Philadelphia Macaroni Company (collectively the "Domestic Producers"). The Commission also received prehearing and posthearing submissions filed jointly by eleven Italian producers and exporters (collectively the "Italian Respondents")<sup>12</sup> and prehearing and posthearing submissions filed jointly by nine Turkish producers and exporters (collectively the "Turkish Respondents").<sup>13 14</sup> Representatives of parties both in favor of and in opposition to continuation of the orders appeared at the Commission's hearing accompanied by counsel.<sup>15</sup>

In these reviews, U.S. industry data are based on the questionnaire responses of eight U.S. producers of dry pasta that are believed to account for 79.2 percent of the total shipment value of domestic production of dry pasta in 2011.<sup>16</sup> U.S. import data and related information are based on a combination of official data and the questionnaire responses of 22 U.S. importers that are believed to have accounted for \*\*\* percent of subject U.S. imports from Italy and Turkey during 2012.<sup>17</sup> Foreign industry data and related information are based on the questionnaire responses of 18 producers and exporters of subject merchandise from Italy,

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<sup>9</sup> 72 Fed. Reg. 58052 (Oct. 12, 2007).

<sup>10</sup> 77 Fed. Reg. 53909 (Sept. 4, 2012).

<sup>11</sup> 78 Fed. Reg. 959 (Jan. 4, 2013). See Explanation of Commission Determinations on Adequacy (EDIS Document No. 499170).

<sup>12</sup> Associazione delle Industrie del Dolce e della Pasta Italiane, Dalla Costa Alimentare S.r.l., La Molisana S.p.A., Pasta Berruto S.p.A., Pasta Zara S.p.A., Pastificio DiMartino Gaetano & F.lli S.r.l., Pastificio Felicetti S.r.l., Pastificio Garofalo S.p.A., Tamma Industry Alimentare di Capitanata S.r.l., F. Divella S.p.A., Rummo S.p.A., and Liguori Pastificio dal 1820 S.p.A.

<sup>13</sup> Güney Doğu Anadolu İhracatçı Birlikleri (South East Anatolian Exporters Association), Selva Gıda Sanayii A.Ş., Oba Makarnacılık Sanayi ve Ticaret A.Ş., Durum Gıda Sanayi ve Ticaret A.Ş., Nuh'un Ankara Makarnası Sanayi ve Ticaret A.Ş., Kom Gıda Kombassan Gıda A.Ş., Bessan Makarna Gıda San. ve Ticaret, A.Ş., Goymen Tarım Ürünleri San. ve Ticaret, A.Ş. and Mutlu Makarnacılık.

<sup>14</sup> \*\*\*.

<sup>15</sup> A full list of hearing witnesses can be found in Appendix B of the final Staff Report. A representative of one domestic producer, Barilla America, Inc. ("Barilla America"), testified in opposition to continuation of the orders.

<sup>16</sup> Confidential Staff Report ("CR") at I-14; Public Staff Report ("PR") at I-13.

<sup>17</sup> CR at I-14; PR at I-13. The official data include adjusted Customs statistics to account for all dutiable imports of subject pasta from Italy and Turkey and official import statistics for nonsubject imports of all dry pasta. CR at I-14; PR at I-13.

representing 36.8 percent of total production of all dry pasta in Italy in 2011,<sup>18</sup> and on the questionnaire responses of eight producers and exporters of subject merchandise from Turkey, representing 58.0 percent of total production of all dry pasta in Turkey in 2011.<sup>19</sup>

## **II. Domestic Like Product and Industry**

### **A. Domestic Like Product**

In making its determination under section 751(c) of the Tariff Act, the Commission defines the “domestic like product” and the “industry.”<sup>20</sup> The Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”<sup>21</sup> The Commission’s practice in five-year reviews is to examine the domestic like product definition from the original investigation and consider whether the record indicates any reason to revisit the prior findings.<sup>22</sup>

Commerce has defined the imported merchandise within the scope of the orders under review as follows:

The scope of this order is 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, 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 that are

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<sup>18</sup> CR at IV-14; PR at IV-12. The coverage figure includes nonsubject merchandise. CR at IV-14 n. 14; PR at IV-12 n. 14.

<sup>19</sup> CR at IV-22; PR at IV-17. The coverage figure includes nonsubject merchandise. CR at IV-22 n.20; PR at IV-17 n.20.

<sup>20</sup> 19 U.S.C. § 1677(4)(A).

<sup>21</sup> 19 U.S.C. § 1677(10); *see, e.g., Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991); *see also* S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>22</sup> *See, e.g., Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

accompanied by the appropriate certificate issued by the Associazione Marchigiana Agricoltura Biologica (AMAB) or by Bioagricoop srl.<sup>23</sup>

In addition, as a result of changed circumstances determinations by Commerce, gluten-free pasta is excluded from the scope of the antidumping and countervailing duty orders with respect to Italy.<sup>24</sup>

Pasta is a basic foodstuff that is made from durum wheat semolina and water and is formed by mixing semolina (and possibly flour) and water into a dough that is then rolled to a uniform thickness or extruded. It is sold in refrigerated, frozen, canned or dry forms. Dry pasta is pasta that has been dried into a brittle form that is ready for cooking or for incorporation into downstream products such as macaroni and cheese, canned soup, or other prepared foods.<sup>25</sup>

In the original investigations,<sup>26</sup> the Commission addressed several domestic like product issues: (1) whether the domestic like product should be defined to include dry pasta for sale to the industrial market (i.e., to producers who incorporate dry pasta into downstream products); (2) whether the domestic like product should be defined to include dry egg pasta not included within the scope definition; (3) whether enriched and non-enriched dry pasta constitute separate like products; and (4) whether organic and non-organic pasta should be distinct like products. The Commission found that all dry pasta shared the same basic characteristics and

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<sup>23</sup> 78 Fed. Reg. 2368 (January 11, 2013); *see also* 61 Fed. Reg. 38547 (July 24, 1996). While the packaging limitation in the scopes of Commerce's original orders was stated as "packages of five pounds (or 2.27 kilograms) or less," Commerce issued a final scope ruling in May 1999 that pasta in packages weighing or labeled up to and including five pounds four ounces is within the scope of the orders. *See* 63 FR 43157, 43158 (Aug. 9, 1999). However, the five pounds four ounces limitation is not referenced in the scope definitions in Commerce's final results of its third sunset reviews of the orders, which refer back to the scope definitions in the original orders.

<sup>24</sup> Commerce revoked, in part, the antidumping duty order of certain pasta from Italy with respect to gluten-free pasta, effective July 1, 2008, having determined that the petitioners had no interest in the antidumping duty order with respect to gluten-free pasta. 74 Fed. Reg. 41120 (August 14, 2009). Commerce likewise partially revoked the countervailing duty order on certain pasta from Italy with respect to gluten-free pasta, effective January 1, 2009. 76 Fed. Reg. 27634 (May 12, 2011). Commerce's notice with its final results of the third sunset reviews of these antidumping duty orders sets forth the exclusion of gluten-free pasta from the scope of the antidumping duty order with respect to Italy. 78 Fed. Reg. 2368, 2368 n.4 (January 11, 2013). However, Commerce's notice with its final results of the third sunset review of the countervailing duty order with respect to Italy neglects to mention the exclusion of gluten-free pasta from the scope. 78 Fed. Reg. 693 (January 4, 2013).

<sup>25</sup> CR at I-29 to I-30; PR at I-26.

<sup>26</sup> In the preliminary determinations of the original investigations, the Commission found two domestic like products consisting of (1) dry pasta other than oriental-style noodles and (2) oriental-style noodles. It determined that imports of oriental-style noodles from both Italy and Turkey were negligible, and the investigations were accordingly terminated with respect to oriental-style noodles. *Certain Pasta from Italy and Turkey*, Inv. Nos. 701-TA-365-366 (Preliminary) and 731-TA-734-735, USITC Pub. 2905 (July 1995) at I-8, I-16 to I-17.



uses and was manufactured with the same basic production equipment and processes. While the products at issue had some distinctive features, such variations were present throughout the continuum of dry pasta products and thus did not create clear dividing lines between any of the dry pasta products. Therefore, the Commission determined that there was one domestic like product consisting of all dry pasta.<sup>27</sup>

In the first and second five-year reviews, the Commission again defined the domestic like product as all dry pasta. In doing so, the Commission noted that none of the parties disagreed with the Commission's original domestic like product definition and that no new information had been obtained during the five-year reviews that warranted revisiting the Commission's original like product definition.<sup>28</sup>

In these third reviews, there is no new information that would warrant a re-examination of the Commission's domestic like product definition from the original determination and the first two five-year reviews. None of the parties disagree with the Commission's prior definition.<sup>29</sup> Accordingly, we again define the domestic like product as all dry pasta.

## **B. Domestic Industry**

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."<sup>30</sup> In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

### **1. Related Parties**

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Tariff Act. This provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise

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<sup>27</sup> *Original Determinations*, USITC Pub. 2977, at 7-12. The Commission's domestic like product definition was broader than the scope definition, in that the Commission included organic and dry egg pasta within the definition of the domestic like product, and did not include a limitation on the size of the packaging. Commissioner Bragg found that the domestic like product consisted of dry non-egg pasta. *Id.* at 7 n.15, 35-36.

<sup>28</sup> *First Reviews*, USITC Pub. 3462, at 4-5; *Second Reviews*, USITC Pub. 3947, at 5-6.

<sup>29</sup> Domestic Producers' Prehearing Brief at 10.

<sup>30</sup> 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. *See* 19 U.S.C. § 1677.

or which are themselves importers.<sup>31</sup> Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.<sup>32</sup>

In the original investigations, the Commission defined the domestic industry to include all producers of dry pasta. The Commission found two related parties, but declined to exclude them under 19 U.S.C. § 1677(4)(B) because it found that their interests lay in domestic production rather than importation.<sup>33</sup>

In the first reviews, the Commission found four related parties, which were domestic producers that also imported subject merchandise, but declined to exclude them because their imports were small compared to their production or (in one case) production capacity. It therefore defined the domestic industry as all domestic producers of dry pasta.<sup>34</sup>

In the second reviews, the Commission found five related parties, and Italian respondents in those reviews argued that two of the related parties should be excluded from the domestic industry.<sup>35</sup> The Commission, however, determined that circumstances did not warrant the exclusion of any related party, again defining the domestic industry as all domestic producers of dry pasta.<sup>36</sup>

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<sup>31</sup> See *Torrington Co. v. United States*, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993); *Sandvik AB v. United States*, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd mem.*, 904 F.2d 46 (Fed. Cir. 1990); *Empire Plow Co. v. United States*, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

<sup>32</sup> The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and
- (3) the position of the related producer vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, *e.g.*, *Torrington Co. v. United States*, 790 F. Supp. at 1168.

<sup>33</sup> *Original Determinations*, USITC Pub. 2977, at 12-13.

<sup>34</sup> *First Reviews*, USITC Pub. 3462, at 6 n.22.

<sup>35</sup> Italian respondents argued that AIPC and Dakota Growers should be excluded from the domestic industry because AIPC through its subsidiary, Pasta Lensi, was a major importer of Italian pasta and Dakota Growers had an exclusive distribution agreement with a European company to distribute its pasta products in the United States. *Second Reviews*, USITC Pub. 3947, at 7-8.

<sup>36</sup> The Commission stated that the imports for each of these producers represented relatively small percentages of their domestic production of dry pasta over the period of review, each of them imported for reasons unrelated to the order, and none of them supported revoking the orders. Moreover, the Commission observed that the imports, purchases or corporate relationships had not resulted in a significant benefit to any of the related or potentially related producers. Finally, the Commission stated that each producer represented a reasonable proportion of U.S. production, generally \*\*\* percent or more. *Second Reviews*, USITC Pub. 3947, at 7-9.

In these third five-year reviews, domestic producers AIPC, Barilla America, and New World are related parties because they directly imported subject merchandise from Italy during the period of review.<sup>37</sup> AIPC directly imports from its wholly owned Italian subsidiary, Pasta Lensi, primarily to supplement its U.S. production with specialty pasta shapes, limited production runs with special packing configurations, or formulations that are less economical to produce domestically.<sup>38</sup> Barilla America directly imports from its Italian parent company, Barilla G&R Fratelli Spa. Barilla America may import test quantities of new products developed in its parent's research facilities in Italy that may or may not be subject dried pasta, or it may import an unusual shape of pasta due to the low volumes demanded.<sup>39</sup> New World reported \*\*\*.<sup>40</sup> No U.S. producer reported importing subject pasta from Turkey.

In these reviews, the record indicates that each of these domestic producers' imports represent relatively small percentages of its domestic production of dry pasta over the period of review, in each case less than \*\*\* percent,<sup>41</sup> and that the principal interest of each of these firms is in domestic production. While the financial performance of \*\*\*, and the financial performance of \*\*\*,<sup>42</sup> there is no evidence in the record suggesting that any of these producers derived a financial benefit from importation, given that the imports of each producer as a

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<sup>37</sup> CR at III-10; PR at III-7. Additionally, AIPC has a wholly owned Italian subsidiary, Pasta Lensi, which is a producer of subject merchandise in Italy. CR at I-35; PR at I-30; CR/PR at Table IV-6. Barilla America, Inc. is owned by Barilla G&R Fratelli Spa, an Italian pasta producer that also owns Filiz Gida Sanayive Ti Ticaret A.S., a Turkish pasta producer. CR at I-35; PR at I-30.

Domestic producer \*\*\* reported purchasing imports of subject merchandise from Italy during the review period in the amount of \*\*\*. CR at III-11; PR at III-7. A purchaser of subject imports is a related party only if it controls large volumes of subject imports. The Commission has found such control to exist when the domestic producer was responsible for a predominant portion of the importer's purchases and those purchases were substantial. \*\*\* purchases of subject imports were not substantial in relation either to its domestic production or to total subject imports from Italy, which exceeded \*\*\* pounds in 2007-08. CR/PR at Table IV-1. Accordingly, we conclude that \*\*\* is not a related party.

<sup>38</sup> CR at III-10; PR at III-7.

<sup>39</sup> CR at III-10 to III-11; PR at III-7.

<sup>40</sup> CR at III-11; PR at III-7.

<sup>41</sup> The ratio of imports to production for AIPC was approximately \*\*\* percent for the 2007-2012 period, the ratio for Barilla America was \*\*\* percent, and the ratio for New World was \*\*\* percent. CR at III-10 to III-11; PR at III-7.

<sup>42</sup> AIPC's ratio of operating income to net sales was \*\*\* percent in 2007, \*\*\* percent in 2008, \*\*\* percent in 2009, \*\*\* percent in 2010, \*\*\* percent in 2011, and \*\*\* percent in 2012, which was \*\*\*. Barilla America's ratio of operating income to net sales was \*\*\* percent in 2007, \*\*\* percent in 2008, \*\*\* percent in 2009, \*\*\* percent in 2010, \*\*\* percent in 2011, and \*\*\* percent in 2012, which was \*\*\*. New World's ratio of operating income to net sales was \*\*\* percent in 2007, \*\*\* percent in 2008, \*\*\* percent in 2009, \*\*\* percent in 2010, \*\*\* percent in 2011, and \*\*\* percent in 2012, which was \*\*\*. CR/PR at Table III-8.

percentage of domestic production were too small to have any material effect on their financial performance.<sup>43 44</sup>

Thus, we find that circumstances do not warrant the exclusion of any of the three related party producers from the domestic industry and define the domestic industry as all domestic producers of dry pasta.

### III. Cumulation

#### A. Legal Standard

With respect to five-year reviews, section 752(a) of the Tariff Act provides as follows:

the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.<sup>45</sup>

Cumulation therefore is discretionary in five-year reviews, unlike original investigations, which are governed by section 771(7)(G)(i) of the Tariff Act.<sup>46</sup> The Commission may exercise its discretion to cumulate, however, only if the reviews are initiated on the same day, the

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<sup>43</sup> Commissioner Aranoff does not rely on individual-company operating income margins, which reflect a domestic producer's financial operations related to production of the domestic like product, in assessing whether a related party has benefitted from importation of subject merchandise. Rather, she determines whether to exclude a related party based principally on its ratio of subject imports to domestic production and whether its primary interests lie in domestic production or importation.

<sup>44</sup> Commissioner Pinkert does not rely upon any firm's financial performance as a factor in determining whether there are appropriate circumstances to exclude it from the domestic industry in these reviews. The record is not sufficient to infer from any firm's profitability on its U.S. operations whether it has derived a specific benefit from its corporate affiliations. *See Allied Mineral Products v. United States*, 28 C.I.T. 1861, 1865-67 (2004).

<sup>45</sup> 19 U.S.C. § 1675a(a)(7).

<sup>46</sup> 19 U.S.C. § 1677(7)(G)(i); *see also, e.g., Nucor Corp. v. United States*, 601 F.3d 1291, 1293 (Fed. Cir. 2010) (Commission may reasonably consider likely differing conditions of competition in deciding whether to cumulate subject imports in five-year reviews); *Allegheny Ludlum Corp. v. United States*, 475 F. Supp. 2d 1370, 1378 (Ct. Int'l Trade 2006) (recognizing the wide latitude the Commission has in selecting the types of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); *Nucor Corp. v. United States*, 569 F. Supp. 2d 1328, 1337-38 (Ct. Int'l Trade 2008).

Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market, and imports from each subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation. Our focus in five-year reviews is not only on present conditions of competition, but also on likely conditions of competition in the reasonably foreseeable future.

In the original investigations, the Commission found a reasonable overlap of competition between and among the domestic like product and subject imports from Italy and Turkey and therefore cumulated subject imports for its material injury determinations.<sup>47</sup>

In the first reviews, the Commission found that subject imports from both countries would be likely to have a discernible adverse impact on the domestic industry if the orders were revoked. The Commission also found that a reasonable overlap of competition between the subject imports and the domestic like product would be likely if the orders were revoked. The Commission did not find any significant differences in the likely conditions of competition between subject imports from Italy and Turkey and therefore exercised its discretion to cumulate imports from these countries.<sup>48</sup>

In the second reviews, the Commission again found that subject imports from each country were not likely to have no discernible adverse impact should the orders be revoked and that a reasonable overlap of competition between the subject imports and the domestic like product would be likely if the orders were revoked. The Commission also found that subject imports from Italy and Turkey would be likely to compete in the U.S. market under similar conditions of competition. Accordingly, the Commission determined to exercise its discretion to cumulate subject imports from Italy and Turkey.<sup>49</sup>

In these reviews, the statutory threshold for cumulation is satisfied, because all reviews were initiated on the same day, September 4, 2012.<sup>50</sup> In addition, we consider the following issues in deciding whether to exercise our discretion to cumulate the subject imports: (1) whether imports from either of the subject countries are precluded from cumulation because they are likely to have no discernible adverse impact on the domestic industry; (2) whether there is a likelihood of a reasonable overlap of competition among imports from the subject countries and the domestic like product; and (3) whether subject imports are likely to compete in the U.S. market under different conditions of competition.<sup>51</sup>

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<sup>47</sup> *Original Determinations*, USITC Pub. 2977, at 19-23.

<sup>48</sup> *First Reviews*, USITC Pub. 3462, at 6-10.

<sup>49</sup> *Second Reviews*, USITC Pub. 3947, at 11-14.

<sup>50</sup> 77 Fed. Reg. 53909 (Sept. 4, 2012).

<sup>51</sup> Commissioner Pearson notes that, while he considers the same issues discussed in this section in determining whether to exercise his discretion to cumulate the subject imports, his analytical framework begins with whether imports from the subject countries are likely to face similar conditions of competition. For those subject imports which are likely to compete under similar conditions of competition, he next proceeds to consider whether there is a likelihood of a reasonable overlap of competition whereby those imports are likely to compete with each other and with the domestic like product. Finally, if based on that analysis he intends to exercise his discretion to cumulate one or more

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Domestic Producers argue that the Commission should cumulate subject imports from Italy and Turkey.<sup>52</sup> Italian Respondents argue that the Commission should exercise its discretion not to cumulate subject imports from Italy with those from Turkey, asserting that subject imports from Italy would be likely to compete in the U.S. market under different conditions of competition than subject imports from Turkey if the orders were revoked.<sup>53</sup> Turkish Respondents argue that the Commission should not cumulate imports from Italy and Turkey because subject imports from Turkey are likely to have no discernible adverse impact upon the domestic industry, there will not likely be a reasonable overlap of competition between the domestic like product and subject imports from Italy and Turkey, and subject imports from Turkey will likely compete in the U.S. market under different conditions of competition than subject imports from Italy.<sup>54</sup>

## **B. Likelihood of No Discernible Adverse Impact**

The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.<sup>55</sup> Neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.<sup>56</sup> With respect to this provision, the Commission generally considers the likely volume of subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked. Our analysis for each of the subject countries takes into account, among other things, the nature of the product and the behavior of subject imports in the original investigations.

Based on the record in these reviews, we do not find that imports from either of the subject countries would likely have no discernible adverse impact on the domestic industry in the event of revocation.

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(...continued)

subject countries, he analyzes whether he is precluded from cumulating such imports because the imports from one or more subject countries, assessed individually, are likely to have no discernible adverse impact on the domestic industry. See *Steel Concrete Reinforcing Bar from Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine*, Invs. Nos. 731-TA-873 to 875, 877 to 880, and 882 (Review), USITC Pub. 3933 (Jul. 2007) (Separate and Dissenting Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Regarding Cumulation). *Accord Nucor Corp. v. United States*, 605 F. Supp.2d 1361, 1372 (Ct. Int’l Trade 2009); *Nucor Corp. v. United States*, 594 F. Supp.2d 1320, 1345-47 (Ct. Int’l Trade 2008), *aff’d*, 601 F.3d 1291 (Fed Cir. 2010).

<sup>52</sup> Domestic Producers’ Prehearing Brief at 13-34.

<sup>53</sup> Italian Respondents’ Prehearing Brief at 3-7.

<sup>54</sup> Turkish Respondents’ Prehearing Brief at 28-41.

<sup>55</sup> 19 U.S.C. § 1675a(a)(7).

<sup>56</sup> SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).

*Italy.* During the original period of investigation, the quantity of subject imports from Italy ranged from 214.0 million pounds in 1993 to 322.4 million pounds in 1995.<sup>57</sup> In these third five-year reviews, the quantity of subject imports from Italy has declined over the period of review from \*\*\* pounds in 2007 to \*\*\* pounds in 2012.<sup>58</sup>

Reported annual production capacity for subject pasta in Italy increased from 2.9 billion pounds in 2007 to 3.3 billion pounds in 2012.<sup>59</sup> Reported unused production capacity for subject pasta in Italy ranged between a high of 493.3 million pounds in 2007 and a low of 388.1 million pounds in 2008, and was 446.9 million pounds in 2012.<sup>60</sup> Exports of subject pasta from Italy increased from \*\*\* pounds in 2007 to \*\*\* pounds in 2012. They were \*\*\* pounds in interim (January-March) 2012 and \*\*\* pounds in interim 2013.<sup>61</sup> Exports as a percentage of reporting Italian producers' total shipments declined from \*\*\* percent in 2007 to \*\*\* percent in 2012.<sup>62</sup> Based on the record, we do not find that subject imports from Italy would likely have no discernible adverse impact on the domestic industry if the orders were revoked.

*Turkey.* During the original period of investigation, the quantity of subject imports from Turkey increased from 48.8 million pounds in 1993 to 64.0 million pounds in 1994, and then declined to 57.0 million pounds in 1995.<sup>63</sup> In these third five-year reviews, the quantity of subject imports from Turkey has ranged from a low of \*\*\* pounds in 2008 to a high of \*\*\* pounds in 2010, and was \*\*\* pounds in 2012.<sup>64</sup>

Reported annual production capacity of subject pasta in Turkey increased from 874.6 million pounds in 2007 to 1.6 billion pounds in 2012.<sup>65</sup> Reported unused production capacity for subject pasta in Turkey ranged from a low of 258.8 million pounds in 2007 to a high of 304.4 million pounds in 2010, and was 278.0 million pounds in 2012.<sup>66</sup> Total exports of subject pasta from Turkey increased from \*\*\* pounds in 2007 to \*\*\* pounds in 2012. They were \*\*\* pounds in interim 2012 and \*\*\* pounds in interim 2013.<sup>67</sup> Exports of subject pasta as a percentage of responding Turkish producers' total shipments increased from \*\*\* percent in 2007 to \*\*\* percent in 2012.<sup>68</sup> Based on the record, we do not find that subject imports from Turkey would likely have no discernible adverse impact on the domestic industry if the orders were revoked.

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<sup>57</sup> CR/PR at Tables I-1 and IV-1.

<sup>58</sup> CR/PR at Table I-1.

<sup>59</sup> CR/PR at Table IV-7.

<sup>60</sup> CR/PR at Table IV-7.

<sup>61</sup> CR/PR at Table IV-7.

<sup>62</sup> CR/PR at Table IV-7.

<sup>63</sup> CR/PR at Table I-1.

<sup>64</sup> CR/PR at Tables I-1 and IV-1.

<sup>65</sup> CR/PR at Table IV-10.

<sup>66</sup> CR/PR at Table IV-10.

<sup>67</sup> CR/PR at Table IV-10.

<sup>68</sup> CR/PR at Table IV-10.

### C. Likelihood of a Reasonable Overlap of Competition

The Commission generally has considered four factors intended to provide a framework for determining whether subject imports compete with each other and with the domestic like product.<sup>69</sup> Only a “reasonable overlap” of competition is required.<sup>70</sup> In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market.<sup>71</sup>

*Fungibility.* In the original investigations, the Commission found that the domestic product and subject imports from Italy were substantially fungible; that the domestic product and subject imports from Turkey were sufficiently fungible for purposes of finding a reasonable overlap of competition, despite some reported differences in quality; and that subject imports from Italy and Turkey were likewise fungible to a limited but sufficient degree.<sup>72</sup> In both prior five-year reviews, the Commission again found sufficient fungibility to support a reasonable overlap in competition.

In these reviews, the record again indicates that there continue to be varying degrees of fungibility as between the domestic like product and subject imports from Italy, the domestic like product and subject imports from Turkey, and subject imports from both subject countries. In questionnaire responses, a majority of responding purchasers found U.S. and Italian product to be “comparable” on 14 out of 15 factors, including price, product consistency, product range, quality meeting industry standards, and quality exceeding industry standards.<sup>73</sup> Although there were some differences in views among domestic producers, importers, and purchasers, many

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<sup>69</sup> The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are as follows: (1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality-related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and (4) whether subject imports are simultaneously present in the market with one another and the domestic like product. *See, e.g., Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

<sup>70</sup> *See Mukand Ltd. v. United States*, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); *Wieland Werke*, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); *United States Steel Group v. United States*, 873 F. Supp. 673, 685 (Ct. Int’l Trade 1994), *aff’d*, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. *See, e.g., Live Cattle from Canada and Mexico*, Inv. Nos. 701-TA-386 and 731-TA-812-13 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), *aff’d sub nom, Ranchers-Cattlemen Action Legal Foundation v. United States*, 74 F. Supp. 2d 1353 (Ct. Int’l Trade 1999); *Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan*, Inv. Nos. 731-TA-761-62 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

<sup>71</sup> *See generally, Cheflene Corp. v. United States*, 219 F. Supp. 2d 1313, 1314 (Ct. Int’l Trade 2002).

<sup>72</sup> *Original Determinations*, USITC Pub. 2977, at 20-22.

<sup>73</sup> CR/PR at Table II-8.



market participants, including almost all reporting domestic producers and over half of reporting purchasers, found the U.S. and Italian products to be “always” or “frequently” interchangeable.<sup>74</sup> Accordingly, we find a substantial degree of fungibility between the domestic like product and subject imports from Italy. Although few responding purchasers reported familiarity with Turkish product in these five-year reviews, we found in the original investigations that, despite any perceived differences in quality, subject imports from Turkey were sufficiently fungible with the domestic like product and with subject imports from Italy for purposes of a finding of reasonable overlap of competition, and there is no evidence in the record that would warrant a different finding in these reviews.

*Geographic Overlap.* In the original investigations, the Commission found sufficient geographic overlap between the domestic like product and subject imports from Italy and Turkey, stating that domestically produced pasta was sold nationwide, while subject imports from Italy and Turkey were sold predominantly in the Northeast and on the West Coast of the United States.<sup>75</sup> The record in these reviews indicates that dry pasta is produced throughout the United States, and the domestic product is shipped nationwide.<sup>76</sup> Domestic pasta and subject imports from Italy were sold in every geographic market area in the country during the period of review, while subject imports from Turkey were sold in every geographic market except the Midwest.<sup>77</sup>

*Channels of Distribution.* In the original investigations, the Commission found that subject imports from Italy and Turkey and the domestic like product moved in very similar channels of distribution and found overlap in the retail grocery chain channel and the wholesale distributor channels in the retail market, as well as more limited overlap in the food service market.<sup>78</sup> During the period of review, subject imports from Italy and the domestic like product continued to move in very similar channels of distribution, with most shipments going to end users in the grocery segment.<sup>79</sup> Although the record in the current reviews is more limited with respect to subject imports from Turkey, it shows some overlap in channels of distribution among subject imports from Turkey, subject imports from Italy, and the domestic like product, with each of these being sold in the U.S. market to distributors in the institutional sector and to distributors in the grocery and other retail sector.<sup>80</sup>

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<sup>74</sup> CR/PR at Table II-9.

<sup>75</sup> *Original Determinations*, USITC Pub. 2977, at 23.

<sup>76</sup> CR at IV-10; PR at IV-9.

<sup>77</sup> CR/PR at Table II-2.

<sup>78</sup> *Original Determinations*, USITC Pub. 2977, at 22.

<sup>79</sup> CR at II-7; PR at II-4; CR/PR at Table II-1

<sup>80</sup> CR/PR at Table II-1. We note that two importers of Turkish product, \*\*\*, submitted data on channels of distribution regarding subject imports from Turkey, but did not report importing any subject merchandise from Turkey in 2012. Our analysis does not change if the data of these two importers are disregarded for purposes of the analysis of channels of distribution, given the data supplied on this issue by two other importers, \*\*\*, who did report importing subject merchandise from Turkey in 2012. CR/PR at Table II-1.

*Simultaneous Presence.* Imports from Italy were present in the U.S. market in all 75 months of the period for which data were collected, while imports from Turkey were present in 72 of 75 months.<sup>81</sup>

*Conclusion.* The information in the record supports a finding that imports from each subject country are fungible with the domestic like product and with each other and that upon revocation, imports from the subject countries and the domestic like product would likely be sold in similar channels of distribution and geographic markets and be simultaneously present in the U.S. market. Based on these considerations, we find that there would likely be a reasonable overlap of competition between and among imports from each subject country and the domestic like product if the orders were to be revoked.

#### **D. Likely Conditions of Competition**

In determining whether to exercise our discretion to cumulate the subject imports, we assess whether subject imports from Italy and Turkey likely would compete under similar or different conditions in the U.S. market if the orders were revoked.<sup>82</sup> We recognize some differences exist between the pasta industries in Italy and Turkey, but nevertheless find that subject imports from Italy and Turkey would likely compete in the U.S. market under similar conditions of competition if the antidumping and countervailing duty orders under review were revoked. Both the Italian and Turkish pasta industries are very large, have added substantial capacity during the period of review, have substantial excess capacity, and as the two largest pasta exporters in the world, share a strong export orientation.<sup>83</sup>

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<sup>81</sup> CR/PR at Table IV-4.

<sup>82</sup> Commissioner Pinkert notes as follows. Where, in a five-year review, he does not find that imports of the subject merchandise are likely to have no discernible adverse impact on the domestic industry in the event of revocation and finds that such imports would be likely to compete with each other and with the domestic like product in the U.S. market, he cumulates them unless there is a condition or propensity – not merely a trend – that is likely to persist for a reasonably foreseeable time and that significantly limits competition such that cumulation is not warranted. For the reasons discussed in the text, he finds no condition or propensity warranting separate sunset injury analyses for Italian and Turkish pasta.

<sup>83</sup> In assessing the production capacity and unused capacity of the Italian and Turkish pasta industries, we rely on the questionnaire data obtained in these reviews, while recognizing that the data coverage was not complete. Foreign industry data and related information are based on the questionnaire responses of 18 producers and exporters of subject merchandise from Italy, representing 36.8 percent of total production of all dry pasta in Italy in 2011, and on the questionnaire responses of eight producers and exporters of subject merchandise from Turkey, representing 58.0 percent of total production of all dry pasta in Turkey in 2011. CR at IV-14, IV-22; PR at IV-12, IV-17. We note that there are pasta industry publications that indicate that production capacity and unused capacity in Italy and Turkey may be higher than our questionnaire data show. See Domestic Producers' Prehearing Brief at Exh. 5 (International Pasta Organization data).

We are not persuaded by the respondents' arguments that there are a number of factors that would prevent Turkish producers from competing in the U.S. market after revocation, including a lack of brand recognition, requirements for packaging and vitamin-enrichment, purchaser certifications, and perceptions that Turkish pasta is of inferior quality.<sup>84</sup> We note first that Turkish producers were able to compete in the U.S. market before the orders were put in place in spite of these same factors and that there have been no new regulations regarding vitamin enrichment or packaging since the original investigations, as we discuss below in section IV.C.1.b.<sup>85</sup> We also note that there are segments of the U.S. market where brand is not relevant, such as the private label market and restaurants.<sup>86</sup> Finally, there is some evidence that Turkish producers are able to produce vitamin-enriched pasta<sup>87</sup> and are able to meet packaging requirements.<sup>88</sup> As for quality perceptions, we note that Turkish pasta producers have reportedly touted their adoption of high-quality machinery and their higher quality semolina,<sup>89</sup> indicating that perceptions of lower quality would not persist if subject Turkish imports returned to the U.S market in significant quantities in the event of revocation. In addition, Turkish producers have been able to significantly increase exports to Japan, a country known to have rigorous quality requirements, which further suggests that the quality of Turkish pasta would not prevent it from being sold in the United States in significant quantities.<sup>90</sup>

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<sup>84</sup> Turkish Respondents' Prehearing Brief at 14-15; Turkish Respondents' Posthearing Brief at 7-8; Italian Respondents' Posthearing Brief at 3-4.

<sup>85</sup> See Domestic Producers' Posthearing Brief at Exh. 6, paragraph 9 (declaration of Shane Faucett of New World).

<sup>86</sup> CR at II-3; PR at II-2; Domestic Producers' Posthearing Brief at Exh. 6, paragraph 8 (declaration of Shane Faucett of New World). Moreover, several domestic producers noted that one pasta brand had variously sourced its product from Turkey, Italy and Mexico, \*\*\*. Transcript of July 11, 2013 Commission Hearing ("Hearing Tr.") at 115 (Vermynlen); Domestic Producers' Posthearing Brief at Exh. 6, paragraph 8 (declaration of Shane Faucett of New World); and Exh. 8, paragraph 2 (declaration of Rob Vermynlen of Zerega's).

<sup>87</sup> See 2013 report on Pasta by Republic of Turkey Ministry of Economy (EDIS Document No. 514165 at 2); 2010 report on Pasta by Export Promotion Center of Turkey (EDIS Document No. 514164 at 2) (both regarding Turkish producers' production of vitamin-enriched macaroni); see also Euromonitor International March 2013 report on Pasta in Turkey regarding Turkish pasta with added vitamins for children in Turkey. Domestic Producers' Prehearing Brief at Exh. 14, at Passport 2.

<sup>88</sup> Domestic Producers' Posthearing Brief at Exh. 6, paragraph 9 (declaration of Shane Faucett of New World); and Exh. 11 (data on boxed versus bagged pasta sales).

<sup>89</sup> Domestic Producers' Posthearing Brief at Exh. 2 (articles about Turkish pasta industry).

<sup>90</sup> See Turkish Respondents' Prehearing Brief at 8. Japan was Turkey's fifth largest export market for non-egg pasta in 2012, with exports increasing over 500 percent during the POR, from 5.1 million pounds in 2007 to 41.7 million pounds in 2012. CR/PR at Table IV-11. Japan was also Italy's fifth largest export market for non-egg pasta in 2012, with Italian exports increasing from 157.9 million pounds in 2007 to 191.9 million pounds in 2012. CR/PR at Table IV-8.

We are also unconvinced by the Turkish Respondents' argument that the Turkish pasta industry has focused largely on developing new markets and it would not depart from that strategy by exporting significant volumes to the U.S. market in the event of revocation.<sup>91</sup> As discussed in more detail below, Turkish producers have added large amounts of capacity over the period of review and are projected to add even more in 2013, with corresponding increases in their production volumes.<sup>92</sup> The vast majority of this growing production is destined for export markets.<sup>93</sup> Given the high degree of export orientation and large volumes of excess capacity and inventories, we find it likely that the Turkish producers would target the United States as a new export opportunity were the orders to be revoked, and they would be able to do so without shifting exports away from their existing markets.

Finally, we are unpersuaded by the Italian Respondents' argument that Italian exports compete in the U.S. market as premium higher-priced specialty products, selling to "white linen" restaurants and specialty stores, and would therefore likely compete under different conditions of competition.<sup>94</sup> There is evidence in the record that during the period of review some subject Italian pasta sold at a premium for higher-end uses.<sup>95</sup> However, Italian Respondents provided no evidence that this is the only market segment in the U.S. market in which subject Italian producers could or would compete if the orders were revoked, and the evidence in the record is to the contrary. Italian Respondents were unable to provide data in response to Commission questions regarding the percentage of the U.S. market consisting of such specialty products.<sup>96 97</sup> Moreover, subject imports from Italy undersold the domestic like product in 77 of 190 pricing comparisons, which is inconsistent with the contention that subject imports from Italy compete only as a premium specialty product, and not directly with domestic

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<sup>91</sup> Turkish Respondents' Prehearing brief at 6-9.

<sup>92</sup> CR/PR at Table IV-10.

<sup>93</sup> CR/PR at Table IV-10.

<sup>94</sup> See Hearing Tr. at 159-162 (Felicetti); 172-173 (DiPietro); 173-177, 252-253 (Aglietti); 213-214 (Heffner); 227-228 (Silverman); Italian Respondents' Prehearing Brief at 4-8.

<sup>95</sup> Hearing Tr. at 254-255 (Tendick); Italian Respondents' Posthearing Brief at Exh. 5 (Nielsen Scantrack pricing data).

<sup>96</sup> Italian Respondents' Posthearing Brief at Exh. 1, pp. 38-40 (response to Chairman Williamson); see Hearing Tr. at 228-229 (question of Chairman Williamson); 239-240, 242-243 (questions of Commissioner Aranoff). A Barilla America representative, testifying with respondents in opposition to continuation of the orders, stated that the high-end consumer segment of the U.S. market was a niche that constituted a "very, very small" percentage of the marketplace. Hearing Tr. at 208 (Tendick); see Hearing Tr. at 21 (Vermeylen).

<sup>97</sup> As previously noted, the Commission received questionnaire responses from 18 producers and exporters of subject merchandise from Italy, representing 36.8 percent of total production of all dry pasta in Italy in 2011. CR at IV-14; PR at IV-12. Thus, we lack questionnaire data from Italian producers accounting for almost 65 percent of Italian production of dry pasta, and we cannot be sure that the Italian respondents who appeared before the Commission are representative of all Italian exporters of subject merchandise to the United States.

product, in the U.S. market.<sup>98</sup> To the contrary, the record shows that Italian producers competed directly with domestic producers for particular sales on the basis of price.<sup>99</sup>

For the foregoing reasons, we exercise our discretion to cumulate subject imports from Italy and Turkey.

#### **IV. Whether Revocation of the Antidumping and Countervailing Duty Orders Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time**

##### **A. Legal Standards**

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>100</sup> The SAA states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”<sup>101</sup> Thus, the likelihood standard is prospective in nature.<sup>102</sup> The U.S. Court of International Trade has found that likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>103</sup>

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<sup>98</sup> CR/PR at Table V-14.

<sup>99</sup> Domestic Producers’ Prehearing Brief at Exh. 9, paragraphs 5-7 (declaration of Scott Mekus of AIPC); Domestic Producers’ Posthearing Brief at Exh. 4, paragraph 4 (declaration of Walt George of AIPC); and Exh. 8, paragraph 3 (declaration of Rob Vermynen of Zerega’s).

<sup>100</sup> 19 U.S.C. § 1675a(a).

<sup>101</sup> SAA at 883-84. The SAA states that “{t}he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

<sup>102</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

<sup>103</sup> See *NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), *aff’d mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard (continued...))

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>104</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”<sup>105</sup>

Although the standard in a five-year review is not the same as the standard applied in an original investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”<sup>106</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>107</sup> The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination.<sup>108</sup>

In evaluating the likely volume of imports of subject merchandise if the orders under review are revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>109</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than

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is “consistent with the court’s opinion;” “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”; *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); *Usinor v. United States*, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

<sup>104</sup> 19 U.S.C. § 1675a(a)(5).

<sup>105</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

<sup>106</sup> 19 U.S.C. § 1675a(a)(1).

<sup>107</sup> 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption findings with respect to the orders under review. CR at I-15 n.17; PR at 1-13 n.17.

<sup>108</sup> 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>109</sup> 19 U.S.C. § 1675a(a)(2).

the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>110</sup>

In evaluating the likely price effects of subject imports if the orders under review are revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.<sup>111</sup>

In evaluating the likely impact of imports of subject merchandise if the orders under review are revoked and/or a suspended investigation is terminated, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>112</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders under review and whether the industry is vulnerable to material injury upon revocation.<sup>113</sup>

## **B. Conditions of Competition and the Business Cycle**

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>114</sup>

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<sup>110</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

<sup>111</sup> See 19 U.S.C. § 1675a(a)(3). The SAA states that “{c}onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

<sup>112</sup> 19 U.S.C. § 1675a(a)(4).

<sup>113</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

<sup>114</sup> 19 U.S.C. § 1675a(a)(4).

## 1. Findings in the Prior Proceedings

In the original investigations, the Commission found that U.S. demand for dry pasta had increased steadily throughout the period of investigation. The Commission stated that the U.S. market was served by different brands with different characteristics, quality and prices, but brand loyalty was limited, and switching between brands occurred due to factors such as perceived quality, price and packaging. The Commission found that the U.S. market was not highly segmented on the basis of quality differences, and there was instead a continuum of products with respect to price and quality. There was, however, no direct correlation between prices and quality (actual or perceived), in part because of the use of promotions, which were very important for purchasing decisions both for the domestic product and subject imports. The Commission found that price was an important factor in purchasing decisions for both the domestic product and subject imports, and that, overall, competition was primarily on the basis of price, although brand image and perceived quality differences also influenced purchasing decisions to some extent. While imports from Italy were perceived to be of higher quality, this did not consistently translate into higher price levels.<sup>115</sup>

In the first five-year reviews, the Commission found that the subject imports and domestic pasta were generally substitutable, although the Commission noted some perceptions of quality differences between products from different sources. The Commission found that price continued to play an important role in purchasing decisions and that the use of promotions was very important. Apparent U.S. consumption of dry pasta had increased since the original investigations, but it appeared that the increasing popularity of ready-to-eat meals had slowed or reversed this trend by the end of the period of review. The domestic industry continued to consolidate, but the industry expanded its production capacity. Nonsubject imports were not a major supplier of pasta to the U.S. market.<sup>116</sup>

In the second five-year reviews, the Commission found that demand for pasta was down over the period, in part because of low-carbohydrate diet trends and a small but growing demand for fresh pasta. The Commission noted that the structure of the domestic industry had changed significantly since 2000, given the departure of several firms from the pasta business, their sales of brands and production facilities to other producers, and Barilla's opening of a production facility within the United States and its announced plans for a second U.S. facility. The share of nonsubject imports increased from 7.5 percent in 2001 to 9.8 percent in 2006. The Commission stated that all major U.S. pasta producers reported significant increases in the costs of raw materials in interim period 2007 over interim period 2006. The Commission stated that semolina made from durum wheat was the largest single raw material cost for U.S. pasta

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<sup>115</sup> *Original Determinations*, USITC Pub. 2977, at 14-19.

<sup>116</sup> *First Reviews*, USITC Pub. 3462, at 14.



producers and that durum wheat prices appeared to be rising, at least in part, in response to farm-level pressures to convert durum wheat fields to the production of corn for biofuels.<sup>117</sup>

## **2. The Current Reviews**

The following conditions of competition inform our determinations in these reviews.

### **a. Demand Conditions**

U.S. demand for dry pasta largely has been flat and is expected to remain flat in the foreseeable future.<sup>118</sup> Apparent U.S. consumption increased during the first few years of the period from 2.9 billion pounds in 2007 to 3.1 billion pounds in 2010, but then declined slightly in the last two years of the period and was relatively stable at 3.1 billion pounds in 2012. It was lower in interim 2013, at 768.7 million pounds, than in interim 2012, at 787.8 million pounds.<sup>119</sup>

Demand for pasta tends to be countercyclical, increasing in a recession as consumers turn to pasta as a low-cost product to economize.<sup>120</sup> Despite the relatively flat demand, there has been increased demand in certain market segments, such as for healthy whole wheat pasta.<sup>121</sup> Nevertheless, these segments account for a limited portion of the market (estimated at between 12 and 15 percent of the U.S. market), and their growth has come at the expense of demand for other pasta products.<sup>122</sup>

Significant consolidation of retail and food service operations during the period would likely make entry into the U.S. market easier for subject imports. As fewer retailers and mass marketers control large accounts, with their own private labels and a focus on price, importers of subject merchandise can secure larger sales volumes for each transaction than was possible when retailers and distributors were smaller and more numerous.<sup>123</sup>

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<sup>117</sup> *Second Reviews*, USITC Pub. 3947, at 17-19.

<sup>118</sup> Hearing Tr. at 24 (Hasper); 37-38 (George); 129 (Faucet); CR at II-23 to II-25; PR at II-14 to II-15; see Italian Respondents' Final Comments at 4.

<sup>119</sup> CR/PR at Table I-10.

<sup>120</sup> Hearing Tr. at 37, 84, 128 (George).

<sup>121</sup> Hearing Tr. at 133 (George); 134 (Fox); Di Pietro (264-265).

<sup>122</sup> Hearing Tr. at 133 (George); 134 (Fox).

<sup>123</sup> Hearing Tr. at 90-91 (Fox); 93 (Hasper); 118-119 (Bryant); Domestic Producers' Posthearing Brief at Exh. 6, paragraphs 5-6 (declaration of Jack Hasper of Dakota Growers).

## **b. Supply Conditions**

The domestic industry reported production capacity that was very close to apparent U.S. consumption throughout the period of review.<sup>124</sup> During the period of review, on an annual basis, U.S. producers supplied between 78.6 percent and 82.0 percent of apparent U.S. consumption.<sup>125</sup> The domestic industry has expanded capacity and undergone modernizations, with Barilla America opening a new production plant in New York in 2007.<sup>126</sup> Other domestic producers emphasized that, given the flat market demand for pasta, their capital investments have not been to add capacity but to replace or upgrade outdated equipment with modern technology that can produce pasta more efficiently.<sup>127</sup> In addition, there have been a number of acquisitions and reorganizations in the domestic pasta industry since the last reviews, and the four largest domestic producers, AIPC, Barilla America, Dakota Growers and New World, are now owned by large multinational companies.<sup>128</sup>

Cumulated subject imports from Italy and Turkey accounted for between \*\*\* and \*\*\* percent of apparent U.S. consumption during the period of review.<sup>129</sup>

Italy is the largest pasta producer and exporter in the world.<sup>130</sup> Italian pasta production in 2012 was estimated at 7.3 billion pounds, or 24.6 percent of global production. The Italian

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<sup>124</sup> Apparent consumption was slightly higher than production capacity from 2007 to 2010, while production capacity was a little higher in 2011 and 2012. In 2012, apparent consumption was 3,111.3 million pounds, while production capacity was 3,231.4 million pounds. CR/PR at Table I-1.

<sup>125</sup> CR/PR at Table I-1.

<sup>126</sup> CR/PR at Table III-1.

<sup>127</sup> Hearing Tr. at 65 (George); 65 (Faucett); 66 (Vermilyen).

<sup>128</sup> AIPC is owned by ConAgra Foods. Barilla America is owned by Italian producer Barilla. Dakota Growers is owned by Glencore International PLC. New World is owned by Ebro Puleva. CR at III-1 to III-3; PR at III-1 to III-3. We note that many of the U.S. pasta producers in the original investigations were also owned by large multinational companies. The petitioners in the original investigation were Borden, Inc., Hershey Foods Corp. and Gooch Foods, Inc. (a subsidiary of Archer Daniels Midland Co.), and other major U.S. producers included \*\*\*, \*\*\* and \*\*\*. CR at I-3, I-32; PR at I-2, I-27. Accordingly, as discussed in section IV.C.3.b., we are unconvinced by respondents' argument that these developments constitute significant changes in the conditions of competition that will insulate the domestic industry from import competition. Moreover, representatives of several domestic pasta producers stated that having large multinational corporations as parent companies does not necessarily give them greater access to capital, because they are operated as independent divisions and are expected by their parent companies to generate funds to support their own capital needs as well as to provide a return on the parent's investment. Hearing Tr. at 59-60 (George); 60-61 (Richardson); 61 (Hasper); 61-62 (Faucett).

<sup>129</sup> CR/PR at Table I-1.

<sup>130</sup> CR at IV-12; PR at IV-10. Commerce has revoked the antidumping duty order in part as to several Italian producers; however, all of these producers remain subject to the countervailing duty order. CR at I-16; PR at I-14. At the Commission's hearing, Italian Respondents' counsel acknowledged that there were no Italian producers that were not subject to either the antidumping duty order or the countervailing duty order. Hearing Tr. at 244 (Heffner). In addition, a number of Italian producers have

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pasta industry is highly fragmented, with some 4,460 producers of varying sizes estimated in 2010,<sup>131</sup> and export oriented, accounting for 52.0 percent (by quantity) of global exports of non-egg pasta in 2012.<sup>132</sup> Responding Italian producers exported \*\*\* pounds of subject pasta in 2012.<sup>133 134</sup>

Turkey was the world's fourth-largest producer of pasta in 2012, accounting for about 6.3 percent of global pasta production.<sup>135</sup> The Turkish industry grew substantially during the period of review, almost doubling its production capacity from 874.6 million pounds in 2007 to 1.6 billion pounds in 2012.<sup>136</sup> It more than quadrupled its exports during the period from \*\*\* pounds in 2007 to \*\*\* pounds in 2012.<sup>137</sup> The Turkish industry has become the world's second largest exporter of pasta, exporting to over 150 countries.<sup>138 139</sup>

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very low or even zero duty deposit rates under the orders, but they are still subject to Commerce's administrative review process. Consequently, even if certain producers currently have *de minimis* margins, their behavior likely is still restrained due to the threat of these margins increasing.

<sup>131</sup> CR at IV-12; PR at IV-10 to IV-11. According to the International Pasta Association, there were 139 pasta producers in Italy in 2011 with capacity of over one metric ton per day. CR at IV-12 to IV-13; PR at IV-11.

<sup>132</sup> CR at IV-34; PR at IV-26; CR/PR at Table IV-14.

<sup>133</sup> CR/PR at Table IV-7.

<sup>134</sup> The statute requires that we "consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement." 19 U.S.C. § 1675a(6). Commerce conducted an expedited five-year review with respect to the countervailing duty order on subject imports from Italy. In its decision memorandum, Commerce identified one program that it characterized as falling under Article 3.1 of the WTO Subsidies Agreement: Export Restitution Payments. Commerce also stated that there were several programs that could fall within the meaning of Article 6.1 of the WTO Subsidies Agreement, but there was insufficient information on the record of the review for it to make such a determination. Department of Commerce memorandum dated December 28, 2012 from Gary Taverman to Lynn Fischer Fox, at 12-17 (EDIS Document No. 514785).

<sup>135</sup> CR at IV-21; PR at IV-17.

<sup>136</sup> CR/PR at Table IV-10.

<sup>137</sup> CR/PR at Table IV-10.

<sup>138</sup> CR at IV-29, IV-34; PR at IV-21, IV-26.

<sup>139</sup> Commerce conducted an expedited five-year review with respect to the countervailing duty order on subject imports from Turkey. In its decision memorandum, Commerce identified several programs that fall under Article 3 of the WTO Subsidies Agreement: (1) Pre-Shipment Export Loans; (2) Pasta Export Grants; (3) Deduction from Taxable Income for Export Revenue; (4) Export Subsidy Program for Agricultural Products; and (5) VAT Support Program. Commerce also stated that there were several programs that could fall within the meaning of Article 6.1 of the WTO Subsidies Agreement, but there was insufficient information on the record of the review for it to make such a determination. Department of Commerce memorandum dated December 28, 2012 from Gary Taverman to Lynn Fischer Fox, at 9-10 (EDIS Document No. 514785).

Nonsubject imports accounted for between \*\*\* percent and \*\*\* percent of apparent U.S. consumption during the period of review.<sup>140</sup> Apart from nonsubject imports from Italy,<sup>141</sup> Mexico was the largest source of nonsubject imports during the period of review, increasing from 79.1 million pounds in 2008 to 113.8 million pounds in 2012.<sup>142</sup>

### **c. Substitutability**

Based on the factors discussed in section III.C above, we find a moderate degree of substitutability between the domestic like product and subject imports from Italy and Turkey. In questionnaire responses, a majority of responding purchasers found U.S. and Italian product to be “comparable” on 14 out of 15 factors, including price, product consistency, product range, quality meeting industry standards, and quality exceeding industry standards.<sup>143</sup> Although there is limited questionnaire data regarding subject imports from Turkey, subject Italian and Turkish pasta producers use the same equipment, raw materials and production methods as U.S. pasta producers.<sup>144</sup>

We also find that price is an important factor in the U.S. market for pasta. Sixteen of eighteen purchasers stated that price was “very important” in making a purchasing decision.<sup>145</sup> More purchasers reported “price/cost” among their top three factors used in making pasta purchasing decisions than any other factor.<sup>146</sup> As in the original investigations, we find that

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<sup>140</sup> CR/PR at Tables I-1 and I-11.

<sup>141</sup> During the period of review, nonsubject imports from Italy ranged from a low of \*\*\* pounds in 2008 to a high of \*\*\* pounds in 2012. Nonsubject imports from Italy accounted for \*\*\* percent of apparent U.S. consumption in 2012. CR/PR at Table I-1. Contrary to Italian Respondents’ contentions, these nonsubject imports did not reflect subject pasta coming from Italian producers no longer subject to the orders after partial revocation of the antidumping duty order, since all these producers were still subject to the countervailing duty order. Instead, these nonsubject imports appear to be out-of-scope merchandise corresponding to the Commission’s like product definition but excluded from Commerce’s scope (*e.g.*, bulk merchandise, egg pasta, organic pasta, gluten-free pasta). See CR/PR at Table IV-1 and accompanying notes. Accordingly, contrary to Italian Respondents’ contentions, we do not find the current behavior of Italian producers of nonsubject pasta to be particularly probative as to the behavior of subject imports from Italy if the orders were revoked. Italian Respondents’ Prehearing Brief at 11-14; Hearing Tr. at 14-15 (Silverman). During the period of review, nonsubject imports from Turkey ranged from a high of \*\*\* pounds in 2007 to a low of \*\*\* pounds in 2008 and were \*\*\* pounds in 2012. Nonsubject imports from Turkey accounted for \*\*\* percent of apparent U.S. consumption in 2012. CR/PR at Table I-1.

<sup>142</sup> CR/PR at Table IV-1.

<sup>143</sup> CR/PR at Table II-8.

<sup>144</sup> Hearing Tr. at 23-24 (Hasper); 32 (Faucett); 36-37 (George).

<sup>145</sup> CR/PR at Table II-6.

<sup>146</sup> CR/PR at Table II-5.

price promotions are very important in the retail sector of the U.S. market for pasta.<sup>147</sup> Accordingly, we find that subject imports compete with the domestic like product primarily on the basis of price and that the U.S. pasta market is by and large a commodity market.

#### **d. Other Conditions**

Pasta is sold in the United States under many different brand names. Some producers sell the same product in different geographic regions under different brand names; Barilla is the only nationally-marketed brand.<sup>148</sup> Many producers also sell their product in the increasingly significant private label market, in which product is sold under the name of another firm (such as a supermarket or other retailer). This market has lower margins and lower regular (non-promotional) prices than the branded market.<sup>149</sup> A majority of producers, importers and purchasers indicated that brand influences the price of dry pasta, but many domestic producers reported that the influence of branding is limited and that price promotions quickly override any brand loyalties for the majority of consumers.<sup>150</sup>

U.S. producers reported selling the majority of their shipments (60.5 percent of U.S. commercial shipments) in the spot market in 2012.<sup>151</sup> Italian producers reported selling 58.0 percent of their U.S. shipments under long-term contracts and 40.7 percent under short-term contracts.<sup>152</sup> Turkish producers reported selling 92.7 percent of their U.S. shipments by spot sales;<sup>153</sup> however, U.S. importers of product from Turkey reported that 84.0 percent of their U.S. shipments were sold under short-term contracts.<sup>154</sup>

A number of purchasers require that the pasta product they purchase be certified, although several purchasers do not require certification. Purchasers requiring certification may consider a number of factors, including production process and facilities, quality, price, reliability and liability insurance.<sup>155</sup> A majority of purchasers reported that the time to qualify a new supplier ranged from 30 to 180 days, but one large purchaser, \*\*\*, reported that it could be done in one day.<sup>156</sup> More than two-thirds of responding purchasers reported that no

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<sup>147</sup> Price promotions are sometimes part of the negotiations between the seller and the retailer, but also affect the price the customer pays at the retail level. Retailers typically have price promotions on pasta in 44 out of 52 weeks a year. Hearing Tr. at 34-35 (George); 74, 77-78 (Faucett); 79 (Hasper); Domestic Producers' Prehearing Brief at Exh. 7, paragraph 7 (declaration of Walt George of AIPC); CR at V-15; PR at V-9.

<sup>148</sup> CR at II-3; PR at II-2.

<sup>149</sup> CR at II-3 to II-4; PR at II-2; see Hearing Tr. at 27 (Hasper).

<sup>150</sup> CR at II-3 to II-5; PR at II-3; Hearing Tr. at 77-78 (Faucett); 78 (George); 79 (Hasper); 79-80 (Bryant).

<sup>151</sup> CR/PR at Table V-2.

<sup>152</sup> CR/PR at Table V-3.

<sup>153</sup> CR/PR at Table V-3.

<sup>154</sup> CR/PR at Table V-2.

<sup>155</sup> CR at II-31; PR at II-19 to II-20.

<sup>156</sup> CR at II-31; PR at II-19 to II-20.

domestic or foreign supplier had failed in an attempt to qualify product or had lost its approved status since 2007, although several purchasers reported not qualifying certain Italian or domestic suppliers, and, \*\*\*.<sup>157</sup>

Product placement and shelf space can be important factors in retail sales of dry pasta. Some retail grocery stores charge the manufacturer or distributor a “slotting fee” in exchange for shelf space or general representation.<sup>158</sup> Slotting fees are generally negotiable, and retailers may not require slotting fees for very low-priced pasta.<sup>159</sup> Slotting fees are generally not paid in the food service channel or in private label sales and are not used by value stores or by many mass merchants.<sup>160</sup> Because many purchasers either charge slotting fees or require price concessions for not charging them,<sup>161</sup> slotting fees are in effect a part of the price for pasta, reinforcing our finding that price is very important at the first level of trade.

Raw material costs are the largest portion of the domestic industry’s cost of goods sold, ranging from a low of 65.9 percent in 2007 to a high of 76.4 percent in 2008, and were 74.1 percent in 2012.<sup>162</sup> The primary component of raw material cost is durum wheat semolina. Durum wheat prices are highly volatile, and there is no futures market or other mechanism through which domestic producers can hedge durum wheat prices.<sup>163</sup> During the period of review, there were significant fluctuations in durum wheat prices. They rose sharply throughout 2007, peaked in 2008, declined between 2008 and 2010, and increased between 2010 and 2012.<sup>164</sup> Durum wheat prices are affected by, among other things, the weather and farmers’ decisions to plant other crops, such as corn for ethanol production.<sup>165</sup> Durum wheat raw material costs for pasta producers are expected to increase because durum wheat plantings were down significantly in 2013 due to wet weather conditions, and durum wheat production in 2013 is projected by the U.S. Department of Agriculture (USDA) to be about 30 percent lower than in 2012.<sup>166</sup>

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<sup>157</sup> CR at II-32; PR at II-19.

<sup>158</sup> CR at V-10; PR at V-7.

<sup>159</sup> Hearing Tr. at 108 (Faucett); 246-247 (DiPietro); Domestic Producers’ Posthearing Brief at Exh. 6 (declaration of Shane Faucett of New World); CR at V-10 to V-13; PR at V-7 to V-9.

<sup>160</sup> Hearing Tr. at 74-75, 104-105 (George); Domestic Producers’ Posthearing Brief at Exh. 6, paragraph 3 (declaration of Shane Faucett of New World); CR at V-10 to V-13; PR at V-7 to V-9.

<sup>161</sup> CR at V-11; PR at V-7; Hearing Tr. at 105 (Hasper); 247 (DiPietro).

<sup>162</sup> CR/PR at Table III-7.

<sup>163</sup> CR at V-1 to V-2; PR at V-1 to V-2; CR/PR at Figure V-1; Hearing Tr. at 24-27 (Hasper); 59 (George).

<sup>164</sup> CR at III-3, III-23; PR at III-2, III-14; Hearing Tr. at 24 (Hasper); Domestic Producers’ Prehearing Brief at Exh. 19 (USDA report).

<sup>165</sup> Hearing Tr. at 24-25 (Hasper); Domestic Producers’ Prehearing Brief at Exh. 24 (*Wall Street Journal* article).

<sup>166</sup> Hearing Tr. at 96-98 (Hasper); 139 (Faucett); Domestic Producers’ Posthearing Brief at Exh. 5, paragraph 3 (declaration of Jack Hasper of Dakota Growers); and Exh. 16 (USDA report); Domestic Producers’ Prehearing Brief at Exh. 20 (USDA report); letter from Douglas Opland of the U.S. Durum Growers Association to the Commission (EDIS Document No. 513022).

**C. Revocation of the Antidumping and Countervailing Duty Orders Is Likely to Lead to the Continuation or Recurrence of Material Injury to the Domestic Industry within a Reasonably Foreseeable Time**

**1. Likely Volume of Subject Imports**

**a. Original Investigations and First and Second Five-Year Reviews**

In the original investigations, the Commission found that the quantity of cumulated subject imports increased steadily from 262.8 million pounds to 379.5 million pounds between 1993 and 1995, while the share of U.S. consumption held by cumulated subject imports increased from 9.3 percent in 1993 to 12.2 percent in 1995. The Commission found that the increase in subject import market share came at the expense of the domestic industry, whose market share declined from 87.0 percent in 1993 to 83.5 percent in 1995. The Commission also noted that the rate of increase in subject import volumes far exceeded the rate of increase in apparent U.S. consumption.<sup>167</sup>

In the first five-year reviews, the Commission found that cumulated subject imports were 418.3 million pounds in 1998, 347.4 million pounds in 1999, and 312.2 million pounds in 2000. The Commission found that there was a significant decline in the volume of subject imports from Turkey after the imposition of the orders, but subject imports from Italy did not decline until after the conclusion of a Commerce anticircumvention inquiry in 1998. Based on the facts available, the Commission found that the volume of subject imports would likely be significant if the orders were revoked given the large capacity for the production of pasta in Italy and Turkey, the continued commitment of Italian exporters to the U.S. market, and the decline in Turkish exports to other markets.<sup>168</sup>

In the second five-year reviews, the Commission found that Italian producers significantly increased production during the period of review. Subject imports from Italy maintained a significant presence in the U.S. market throughout the period of review despite the orders. Italian producers' average unit values for Italian subject exports to the United States were significantly higher than those for exports to the three largest export markets for pasta in Europe, suggesting that the United States would be an especially attractive market if the orders were revoked. The Commission noted that while subject imports from Turkey declined over the period, Turkish pasta exports increased significantly and Turkish capacity utilization decreased from \*\*\* percent in 2004 to \*\*\* percent in 2006. The Commission found that the Turkish industry was highly export oriented and that the United States remained a very attractive market for Turkish pasta exporters. It further found that Italian and Turkish producers would have an incentive to ship significant volumes of additional exports to the United States in the event of revocation based on (1) the substantial volume of subject imports

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<sup>167</sup> *Original Determinations*, USITC Pub. 2977, at 25.

<sup>168</sup> *First Reviews*, USITC Pub. 3462, at 15-16.

during the original investigations and gains in market share for subject imports; (2) the size and export orientation of both industries; (3) the importance of the U.S. market to both industries; and (4) the fact that there had been substantial volumes of subject imports in the U.S. market during the period of review notwithstanding the restraining effects of the orders.<sup>169</sup>

## **b. The Current Reviews**

We find that cumulated subject imports from Italy and Turkey would likely be significant and increase significantly from current levels after revocation of the orders. As further discussed below, we find that subject producers in Italy and Turkey have both the means and the incentive to increase exports to the U.S. market significantly after revocation.

Since imposition of the orders, cumulated subject imports from Italy and Turkey have maintained a significant, continuous presence in the U.S. market, including during the period examined in these reviews. Cumulated subject import volume ranged between a low of \*\*\* pounds in 2008 and a high of \*\*\* pounds in 2007, and was \*\*\* pounds in 2012.<sup>170</sup> As a share of apparent U.S. consumption, cumulated subject imports ranged between a low of \*\*\* percent in 2008 and a high of \*\*\* percent in 2007, and were \*\*\* percent in 2012.<sup>171</sup> Thus, subject producers in Italy and Turkey have demonstrated a continued interest in serving the U.S. market and maintaining ongoing relationships with U.S. customers.

Subject producers in Italy and Turkey are also export oriented and possess significant excess capacity and inventories with which they could significantly increase exports to the United States. As previously noted, Italy and Turkey are the two largest pasta exporting countries in the world. Their cumulated export volume increased from \*\*\* pounds in 2007 to \*\*\* pounds in 2012.<sup>172</sup> Moreover, their cumulated export volume grew more rapidly than their cumulated home market shipments, which increased from 1.6 million pounds in 2007 to 1.9 billion pounds in 2012.<sup>173</sup>

The cumulated production capacity of subject producers is substantial and increased during the period of review from 3.8 billion pounds in 2007 to 4.9 billion pounds in 2012.<sup>174</sup> Cumulated unused production capacity during the period of review ranged from a low of 687.3 million pounds in 2009 to a high of 763.1 million pounds in 2011, and was 724.9 million pounds in 2012.<sup>175</sup> Cumulated unused capacity was equivalent to approximately 23 percent of apparent U.S. consumption in 2012.

Foreign producers' cumulated inventories of subject merchandise, after declining earlier in the period of review, increased toward the end of the period from 206.3 million pounds in

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<sup>169</sup> *Second Reviews*, USITC Pub. 3947, at 19-21.

<sup>170</sup> CR/PR at Table I-1.

<sup>171</sup> CR/PR at Table I-1.

<sup>172</sup> CR/PR at Table IV-12.

<sup>173</sup> CR/PR at Table IV-12.

<sup>174</sup> CR/PR at Table IV-12.

<sup>175</sup> CR/PR at Table IV-12.



2011 to 233.5 million pounds in 2012, and were 241.3 million pounds in interim 2012 and 243.5 million pounds in interim 2013. Cumulated inventories of subject merchandise were equivalent to approximately 7.5 percent of apparent U.S. consumption in 2012.<sup>176 177</sup>

We find it likely that subject Italian and Turkish producers would use their excess capacity and inventories to increase exports to the United States significantly after revocation, as they did during the original investigations. Producers have the incentive to maximize production,<sup>178</sup> and the United States is the world's largest market for pasta.<sup>179</sup> In addition, both Italian and Turkish producers maintained a presence in the U.S. market during the review period, which demonstrates a continued interest in the market. Thus, we find that revocation of the orders would likely result in significant volumes of subject imports.<sup>180 181</sup>

We are unpersuaded by the Turkish Respondents' argument that various factors (including USDA Buy American provisions and vitamin-enrichment requirements and purchaser certification requirements) would prevent subject imports from Turkey from competing in large sections of the U.S. market.<sup>182</sup> With respect to U.S. origin requirements for the institutional segment, we note that Turkish producers were able to ship subject pasta to U.S. institutional

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<sup>176</sup> The record contains limited information on the potential for product shifting by subject producers in Italy and Turkey, and we have not relied on product shifting as a basis for our finding of significant likely import volume. CR at IV-16, IV-24; PR at IV-13, IV-18.

<sup>177</sup> Commissioner Pearson does not join this paragraph. He finds the record suggests that inventories have been relatively stable and are at reasonable commercial levels. Thus, they are not likely to lead to significant volumes of subject imports after revocation.

<sup>178</sup> See Hearing Tr. at 87, 129-130 (Faucett). 88-89 (Fox).

<sup>179</sup> See, e.g., Domestic Producers' Prehearing Brief at Exh. 5, at 140 (International Pasta Organization data); Hearing Tr. at 84 (Faucett).

<sup>180</sup> We recognize that Italian Respondents have provided evidence that a number of Italian producers are parties to long-term contracts with purchasers of their pasta production and that they have long-term relationships with many of these customers. Italian Respondents' Posthearing Brief at Exh. 3. These producers, however, represent a small fraction of the Italian industry, and we cannot assume that the same relationships exist for all Italian producers. Moreover, in light of the huge cumulated excess capacity of subject producers in Italy and Turkey, we find that subject producers could significantly increase their exports to the United States without diverting shipments to the United States from other markets. We do not, however, find persuasive Domestic Producers' claim that the export markets that Turkish producers have developed in some developing countries are imperiled by the emergence of pasta industries in the developing world. See Domestic Producers' Prehearing Brief at 28. The record contains little to no information about supply and demand conditions in those markets.

<sup>181</sup> As to barriers to the importation of the subject merchandise into other countries, we note that Turkish pasta exports are subject to a tariff rate quota in the European Union, and Turkey exceeded its quota of 20,000 metric tons for the first time in 2012. See Turkish Respondents' Prehearing Brief at 18.

<sup>182</sup> Turkey supplied information as to USDA procurement provisions with Buy American restrictions and vitamin enrichment requirements. Turkish Respondents' Posthearing Brief at Exh. 1, pages 7-10 (response to Commissioner Aranoff); Exh. 12 (USDA materials); Exh. 13 (USDA document).

buyers during the period of review.<sup>183</sup> This demonstrates that any U.S. origin requirements do not prohibit import competition in this segment of the market. In addition, most purchasers reported that buying U.S.-produced product was not an important factor in their purchasing decisions.<sup>184</sup> With respect to vitamin enrichment, not all state governments have vitamin-enrichment requirements.<sup>185</sup> As previously noted, some purchasers do not require certification, two-thirds of responding purchasers reported that no supplier had failed in attempting to qualify its product, and the time to qualify for certification – which can range from one day to 180 days, but is often closer to 30 days -- is in any event well within the reasonably foreseeable time period that the Commission considers in a five-year review.<sup>186</sup> Finally, Turkish Respondents' contention that Turkish producers' lack of brand recognition would prevent them from accessing the U.S. market is belied by evidence that there are significant sectors of the market where brand recognition is irrelevant, such as in the private label and restaurant segments.<sup>187</sup> Moreover, none of these factors prevented subject imports from Turkey from accessing the U.S. market, including the retail grocery sector, during the original investigations.

The record also does not support respondents' argument that Barilla America would not oppose continuation of the orders if revocation would likely result in large volumes of subject imports that could injure its U.S. operations. Barilla America's representative stated that Barilla America and its Italian and Turkish affiliates operate as independent business units.<sup>188</sup> Barilla America provided no evidence of having a coordinated company policy that would allow it to manage or limit subject imports from its Italian parent or Turkish affiliate so as not to injure its U.S. operations while maximizing its profits on a global basis. Moreover, Barilla America's imports from its Italian parent only accounted for \*\*\* percent of subject imports from Italy in 2012,<sup>189</sup> and Barilla America would have no control over imports from other subject producers in Italy or Turkey.<sup>190</sup>

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<sup>183</sup> CR/PR at Table I-1.

<sup>184</sup> CR at II-33; PR at II-20.

<sup>185</sup> CR at I-30 to I-31; PR at II-2; Domestic Producers' Posthearing Brief at Exh. 6, Paragraph 9 (Declaration of Shane Faucett of New World).

<sup>186</sup> CR at II-31 to II-32; PR at II-19.

<sup>187</sup> CR at II-3; PR at II-2; Domestic Producers' Posthearing Brief at Exh. 6, paragraph 8 (Declaration of Shane Faucett of New World).

<sup>188</sup> Hearing Tr. at 178-179, 230 (Tendick). Barilla America is unlike Arcelor Mittal USA, which provided evidence in various Commission proceedings of a coordinated company policy through which it exercised a veto power over imports from foreign affiliates and ensured that such imports would not cause injury to its operations. *Hot-Rolled Steel Products from Kazakhstan, Romania, and South Africa*, Investigation Nos. 701-TA-407 and 731-TA-902, 904, 905 (Review)(Remand), USITC Pub. 4088 (July 2009), at 17.

<sup>189</sup> CR/PR at Table I-9.

<sup>190</sup> Commissioner Pearson notes that Barilla provided data on its operations in Italy relatively late in this review process and did not provide information on its operations in Turkey despite direct requests

(continued...)

In addition, we are also unpersuaded by the Italian Respondents' argument that slotting fees charged to manufacturers by some retailers for shelf space benefit the largest U.S. producers and would likely prevent subject imports from increasing their penetration of the U.S. market. We note that significant volumes of subject imports from Italy at competitive prices have been present in the U.S. market, including the retail sector, throughout the period of review, despite the existence of slotting fees.<sup>191</sup> Moreover, the record shows that slotting fees are generally negotiable and that retailers may not require slotting fees for very low-priced pasta.<sup>192</sup> Slotting fees are generally not paid in the food service channel or in private label sales and are not used by value stores or by many mass merchants.<sup>193</sup> Thus, we do not find that the existence of slotting fees would prevent a significant increase in cumulated subject import volumes if the orders were revoked.

Finally, we are unconvinced by respondents' argument that exports to Canada by subject producers in Italy and Turkey provide a "proxy" for how subject imports would behave in the event of revocation.<sup>194</sup> Canada is a much smaller pasta market than the United States, at around ten percent of the size of the U.S. market, and transportation costs may be a more significant factor in serving the Canadian market.<sup>195</sup> Moreover, there is no information in the record on the effect of Canadian pasta imports from Italy and Turkey on the Canadian pasta industry. Thus, we do not find that exports to Canada by subject producers provide a useful proxy for what their exports to the U.S. market would likely be in the event of revocation.

Given the significant and growing presence of subject imports in the U.S. market during the original investigations, subject producers' strong export orientation and significant cumulated unused production capacity and inventories of subject merchandise, and the attractiveness of the large U.S. market to pasta exporters, we find that the volume of subject imports, both in absolute terms and relative to production and consumption in the United States, would likely be significant if the orders were revoked.

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(...continued)

to do so. He does not take any adverse inferences based on this but finds it curious that Barilla, with a U.S. corporate interest in revoking the order and corollary interests in both subject countries, was not able to respond more fully to these requests. A more forthcoming response may have helped increase the Commission's understanding of the industry in Turkey.

<sup>191</sup> CR/PR at Table I-1.

<sup>192</sup> Hearing Tr. at 108 (Faucett); 246-247 (DiPietro); Domestic Producers' Posthearing Brief at Exh. 6 (declaration of Shane Faucett of New World); CR at V-10 to V-13; PR at V-7 to V-8.

<sup>193</sup> Hearing Tr. at 74-75, 104-105 (George); Domestic Producers' Posthearing Brief at Exh. 6, paragraph 3 (Declaration of Shane Faucett of New World).

<sup>194</sup> Turkish Respondents' Prehearing Brief at 16; Italian Respondents' Posthearing Brief at 5-6.

<sup>195</sup> Domestic Producers' Posthearing Brief at Exh. 4, paragraph 6 (affirmation of Walt George of AIPC, with attached table regarding the Canadian market) and Exh. 18 (Canadian import data).

## **2. Likely Price Effects**

### **a. The Original Investigations and Prior Five-Year Reviews**

In the original investigations, the Commission found that, despite some perceived quality differences, the subject imports and domestic like product were substitutable to a significant degree because of their common end use. The Commission observed that the domestic producers had traditionally employed a “three-tiered” pricing structure, with the first tier consisting of popular forms, such as spaghetti and elbows, and the other two tiers consisting of lower volume products sold at higher per unit prices. The Commission found that the importers of subject merchandise were undermining the pricing structure by “line pricing,” using the same prices per pound for different cuts of pasta. The Commission found that prices for the domestic product rose somewhat during the period, but the domestic industry was not able to raise its prices sufficiently to cover the increase in its raw materials and its selling, general and administrative costs, due in significant degree to the subject imports. The Commission also found underselling by subject imports from Italy notwithstanding their perceived higher quality. With respect to subject imports from Turkey, the Commission found pervasive underselling. It concluded that subject imports had undersold the domestic like product and suppressed domestic prices to a significant degree.<sup>196</sup>

The Commission found that the limited record in the first five-year reviews showed a decline in the average unit values (“AUVs”) for the subject imports from both Italy and Turkey despite the existence of the orders, while the AUVs of nonsubject imports of dry pasta remained relatively stable. The Commission concluded that if the orders were revoked, the subject imports would be likely to undersell the domestic like product significantly to gain market share, and depress and suppress domestic prices, given the likely significant volume of imports, the substitutability of the subject imports and domestic pasta, the significant underselling by the subject imports in the original investigations, and the continuing decline in the AUVs of subject imports.<sup>197</sup>

In the second five-year reviews, the Commission found that, after quality considerations, price continued to be the most important factor for a majority of purchasers and that subject imports were generally substitutable with the domestic like product. The Commission found that subject imports continued to undersell the domestic like product over the period of review even with the orders in place and that the margins of underselling were substantial in the case of subject imports from Turkey. The Commission found that U.S. producers had higher unit values for their sales in 2005 and 2006 due in part to their ability to pass through their increased costs for transportation and durum wheat to their customers. The Commission found that, if the orders were revoked, high and rising costs for the U.S. industry would exacerbate the adverse price effects resulting from increased volumes of low-priced

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<sup>196</sup> *Original Determinations*, USITC Pub. 2977, at 25-28.

<sup>197</sup> *First Reviews*, USITC Pub. 3462, at 17.

cumulated subject imports. The Commission concluded that, if the orders were revoked, subject imports from Italy and Turkey would likely undersell the domestic like product to a significant degree, significantly depressing and suppressing domestic prices.<sup>198</sup>

## **b. The Current Reviews**

We find that the cumulated subject imports from Italy and Turkey would likely undersell the domestic like product to a significant degree after revocation, thereby depressing and suppressing domestic like product prices to a significant degree. We conduct our analysis of likely price effects in light of our finding that there is a moderate degree of interchangeability between subject imports from Italy and Turkey and the domestic like product, and that price is an important factor in the U.S. market, as detailed in sections III.C. and IV.B.2.c. above.

The Commission found significant underselling by cumulated subject imports in the original investigations, in 99 out of 122 quarterly comparisons.<sup>199</sup> The pricing data in these reviews show underselling by cumulated subject imports in 143 out of 258 quarterly comparisons, by an average margin of 28.4 percent.<sup>200</sup> The record shows that subject imports successfully competed head-to-head with the domestic like product on the basis of price to obtain particular sales during the period of review.<sup>201</sup> Given the importance of price and the pattern of underselling by cumulated subject imports in the original investigations and during the current period of review, we find that it is likely that cumulated subject imports will significantly undersell the domestic like product in the event of revocation as a means of increasing their penetration of the U.S. market.

In the original investigations, the Commission found that, due to subject import competition, the domestic industry was not able to raise its prices sufficiently to cover the increase in its raw material and selling, general and administrative costs and concluded that subject imports had suppressed domestic prices to a significant degree. Here, the domestic industry is expected to face higher durum wheat costs in the near future, so significant volumes of low-priced subject imports again would likely constrain the domestic industry's ability to raise prices to cover increased costs. Hence, we conclude that the significant underselling by subject imports that is likely after revocation would likely have a significant adverse effect on domestic like product prices, as it did in the original investigations.

We are not persuaded by Italian Respondents' contention that the Commission's pricing data show no correlation between the prices charged by producers and the volumes sold and a wide disparity among the prices charged by different domestic producers.<sup>202</sup> We note that

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<sup>198</sup> *Second Reviews*, USITC Pub. 3947, at 22-23.

<sup>199</sup> *Original Determinations*, USITC Pub. 2977, at 27.

<sup>200</sup> CR/PR at Table V-14.

<sup>201</sup> Domestic Producers' Prehearing Brief at Exh. 9, paragraphs 5-7 (declaration of Scott Mekus of AIPC); Domestic Producers' Posthearing Brief at Exh. 4, paragraph 4 (declaration of Walt George of AIPC).

<sup>202</sup> Italian Respondents' Prehearing Brief at 27-33.

increased underselling margins for subject imports from Italy coincided with increased sales volumes to distributors.<sup>203</sup> Moreover, some of the apparent differences between prices for individual domestic producers highlighted by Italian Respondents are not reflected in the final pricing data used in the Staff Report, which show that \*\*\*.<sup>204</sup>

Furthermore, evidence that different domestic producers reported different AUVs over the period of review does not indicate that these producers were not competing on the basis of price, since the producers reportedly had different business profiles. For example, \*\*\*.<sup>205</sup> By contrast, \*\*\*.<sup>205</sup>

### **3. Likely Impact<sup>206</sup>**

#### **a. The Original Investigations and Prior Five-Year Reviews**

In the original investigations, the Commission found that increasing volumes of subject imports suppressed prices of domestic pasta. As a result, the domestic industry was unable to raise prices to cover increasing costs. The domestic industry also lost market share despite the growing demand for pasta in the United States. The Commission concluded that subject

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<sup>203</sup> See CR/PR at Tables V-8, V-9, and V-10.

<sup>204</sup> See Domestic Producers' Posthearing Brief at Exh. 1, pages 45-47 (response to Commissioner Aranoff) and Exh. 19 (materials regarding Dreamfields Pasta). We note that the Commission's pricing data with respect to \*\*\* represented only a small share of its total sales during the period of review and may not be representative of its overall product mix. While six of the eight Commission pricing products were for branded product, a \*\*\* of \*\*\* sales were in the lower-price private label market. CR at II-3, V-17; PR at II-2, V-10; Hearing Tr. at 27 (Hasper).

<sup>205</sup> CR/PR at Table III-8; CR at III-16 n.20, III-21 n.23; PR at III-17 n.20, III-17 n.23.

<sup>206</sup> Commerce conducted expedited five-year reviews of all orders at issue. With respect to the antidumping duty order on subject imports from Italy, it found likely dumping margins of 20.84 percent for Arrighi S.p.A. Industrie Alimentari and affiliate Italtasta S.p.A.; 14.78 percent for La Molisana Industrie Alimentari S.p.A.; 12.14 percent for Ligouri Pastificio Dal S.p.A.; 18.23 percent for Pastificio Fratelli Pagani S.p.A.; and an all others rate of 16.51 percent. 78 Fed. Reg. 2368 (January 11, 2013).

With respect to the antidumping duty order on subject imports from Turkey, it found likely dumping margins of 63.29 percent for Filiz Gida Sanayi ve Ticaret A.S.; 60.87 percent for Maktas Makarnacilik ve Ticaret T.A.S.; and an all others rate of 60.87 percent. 78 Fed. Reg. 2368 (January 11, 2013).

With respect to the countervailing duty order on subject imports from Italy, it found likely net countervailable subsidy rates for sixteen Italian subject manufacturers/exporters/producers ranging from 5.22 percent to 13.58 percent and an all others rate of 7.39 percent. 78 Fed. Reg. 693 (January 4, 2013).

With respect to the countervailing duty order on subject imports from Turkey, it found likely net countervailable subsidy rates of 1.63 percent for Filiz Gida Sanayi ve Ticaret; 13.09 percent for Maktas Makarnacilik ve Ticaret/Gidas Gida San.Tic.A.S.; 13.08 percent for Oba Makarnacilik Sanayi ve Ticaret; and an all others rate of 8.85 percent. 78 Fed. Reg. 692 (January 4, 2013). 78 Fed. Reg. 692 (January 4, 2013).

imports had a significant adverse impact on the domestic industry's financial performance, resulting in operating losses at the end of the period of investigation.<sup>207</sup>

In the first five-year reviews, there was limited information available concerning the condition of the domestic industry. The Commission found the industry's capacity and production had increased since the original investigations, while the AUVs of domestic shipments had fallen and other information suggested the domestic industry was experiencing some difficulties. Given the limited growth in demand and likely significant underselling by the subject imports, the Commission found that the likely significant increase in low-priced subject imports would likely have a significant adverse impact on the domestic industry after revocation.<sup>208</sup>

In the second five-year reviews, the Commission found that the domestic industry demonstrated moderate improvements in its revenues, shipments and sales during 2005 and 2006, due to increasing demand for pasta and the ability of the domestic industry to recoup increasing costs for transportation and durum wheat through higher prices. The Commission did not find the industry to be vulnerable given its profitability in 2005 and 2006 and its ability to pass through its increased raw materials costs to purchasers during those years. Nevertheless, the Commission found that the likely significant volume of low-priced subject imports and the likely adverse price effects of those imports would likely have a significant adverse impact on the domestic industry.<sup>209</sup>

## **b. The Current Reviews**

The domestic industry generally performed well during the period of review, although a number of performance indicators increased from 2007 to a peak in 2010, before declining somewhat in 2011 and 2012.

Production capacity increased from 2.8 billion pounds in 2007 to 3.2 billion pounds in 2012.<sup>210</sup> Production increased from 2.3 billion pounds in 2007 to 2.5 billion pounds in 2012.<sup>211</sup> Capacity utilization increased from 83.1 percent in 2007 to 86.0 percent in 2009, but then declined in each of the next three years, reaching 76.8 percent in 2012.<sup>212</sup>

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<sup>207</sup> *Original Determinations*, USITC Pub. 2977, at 29-30.

<sup>208</sup> *First Reviews*, USITC Pub. 3462, at 17-18.

<sup>209</sup> *Second Reviews*, USITC Pub. 3947, at 23-26.

<sup>210</sup> CR/PR at I-1.

<sup>211</sup> CR/PR at I-1.

<sup>212</sup> CR/PR at I-1. Contrary to respondents' arguments, we find that the domestic industry's reported production capacity was reliable and that domestic producers reasonably explained how they calculated their reported numbers, including factoring in downtime for maintenance. CR/PR at Table III-3; see Domestic Producers' Posthearing Brief at 14; Exh. 4, paragraph 9 (declaration of Walt George of AIPC); and Exh. 5, paragraph 9 (declaration of Jack Hasper of Dakota Growers).

Employment increased throughout the period from 2,034 production-related workers in 2007 to 2,153 production-related workers in 2012.<sup>213</sup> Hours worked increased throughout the period from 4.6 million hours in 2007 to 4.9 million hours in 2012.<sup>214</sup> Wages paid increased from \$91.1 million in 2007 to a high of \$110.2 million in 2011, and then declined slightly in 2012 to \$108.0 million.<sup>215</sup> Productivity increased from 507.7 pounds per hour in 2007 to a high of 533.0 pounds per hour in 2010, and was 511.1 pounds per hour in 2012.

Net sales increased from 2.3 billion pounds in 2007 to 2.5 billion pounds in 2012.<sup>216</sup> U.S. shipments increased from 2.3 billion pounds in 2007 to a high of 2.6 billion pounds in 2010, and then declined somewhat in 2011 and 2012, reaching 2.4 billion pounds in 2012.<sup>217</sup> The domestic industry's share of apparent U.S. consumption increased from 79.4 percent in 2007 to a high of 82.0 percent in 2009, but declined to a low of 78.6 percent in 2012.<sup>218</sup>

Net sales value increased irregularly during the period from \$1.2 billion in 2007 to a high of \$1.9 billion in 2012.<sup>219</sup> Operating income ranged from a low of \$93.6 million in 2007 to a high of \$372.5 million in 2010, and was \$271.5 million in 2012.<sup>220</sup> The industry's operating income margin increased from 7.9 percent in 2007 to a high of 22.1 percent in 2010, and was 14.5 percent in 2012. Based on these performance indicators, we do not find the domestic industry to be in a vulnerable condition.<sup>221</sup>

As addressed above, however, we have found that revocation of the orders on subject imports from Italy and Turkey would likely result in a significant increase in subject import volume that would likely undersell the domestic like product, thereby depressing or suppressing domestic like product prices to a significant degree. We therefore find that the likely volume and price effects of the subject imports would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. These reductions would have a direct adverse impact on the industry's profitability and employment, as well as its ability to raise capital and make and maintain necessary capital

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<sup>213</sup> CR/PR at I-1.

<sup>214</sup> CR/PR at I-1.

<sup>215</sup> CR/PR at I-1.

<sup>216</sup> CR/PR at Table I-1.

<sup>217</sup> CR/PR at Table I-1.

<sup>218</sup> CR/PR at Table I-1.

<sup>219</sup> CR/PR at Table I-1.

<sup>220</sup> CR/PR at Table I-1.

<sup>221</sup> The extent to which the domestic industry's performance during the period of review was attributable to the orders is unclear. We note that representatives of several domestic producers testified that the orders permitted them to make necessary capital investments to modernize their facilities and generally to raise prices when necessary to cover increases in durum wheat raw material costs. Hearing Tr. at 19-20 (Vermylen); 25 (Hasper); 30-31 (Faucett); 142-143 (George). Not only was the domestic industry able to raise prices when its costs increased, it was also generally able to hold the line on prices for extended periods when its raw material costs declined somewhat during the period of review. CR at III-25 and n.33; PR at III-19 and n.33.



investments. We therefore conclude that, if the orders were revoked, subject imports from Italy and Turkey would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

We find additional support in evidence that the relatively small increase in subject import market share during the original period of investigation, when the level of demand was similar to that during the period of review, resulted in a significant decline in the domestic industry's operating income. Subject imports increased their share of the U.S. market from 9.3 percent in 1993 to 12.2 percent in 1995 at the direct expense of the domestic industry, whose market share declined from 87.0 percent in 1993 to 83.5 percent in 1995.<sup>222</sup> As a result, the domestic industry's financial performance declined significantly, with the industry's operating income margin of 9.0 percent in 1993 becoming an operating loss of 1.3 percent in 1995.<sup>223</sup> The Commission found that increasing volumes of low-priced subject imports had suppressed prices of domestic pasta, resulting in the domestic industry's operating losses.<sup>224</sup>

We find that a similar scenario is likely here if the orders were to be revoked. U.S. demand for pasta is projected to be flat for the foreseeable future, so the likely significant increase in subject import volumes that we have found would come at the domestic industry's expense. As previously noted, the domestic industry is likely to experience increasing costs because durum wheat plantings in 2013 were down, and forecasts are for a smaller harvest of durum wheat. Thus, significant volumes of low-priced subject imports would likely prevent the industry from increasing prices sufficiently to cover its increasing costs, which would likely result in a significant decline in the industry's operating income.

We also note that the increased consolidation of retail and food service purchasers since the original investigations has made it easier for subject imports to gain market share at the expense of the domestic industry, in that a relatively small number of purchasing decisions by a few very large purchasers based on price could result in a significant increase in subject import volume.<sup>225</sup>

We are unpersuaded by respondents' arguments that subject imports would not likely have an adverse impact on the domestic industry after revocation. As discussed above, evidence that the leading domestic producers are owned by large multinational corporations does not suggest that they are immune to subject import competition, as respondents claim.<sup>226</sup> The ownership of major domestic producers by multinational companies did not prevent the domestic industry from being materially injured by reason of subject imports in the original investigations.<sup>227</sup>

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<sup>222</sup> CR/PR at Table I-1.

<sup>223</sup> CR/PR at Table I-1.

<sup>224</sup> *Original Determinations*, USITC Pub. 2977, at 29-30.

<sup>225</sup> Hearing Tr. at 90-91 (Fox); 93 (Hasper); 118-119 (Bryant); Domestic Producers' Posthearing Brief at Exh. 6, paragraphs 5-6 (declaration of Jack Hasper of Dakota Growers).

<sup>226</sup> Italian Respondents' Prehearing brief at 8-11; Turkish Respondents' Prehearing Brief at 2-4.

<sup>227</sup> See footnote 128, above. See CR at I-3, I-32; PR at I-2, I-27.

Nor does the record support respondents' argument that an increase in subject imports could have no significant adverse impact on the domestic industry because the industry performed well during the period of review despite its loss of market share to nonsubject imports.<sup>228</sup> The domestic industry's market share in 2012 was only 0.8 percentage points lower than in 2007, and increased nonsubject import competition did not prevent the domestic industry from maintaining its prices while costs declined between 2008 and 2010, yielding higher operating income.<sup>229</sup> By contrast, we have found that subject imports would likely increase their penetration of the U.S. market significantly after revocation by underselling the domestic like product to a significant degree, which would likely have a significant adverse impact on domestic prices and domestic industry operating income.

Finally, we are unconvinced by the Turkish respondents' argument that the declining level of nonsubject imports from Turkey during the period of review indicates that Turkish producers would not significantly increase their exports of subject imports after revocation.<sup>230</sup> Nonsubject imports from Turkey reportedly consist primarily of bulk pasta,<sup>231</sup> and there is little to no evidence in the record as to whether bulk pasta and subject pasta compete under similar or different conditions of competition, and the level of nonsubject imports from Turkey is therefore not predictive of the likely volume of subject imports from Turkey after revocation.

In our analysis of the likely impact of subject imports on the domestic industry, we have taken into account whether there are other factors that likely would affect the domestic industry. The share of the U.S. market held by nonsubject imports increased irregularly during the period of review from \*\*\* percent in 2007 to \*\*\* percent in 2012.<sup>232</sup> The AUVs of nonsubject imports have been comparable to the AUVs of the domestic industry during most of the period of review.<sup>233</sup> As addressed above, increased nonsubject import competition did not prevent the domestic industry from performing well during the period. There is no evidence in the record suggesting that nonsubject foreign producers have the incentive to increase significantly their presence in the U.S. market in the reasonably foreseeable future.

Accordingly, we find that, if the antidumping and countervailing duty orders were revoked, subject imports would likely have a significant adverse impact on the domestic industry, notwithstanding the presence of nonsubject imports in the U.S. market. In sum, we conclude that if the orders were revoked, cumulated subject imports from Italy and Turkey

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<sup>228</sup> See Turkish Respondents' Prehearing Brief at 41.

<sup>229</sup> CR/PR at Tables I-11 and III-7.

<sup>230</sup> See Turkish Respondents' Posthearing Brief at 8. During the period of review, nonsubject imports from Turkey ranged from a high of \*\*\* pounds in 2007 to a low of \*\*\* pounds in 2008, and were \*\*\* pounds in 2012. Nonsubject imports from Turkey accounted for \*\*\* percent of apparent U.S. consumption in 2012. CR/PR at Table I-1.

<sup>231</sup> Turkish Respondents' Posthearing Brief at 8.

<sup>232</sup> CR/PR at Table I-1.

<sup>233</sup> AUVs for nonsubject imports ranged between \*\*\* in 2007 and \*\*\* in 2012, while average sales unit values for domestic producers ranged between \*\*\* in 2007 and \*\*\* in 2012. CR/PR at Table I-1.

would likely lead to the continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

## **V. Conclusion**

For all the foregoing reasons, we determine that revocation of the antidumping and countervailing duty orders on certain pasta from Italy and Turkey would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.



## **Additional and Dissenting Views of Commissioners David S. Johanson and Meredith M. Broadbent**

### **I. Introduction**

Based on the record in these third five-year reviews, we determine, under section 751(c) of the Tariff Act of 1930, as amended,<sup>1</sup> that revocation of the antidumping and countervailing duty orders on certain pasta from Italy would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. We further determine that revocation of the antidumping and countervailing duty orders on certain pasta from Turkey would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

We therefore concur with our colleagues in the determination as to Italy but dissent with respect to Turkey. We perform separate likely injury analyses for subject imports from Italy and Turkey because, unlike our colleagues, we decline to exercise our discretion to cumulate subject imports from the two subject countries, as we find that subject imports from Italy and Turkey would likely compete under different conditions of competition in the U.S. market.

Our views on cumulation and our likely injury analyses of subject imports on a non-cumulated basis follow. Except as otherwise noted, we join the discussion in the majority views of background (section I), domestic like product and domestic industry (section II), legal standards for cumulation and likely injury (sections III and IV.A), and the summaries of findings in the original investigations and prior two reviews on conditions of competition and the business cycle, volume, price, and impact (sections IV.B.1, IV.C.1.a, IV.C.2.a, and IV.C.3.a).

### **II. Cumulation**

#### **A. Prior Proceedings**

In the original investigations, the Commission cumulated subject imports from Italy and Turkey for the purposes of its material injury determinations.<sup>2</sup> However, its finding of a reasonable overlap of competition, both between the domestic like product and the subject imports and among the subject imports, was not unequivocal. The Commission observed that “(t)here are reported differences between U.S. products and Turkish imports that limit this

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<sup>1</sup> 19 U.S.C. § 1675(c).

<sup>2</sup> *Original Determinations*, USITC Pub. 2977, at 19-23. *But see Separate and Dissenting Views of Commissioner Peter S. Watson*. Commissioner Watson did not find a reasonable overlap of competition, placing relatively more weight on a lack of fungibility among pasta produced in the United States, Italy, and Turkey, and therefore declined to cumulate subject imports from Italy and Turkey. *Id.* at 37-42.

fungibility somewhat.”<sup>3</sup> With respect to subject imports from Italy and Turkey, the Commission noted the purchase of both products by certain common retail purchasers, including one that sold the products under the same brand name, but also observed that purchasers reported dry pasta from Italy to be superior to dry pasta from Turkey in terms of quality and product consistency (all purchasers), as well as brand loyalty, country image, and brand image.<sup>4</sup> The Commission found overlapping distribution channels through retail grocery chains and wholesale distributors in the retail market (for U.S.-produced product and subject imports from Italy and Turkey) and food service distributors (for U.S.-produced product and subject imports from Italy).<sup>5</sup> Finally, the Commission found the domestic like product and subject imports to be present simultaneously in the market with “sufficient” overlap (noting that the domestic like product was sold nationwide while the subject imports were sold predominantly in the Northeast and Western coastal states).<sup>6</sup>

In the expedited first reviews, the Commission found that subject imports from both countries would be likely to have a discernible adverse impact on the domestic industry if the orders were revoked. The Commission also found that a reasonable overlap of competition between the subject imports and the domestic like product would be likely if the orders were revoked. The Commission did not find any significant differences in the likely conditions of competition between Italy and Turkey, and therefore exercised its discretion to cumulate imports from both countries.<sup>7</sup>

In the second reviews, the Commission again found that subject imports from each country were not likely to have no discernible adverse impact should the orders be revoked, and that a reasonable overlap of competition between the subject imports and the domestic like product would be likely if the orders were revoked. The Commission also found that subject imports from Italy and Turkey would be likely to compete in the U.S. market under similar conditions of competition. Accordingly, the Commission determined to exercise its discretion to cumulate subject imports from Italy and Turkey.<sup>8</sup>

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<sup>3</sup> *Id.* at 21. The Commission further observed that “(t)hese differences appear to be reflected at least in part in the markedly lower prices of Turkish imports.” *Id.* at 21 n.127.

<sup>4</sup> *Id.* at 21-22. The Commission found purchasers to be “divided” with respect to actual physical quality differences, as 10 of 22 purchasers reported that their customers “do not believe that actual physical quality differences distinguish Italian and Turkish dry pasta.” *Id.* at 22 n.136.

<sup>5</sup> *Id.* at 22.

<sup>6</sup> *Id.* at 23.

<sup>7</sup> *First Reviews*, USITC Pub. 3462, at 6-10.

<sup>8</sup> *Second Reviews*, USITC Pub. 3947, at 11-14.

## B. Likelihood of No Discernible Adverse Impact<sup>9</sup>

Based on the record in these reviews, we do not find that imports from either of the subject countries would likely have no discernible adverse impact on the domestic industry in the event of revocation.

*Italy.* In 1995, the final full calendar year examined by the Commission in the original investigations, the quantity of subject imports of pasta from Italy accounted for 10.4 percent of the U.S. market, up from 9.4 percent in the preceding year and from 7.6 percent in 1993. Subject imports from Italy have maintained a meaningful market presence in the United States since the issuance of the antidumping and countervailing duty orders; from 2000 through 2012, subject imports from Italy have continued to hold more than \*\*\* percent of the U.S. market.<sup>10</sup> In view of the sheer size of the pasta industry in Italy (with estimated production of 7.3 billion pounds in 2012) and its substantial exports of non-egg pasta (valued at nearly \$1.9 billion in 2012),<sup>11</sup> the continued presence and broad acceptance of Italian pasta in the U.S. market,<sup>12</sup> and evidence of lower selling prices in the United States,<sup>13</sup> we cannot conclude that subject imports from Italy would likely have no discernible adverse impact on the domestic industry if the orders were revoked.

*Turkey.* In 1995, the final full calendar year examined by the Commission in the original investigations, the quantity of subject imports of pasta from Turkey accounted for 1.8 percent of the U.S. market, down from 2.1 percent in the preceding year and barely changed from 1.7 percent in 1993. Subject imports from Turkey have maintained limited market presence in the United States since the issuance of the antidumping and countervailing duty orders; from 2000 through 2012, subject imports from Turkey have accounted for no more than \*\*\* percent of the U.S. market.<sup>14</sup> In view of the size of the pasta industry in Turkey (with estimated production of 1.9 billion pounds in 2011) and its exports of non-egg pasta (valued at nearly \$310 million in 2012),<sup>15</sup> the continued presence (albeit very limited)<sup>16</sup> and evidence of lower selling prices in

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<sup>9</sup> The statutory threshold for cumulation is satisfied because all reviews were initiated on the same day, September 4, 2012. 77 Fed. Reg. 53909 (Sept. 4, 2012).

<sup>10</sup> CR/PR at Table I-1.

<sup>11</sup> CR at IV-12; PR at IV-10; CR/PR at Table IV-8.

<sup>12</sup> See generally CR/PR at Table I-1 (market shares); Table I-9 (15 importers imported subject pasta from Italy in 2012); Table II-7 (15 purchasers reported purchase patterns for subject pasta from Italy); and Table II-9 (a majority of purchasers reported U.S.-produced dry pasta to be “always” or “frequently” interchangeable with subject pasta imports from Italy).

<sup>13</sup> CR/PR at Table V-14 (77 instances of underselling and 113 instances of overselling during January 2007 – March 2013).

<sup>14</sup> CR/PR at Table I-1.

<sup>15</sup> CR at IV-22; PR at IV-17; UN A.F.P.A. statistics, EDIS document 510185; CR/PR at Table IV-11.

<sup>16</sup> See generally CR/PR at Table I-1 (market shares); Table I-9 (2 importers imported subject pasta from Turkey in 2012); Table II-7 (2 purchasers reported purchase patterns for subject pasta from Turkey); and Table II-9 (a majority of responding purchasers reported U.S.-produced dry pasta to be “sometimes” interchangeable with subject pasta imports from Turkey).

the United States,<sup>17</sup> we cannot conclude that subject imports from Turkey would likely have no discernible adverse impact on the domestic industry if the orders were revoked.

### C. Likelihood of a Reasonable Overlap of Competition

*Fungibility.* As discussed more fully above, in the original investigations, the Commission observed that the domestic like product and subject imports “have the same end use” and ultimately concluded that subject imports from Italy were “substantially fungible” with the domestic like product, that subject imports from Turkey were “sufficiently fungible” with the domestic like product; and that subject imports from Italy and from Turkey were fungible “to a limited degree.”<sup>18</sup>

In these reviews, the record again indicates that there continue to be varying degrees of fungibility between the domestic like product and subject imports from both Italy and Turkey and between subject imports from Italy and subject imports from Turkey. In questionnaire responses, a majority of responding purchasers found the U.S. and Italian products “comparable” on 14 out of 15 factors, including price, product consistency, product range, quality meeting industry standards, and quality exceeding industry standards.<sup>19</sup> Although there were some differences in views among domestic producers, importers, and purchasers, many market participants, including almost all reporting domestic producers and over half of reporting purchasers found the U.S. and Italian products to be “always” or “frequently” interchangeable.<sup>20</sup> Accordingly, we find a substantial degree of fungibility between the domestic like product and subject imports from Italy.

In contrast, few responding purchasers reported *any* familiarity with Turkish pasta in these five-year reviews, and one that did expressed quality concerns.<sup>21</sup> This indicates that, based largely on the commonality of end uses, subject pasta from Turkey remains sufficiently fungible with the domestic like product, and subject pasta from Italy and from Turkey remain at most fungible to a limited degree.<sup>22</sup>

*Geographic Overlap.* Dry pasta is produced throughout the United States, and domestic production is shipped nationwide.<sup>23</sup> U.S. imports of non-egg pasta from Italy enter the United States through the New York Customs District (approximately one-half of import volume) and various West Coast Customs Districts (approximately one-quarter of import volume). U.S. imports of non-egg pasta from Turkey, in contrast, are substantially concentrated in the New York Customs District.<sup>24</sup> Domestic pasta and subject imports from Italy were sold in every

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<sup>17</sup> CR/PR at Table V-14 (66 instances of underselling and 2 instances of overselling during January 2007 – March 2013).

<sup>18</sup> *Original Determinations*, USITC Pub. 2977, at 20-22.

<sup>19</sup> CR/PR at Table II-8.

<sup>20</sup> CR/PR at Table II-9.

<sup>21</sup> See, e.g., CR at II-41; PR at II-26 (\*\*\*).

<sup>22</sup> *Original Determinations*, USITC Pub. 2977, at 20-22.

<sup>23</sup> CR at IV-10; PR at IV-9.

<sup>24</sup> CR/PR at Table IV-5.



geographic market area in the country by numerous producers and importers during the review period. Subject imports from Turkey were sold by \*\*\* in the Northeast and by \*\*\* in regions other than the Midwest.<sup>25</sup> Accordingly, based on import presence in the original investigations and in the current reviews, geographic overlap is likely to be substantial with respect to subject imports from Italy, and moderate with respect to subject imports from Turkey.

*Channels of Distribution.* In the original investigations, the Commission found overlapping distribution channels in the retail grocery chain channel and the wholesale distributor channels in the retail market, as well as more limited overlap in the food service market (between Italian-produced and U.S.-produced pasta).<sup>26</sup> During the current period of review, subject imports from Italy and the domestic like product continued to move in very similar channels of distribution, with most shipments to end users in the grocery/other retail segment.<sup>27</sup> With respect to the low volumes of subject imports from Turkey, approximately \*\*\* percent of imports in 2012 were sold through distributors in the grocery/other retail segment; the bulk were sold to \*\*\*.<sup>28</sup> This indicates a very limited degree of current overlap in channels of distribution between subject imports from Turkey, subject imports from Italy, and the domestic like product; however, given the presence of subject imports from Turkey in the grocery/other retail sector in previous proceedings, we find sufficient evidence to conclude that there would likely be a modest overlap in terms of distribution channels absent the current orders.<sup>29</sup>

*Simultaneous Presence.* Imports of non-egg pasta from Italy were present in the U.S. market in all 75 months of the review period, while imports from Turkey were present in 72 of 75 months.<sup>30</sup>

*Conclusion.* We conclude that subject imports from Italy and, to a lesser extent, Turkey, are fungible with the domestic like product. Subject imports from Italy and Turkey are fungible with each other to a limited degree. We further conclude that, upon revocation, imports from Italy and Turkey and the domestic like product would likely be sold in certain overlapping channels of distribution and in certain common geographic markets, and would be simultaneously present in the U.S. market, albeit in very different volumes. Based on these considerations, we find that there would likely be a reasonable overlap of competition between and among subject imports from Italy and Turkey and the domestic like product if the orders were to be revoked.

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<sup>25</sup> CR/PR at Table II-2.

<sup>26</sup> *Original Determinations*, USITC Pub. 2977, at 22.

<sup>27</sup> CR at II-7; PR at II-4; CR/PR at Table II-1.

<sup>28</sup> CR/PR at Table II-1, limiting responses to \*\*\*.

<sup>29</sup> See Original Staff Report at tables II-1, II-2, and II-3 and Second Review Staff Report at tables II-1, II-2, and II-3 (subject imports from Turkey, although present only in limited volume, were generally sold into the grocery/retail sector in 1993, 1994, 1995, 2001, and 2006).

<sup>30</sup> CR/PR at Table IV-4.

#### **D. Likely Conditions of Competition**

Based on the record in these reviews and in prior proceedings, we find that subject imports of pasta from Italy and Turkey would likely compete in the U.S. market under different conditions of competition. Our finding is based on the following assessment of the record evidence.

During the original investigations, subject imports from Turkey participated in the U.S. market in a very different manner than subject imports from Italy. Between 1993 and 1995, subject imports from Turkey increased by 16.9 percent in terms of quantity, generally in line with trends in apparent U.S. consumption (which increased by 9.8 percent). From 1993 to 1995, subject imports from Turkey increased from 1.7 to 1.8 percent of apparent U.S. consumption. The volume of subject imports from Turkey declined in 1995, the year the domestic industry experienced an operating loss. In contrast, the volume of subject imports from Italy increased in each year, with a net increase of 50.7 percent in terms of quantity, and market shares that expanded in each year to reach 10.4 percent by quantity by 1995.<sup>31</sup>

During the 1993-95 time period, subject imports from Turkey undersold the domestic like product in every possible comparison, by margins averaging 50.1 percent. In contrast, subject imports from Italy exhibited a mix of underselling and overselling, with average underselling margins of 14.8 – 15.0 percent.<sup>32</sup> Although such a distinct difference in prices might suggest an opportunity for substantial market share growth by subject imports of pasta from Turkey, as noted above, this did not occur. This relationship – or lack thereof – is entirely consistent with the record evidence regarding imports of Turkish pasta at the time. As discussed earlier, purchasers reported dry pasta from Turkey to be inferior to dry pasta from Italy in terms of quality and product consistency, as well as brand loyalty, country image, and brand image. Purchasers held similar negative views with respect to Turkish brand loyalty, country image, and brand image relative to U.S.-produced pasta.<sup>33</sup> Indeed, a majority of purchasers reported that subject pasta was “rarely” or “never” perceived by consumers as comparable to either U.S.-produced or Italian pasta.<sup>34</sup> As a result, pasta from Turkey participated along the fringes of the U.S. market, with low-volume sales to the retail market through retail grocery chains and wholesale distributors, but not direct store delivery distributors, and virtually no presence in the food service sector.<sup>35</sup>

The pronounced differences in import volume and market share trends and in relative price levels for subject pasta from Italy and Turkey persist to the present. No price data were

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<sup>31</sup> CR/PR at Table I-1. In the original investigations, data regarding imports from Turkey were derived from questionnaire responses from five companies accounting for virtually all such imports. Forty-five companies reported imports of dry pasta from Italy, while another 21 confirmed importing dry pasta from Italy but provided no usable data; accordingly, the Commission relied upon official import statistics, as adjusted. USITC Pub. 2977, at IV-1 and n. 6, Table IV-5.

<sup>32</sup> CR/PR at Table V-16.

<sup>33</sup> USITC Pub. 2977, Appendix E.

<sup>34</sup> USITC Pub. 2977, at II-14 and II-15.

<sup>35</sup> USITC Pub. 2977, at Table II-3.

available in the expedited first reviews. However, in 2000, the year for which limited data were available from the first reviews, the quantity of U.S. imports of pasta from Turkey accounted for \*\*\* percent of apparent U.S. consumption, compared to \*\*\* percent for imports of pasta from Italy.<sup>36</sup> In the second and third reviews, underselling by the limited subject imports from Turkey was near universal and by average margins of 43.7 – 48.7 percent in the second reviews and 39.2 percent in the third reviews. Underselling by subject imports from Italy remained mixed, and by average underselling margins of 8.6 percent in the second reviews and 19.2 percent in the third reviews (excluding pasta supplied by Lensi).<sup>37</sup> Nonetheless, during the calendar years 2001-06 examined in the second reviews, the range of market shares for subject imports from Turkey was \*\*\* percent while the range for subject imports from Italy was \*\*\* percent. During the calendar years 2007 –12 examined in these third reviews, the range of market shares for subject imports from Turkey was \*\*\* percent while the range for subject imports from Italy was \*\*\* percent.<sup>38</sup>

Thus, imports of pasta from Italy are well positioned to leverage a strong reputation for quality and product acceptance.<sup>39</sup> Subject Italian pasta has maintained a strong presence in the U.S. market in terms of market share (\*\*\* percent in 2012); importer presence (\*\*\* reporting importers in 2012); purchaser representation (15 responding purchasers); and distribution channels (significant sales to grocery/retail distributors and end users and to food service distributors).<sup>40</sup> Subject imports from Turkey, by contrast, have no such advantages.<sup>41</sup> Subject Turkish pasta has no meaningful presence in the U.S. market in terms of market share (\*\*\* percent in 2012); importer presence (\*\*\* reporting importers in 2012); purchaser representation (2 responding purchasers); and distribution channels (miniscule sales to grocery/retail distributors and small sales to a \*\*\*).<sup>42</sup>

The record in this proceeding permits us to examine approximately 20 years of pre- and post-order U.S. market conditions that have influenced and, we believe, likely would influence, competition between subject pasta from Italy and Turkey absent antidumping or countervailing duty orders. The pronounced differences in terms of perceived quality, market acceptance and

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<sup>36</sup> CR/PR at Table I-1.

<sup>37</sup> CR/PR at Tables V-14 (third review price comparisons) and V-15 (second review price comparisons).

<sup>38</sup> CR/PR at Table I-1.

<sup>39</sup> See, e.g., CR/PR at Table II-9 (Italian pasta generally viewed as by purchasers “always” or “frequently” interchangeable with U.S.-produced pasta) and Table II-10 (Italian generally viewed as “always” able to meet minimum quality specifications).

<sup>40</sup> CR/PR at Table I-1 (market share); Table I-9 (importers); Table II-7 (purchasers); and Table II-1 (distribution channels).

<sup>41</sup> See, e.g., CR/PR at Table II-9 (Turkish pasta generally viewed by purchasers as “sometimes” interchangeable with U.S.-produced pasta) and Table II-10 (Turkish pasta generally viewed as “usually” or “sometimes” able to meet minimum quality specifications).

<sup>42</sup> CR/PR at Table I-1 (market share); Table I-9 (importers); Table II-7 (purchasers); and Table II-1 (distribution channels, limiting observations to the two responding importers of subject Turkish pasta in 2012).

presence, and price competition that characterize subject pasta from Turkey are also apparent, we find, in markets outside the United States. Exports of pasta from Turkey to the relatively high value EU market are extremely limited, even taking into account the existence of a tariff-rate quota.<sup>43</sup> Instead, export growth in the Turkish industry has been concentrated in other, lower-priced markets.<sup>44</sup> Furthermore, the limited ability to establish a comprehensive market presence in high value markets has been replicated in Canada. As discussed in greater detail below, the Turkish industry has been unable to establish a significant presence in Canada despite continuing, high level efforts.<sup>45</sup>

Therefore, based on the record in these reviews and in prior proceedings, we conclude that subject imports of pasta from Italy and Turkey have demonstrated and continue to demonstrate markedly different trends in volume, market share, and price competition, consistent with very different levels of market presence and product acceptance. We find that subject imports of pasta from Italy and Turkey would likely compete in the U.S. market under different conditions of competition, and therefore do not exercise our discretion to cumulate subject imports from Italy and subject imports from Turkey.

### **III. Whether Revocation of the Antidumping and Countervailing Duty Orders Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time**

#### **A. Conditions of Competition and the Business Cycle**

##### **1. The Current Reviews**

The following conditions of competition inform our determinations in these reviews.

##### **a) Demand Conditions**

U.S. demand for dry pasta has increased slightly over the period of review. Apparent U.S. consumption increased from 2.9 billion pounds in 2007 to 3.1 billion pounds in 2012.<sup>46</sup>

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<sup>43</sup> Turkey's exports to the EU demonstrated consistently higher average unit values than its overall exports. Nonetheless, the EU accounted for less than \*\*\* percent of total reported shipments during January 2007 – March 2013. CR/PR at Table IV-10.

<sup>44</sup> Turkey's exports to non-Asian, U.S., or EU markets since 2008 have demonstrated substantially lower average unit values than exports to the EU. Nonetheless, such markets now account for approximately one-half of reported exports from Turkey, up from less than \*\*\* percent during 2007-08. CR/PR at Table IV-10. While broader pasta export data indicate sales of certain pasta products to higher value markets such as Japan (nearly 39 cents per pound based on 2012 average unit values), the quantities of such sales are substantially smaller than sales to leading markets such as Angola, Benin, and Togo (less 31 cents per pound based on 2012 average unit values). CR/PR at Table IV-11.

<sup>45</sup> Hearing Tr. at 202-203 (Nolan); Turkish Respondents' Posthearing Brief at 9-10.

<sup>46</sup> CR/PR at Table I-10.

Demand for pasta tends to be countercyclical, increasing in a recession as consumers turn to pasta as a low-cost product to economize.<sup>47</sup> Despite the relatively stable demand, there has been increased demand in certain market segments, such as for healthy whole wheat pasta,<sup>48</sup> although these segments account for a limited portion of the market.<sup>49</sup>

## **b) Supply Conditions**

The domestic industry reported production capacity that was very close to apparent U.S. consumption throughout the period of review.<sup>50</sup> During the period of review, on an annual basis, U.S. producers supplied between 78.6 percent and 82.0 percent of apparent U.S. consumption.<sup>51</sup> The domestic industry has expanded and modernized capacity, with Barilla America opening a new production plant in New York in 2007.<sup>52</sup> Other domestic producers have undertaken their capital investments to replace or upgrade outdated equipment with modern technology that can produce pasta more efficiently.<sup>53</sup> In addition, there have been a number of acquisitions and reorganizations in the domestic pasta industry since the last reviews, and the four largest domestic producers, AIPC, Barilla America, Dakota Growers, and New World, are now owned by large multinational companies.<sup>54</sup>

Subject imports from Italy accounted for between \*\*\* and \*\*\* percent of apparent U.S. consumption during the period of review, while subject imports from Turkey accounted for \*\*\* percent throughout the period of review.<sup>55</sup> Nonsubject imports accounted for between \*\*\* percent and \*\*\* percent of apparent U.S. consumption during the period of review.<sup>56</sup> Apart from nonsubject imports from Italy,<sup>57</sup> Mexico was the largest source of nonsubject imports

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<sup>47</sup> Hearing Tr. at 37, 84, 128 (George).

<sup>48</sup> Hearing Tr. at 133 (George); 134 (Fox); Di Pietro (264-265).

<sup>49</sup> Domestic parties estimated that these segments accounted for between 12 and 15 percent of the U.S. market. Hearing Tr. at 133 (George); 134 (Fox).

<sup>50</sup> Apparent U.S. consumption was slightly higher than production capacity from 2007 to 2010, while production capacity was a little higher in 2011 and 2012. In 2012, apparent consumption was 3.1 billion pounds, while production capacity was 3.2 billion pounds. CR/PR at Table I-1.

<sup>51</sup> CR/PR at Table I-1.

<sup>52</sup> CR/PR at Table III-1.

<sup>53</sup> Hearing Tr. at 65 (George); 65 (Faucett); 66 (Vermeylen).

<sup>54</sup> AIPC is owned by ConAgra Foods. Barilla America is owned by Italian producer Barilla. Dakota Growers is owned by Glencore International PLC. New World is owned by Ebro Puleva. CR at III-1 to III-3; PR at III-1-2.

<sup>55</sup> CR/PR at Table C-1.

<sup>56</sup> CR/PR at Table I-1.

<sup>57</sup> During the period of review, nonsubject imports from Italy ranged from a low of \*\*\* pounds in 2008 to a high of \*\*\* pounds in 2012. Nonsubject imports from Italy accounted for \*\*\* percent of apparent U.S. consumption in 2012. CR/PR at Table I-1. During the period of review, nonsubject imports from Turkey ranged from a high of \*\*\* pounds in 2007 to a low of \*\*\* pounds in 2008 and were \*\*\* pounds in 2012. Nonsubject imports from Turkey accounted for \*\*\* percent of apparent U.S. consumption in 2012. CR/PR at Table I-1.

during the period of review, increasing from 79.1 million pounds in 2008 to 113.8 million pounds in 2012.<sup>58</sup>

Italy is the largest pasta producer and exporter in the world.<sup>59</sup> The Italian pasta industry consisted of some 4,460 producers in 2010.<sup>60</sup> Italian pasta production was estimated at 7.3 billion pounds, or 24.6 percent of global production in 2012 (based on 2011 data). In addition, Italy accounted for 53.8 percent of global exports of non-egg pasta (by value) in 2012.<sup>61</sup> Responding Italian producers exported \*\*\* pounds of subject pasta worldwide in 2012.<sup>62 63</sup>

Turkey is a leading producer of pasta, though far behind countries such as Italy, the United States, and Brazil. The Turkish industry consists of at least 15 producers.<sup>64</sup> Turkish pasta production was estimated at 1.9 billion pounds, or 6.3 percent of global production in 2012 (based on 2011 data).<sup>65</sup> In addition, Turkey accounted for 8.8 percent of global exports of non-egg pasta (by value) in 2012. The Turkish industry exports primarily to emerging markets in Africa, the Middle East, and East Asia.<sup>66 67</sup>

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<sup>58</sup> CR/PR at Table IV-1.

<sup>59</sup> Commerce has revoked the antidumping duty order in part as to several Italian producers; however, all of these producers remain subject to the countervailing duty order. CR at I-16; PR at I-14. At the Commission's hearing, Italian Respondents' counsel acknowledged that there were no Italian producers who were not subject to either the antidumping duty order or the countervailing duty order. Hearing Tr. at 244 (Heffner). In addition, a number of Italian producers have very low or even zero duty deposit rates under the orders, but they are still subject to the discipline of the orders under Commerce's administrative review process.

<sup>60</sup> CR at IV-12; PR at IV-10. According to the International Pasta Association, there were 139 pasta producers in Italy in 2011 with capacity of over one metric ton per day. CR at IV-12 to IV-13; PR at IV-10-11.

<sup>61</sup> CR/PR at Table IV-14.

<sup>62</sup> CR/PR at Table IV-7.

<sup>63</sup> The statute requires that we "consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement." 19 U.S.C. § 1675a(6). Commerce conducted an expedited five-year review with respect to the countervailing duty order on subject imports from Italy. In its decision memorandum, Commerce identified one program that it characterized as falling under Article 3.1 of the WTO Subsidies Agreement: Export Restitution Payments. Commerce also stated that there were several programs that could fall within the meaning of Article 6.1 of the WTO Subsidies Agreement, but there was insufficient information on the record of the review for it to make such a determination. Department of Commerce memorandum dated December 28, 2012 from Gary Tavernan to Lynn Fischer Fox, at 12-17 (EDIS Document No. 514785).

<sup>64</sup> CR at IV-21; PR at IV-17.

<sup>65</sup> UN A.F.P.A. statistics, EDIS document 510185.

<sup>66</sup> CR at IV-29, IV-34; PR at IV-21.

<sup>67</sup> Commerce conducted an expedited five-year review with respect to the countervailing duty order on subject imports from Turkey. In its decision memorandum, Commerce identified several programs that fall under Article 3 of the WTO Subsidies Agreement: (1) Pre-Shipment Export Loans; (2) Pasta

(Continued...)

### c) Substitutability

Based on the data discussed in section II.C above, we find a substantial degree of substitutability between the domestic like product and subject imports from Italy and only a limited degree of substitutability between subject imports from Turkey and the domestic like product. In questionnaire responses, a majority of 13 responding purchasers found U.S. and Italian pasta to be “comparable” on 14 out of 15 factors, including price, product consistency, product range, quality meeting industry standards, and quality exceeding industry standards.<sup>68</sup> A majority of producers and purchasers reported that U.S. and Italian pasta was “always” or “frequently” interchangeable, while only 3 out of 12 importers reported the same.<sup>69</sup>

In contrast, there are limited questionnaire data regarding subject imports from Turkey, indicating purchasers’ lack of familiarity with the Turkish product.<sup>70</sup> Moreover, even companies familiar with Turkish pasta reported limited applications. For example, \*\*\* is an ethnic Turkish grocer; \*\*\* is a small distributor that \*\*\*.<sup>71</sup> We find that the lack of familiarity with Turkish pasta and the lack of any substantial presence within the U.S. market, either before or after the orders were imposed, to be indicative of a product that is not generally accepted except within small segments of the U.S. dry pasta market.<sup>72</sup> This finding is bolstered by purchasers’ negative perceptions of the Turkish product during the original period of investigation, in which a majority of purchasers considered the Turkish pasta to be inferior to the domestic and Italian products with regard to brand image, brand loyalty of customers, and quality.<sup>73</sup>

We also find that price is an important factor in the U.S. market for pasta. Sixteen of eighteen purchasers stated that price was “very important” in making a purchasing decision.<sup>74</sup> As in the original investigations, we find that price promotions are very important in the retail

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Export Grants; (3) Deduction from Taxable Income for Export Revenue; (4) Export Subsidy Program for Agricultural Products; and (5) VAT Support Program. Commerce also stated that there were several programs that could fall within the meaning of Article 6.1 of the WTO Subsidies Agreement, but there was insufficient information on the record of the review for it to make such a determination. Department of Commerce memorandum dated December 28, 2012 from Gary Tavernan to Lynn Fischer Fox, at 9-10 (EDIS Document No. 514785).

<sup>68</sup> CR/PR at Table II-8.

<sup>69</sup> CR/PR at Table II-9.

<sup>70</sup> See, e.g., CR at II-26; PR at II-16 (in which seventeen purchasers indicated that they had marketing/pricing knowledge of domestic dry pasta, eleven had knowledge of Italian certain dry pasta, eight had knowledge of Italian nonsubject pasta, one had knowledge of Turkish certain dry pasta, and one had knowledge of Turkish other dry pasta).

<sup>71</sup> Importers’ Questionnaire Responses of \*\*\* and \*\*\*.

<sup>72</sup> CR/PR at Table I-1 (showing Turkish subject pasta’s market share in the original period of investigation).

<sup>73</sup> Memorandum INV-T-048 at II-18-19. See also CR at II-41; PR at II-2 (U.S. purchaser in these reviews noting its quality concerns with Turkish pasta).

<sup>74</sup> CR/PR at Table II-6.

sector of the U.S. market for pasta.<sup>75</sup> However, we note that other non-price factors play a critical role in defining the boundaries of price competition in this market. Quality was considered the most important factor by more purchasers than for any other factor,<sup>76</sup> while the majority of purchasers and importers described brand as “very important” in their purchasing decisions regarding dry pasta.<sup>77</sup> Accordingly, we find that subject imports from Italy compete with the domestic like product primarily on the basis of price, as they are generally considered interchangeable by purchasers. Since we have previously found that subject imports from Turkey do not meet purchasers’ expectations with regard to quality or brand recognition, they do not compete with the domestic like product on the basis of price except in very limited market segments.

#### **d) Other Conditions**

Pasta is sold in the United States under many different brand names. Some producers sell the same product in different geographic regions under different brand names; Barilla is the only nationally-marketed brand.<sup>78</sup> Many producers also sell their product in the private label market, in which product is sold under the name of another firm (such as a supermarket or other retailer). U.S. producers report that private label sales account for one-third of the U.S. retail market, and that this market segment has lower margins and lower prices than the branded market.<sup>79</sup>

A number of purchasers require that the pasta they purchase be certified, although several purchasers do not require certification. Purchasers requiring certification may consider a number of factors, including production process and facilities, quality, price, reliability, and liability insurance.<sup>80</sup>

Product placement and shelf space can be important factors in retail sales of dry pasta. Some retail grocery stores charge the manufacturer or distributor a “slotting fee” in exchange for shelf space or general representation.<sup>81</sup> Slotting fees are generally not paid in the food service channel or private label sales and are not used by value stores or by many mass merchants.<sup>82</sup>

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<sup>75</sup> Hearing Tr. at 34-35 (George); 74, 77-78 (Faucett); 79 (Hasper).

<sup>76</sup> CR/PR at Table II-5.

<sup>77</sup> CR/PR at II-4-5; PR at II-3. Highlighting the importance of brand, New World Pasta, one of the largest U.S. producers, stated that it maintains separate brands in regions throughout the country, some of which have been in existence for over 100 years. Hearing Tr. at 29-30 (Faucett). This cultivation of brands is indicative of a market where final consumers have knowledge of brands and expectations regarding them.

<sup>78</sup> CR at II-3; PR at II-2.

<sup>79</sup> CR at II-3 to II-4; PR at II-2-3.

<sup>80</sup> CR at II-31; PR at II-19.

<sup>81</sup> CR at V-10; PR at V-7.

<sup>82</sup> Hearing Tr. at 74-75, 104-105 (George); Domestic Producers’ Posthearing Brief at Exh. 6, paragraph 3 (Declaration of Shane Faucett of New World); CR at V-10 to V-13; PR at V-7 to V-9.



Raw material costs are the largest portion of the domestic industry's cost of goods sold, ranging from a low of 65.9 percent in 2007 to a high of 76.4 percent in 2008, and were 72.9 percent in 2012.<sup>83</sup> The primary component of raw material cost is durum wheat semolina. Durum wheat prices are highly volatile, and there is no futures market or other mechanism through which domestic producers can hedge durum wheat prices.<sup>84</sup> During the period of review, there were significant fluctuations in durum wheat prices, with the price of durum wheat rising overall between 2007 and 2012.<sup>85</sup> Durum wheat prices are affected by, among other things, the weather and farmers' decisions to plant other crops, such as corn for ethanol production.<sup>86</sup> Durum wheat raw material costs for pasta producers are expected to increase, because durum wheat plantings were down significantly in 2013 due to wet weather conditions, and durum production in 2013 is projected by the U.S. Department of Agriculture (USDA) to be about 30 percent lower than in 2012.<sup>87</sup>

**B. Revocation of the Antidumping and Countervailing Duty Orders on Subject Imports from Turkey Would not Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time**

**1. Likely Volume**

In the original investigations, subject imports from Turkey increased irregularly at a low level, rising from 48.8 million pounds in 1993 to 64.0 million pounds in 1994, and then falling slightly to 57.0 million pounds in 1995. The increase in subject imports from Turkey occurred during a period of rising U.S. demand, and as a result such imports gained only 0.1 percent market share. Since the imposition of the orders, annual subject imports from Turkey remained between 2.7 million and 7.2 million pounds during the first two periods of review, and remained below 1 million pounds during the current period of review.<sup>88</sup>

During the original period of investigation, Turkish pasta was almost entirely limited to the retail market, serving a price-conscious segment of that market that was less concerned with certain quality standards.<sup>89</sup> However, it appears that the size of this market segment was

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<sup>83</sup> CR/PR at Table III-7.

<sup>84</sup> CR/PR at V-1 to V-2; CR/PR at Figure V-1; Hearing Tr. at 24-27 (Hasper); 59 (George).

<sup>85</sup> CR at III-3, III-23; PR at III-2, III-14; Hearing Tr. at 24 (Hasper); Domestic Producers' Prehearing Brief at Exh. 19 (USDA report).

<sup>86</sup> Hearing Tr. at 24-25 (Hasper); Domestic Producers' Prehearing Brief at Exh. 24 (*Wall Street Journal* article).

<sup>87</sup> Hearing Tr. at 96-98 (Hasper); 139 (Faucett); Domestic Producers' Posthearing Brief at Exh. 5, paragraph 3 (Declaration of Jack Hasper of Dakota Growers) and Exh. 16 (USDA report); Domestic Producers' Prehearing Brief at Exh. 20 (USDA report).

<sup>88</sup> CR/PR at Table I-1.

<sup>89</sup> Memorandum INV-T-048 at Table II-3 (showing the channels of distribution for U.S. shipments of Turkish pasta) and Memorandum INV-T-048 at II-19 (describing the focus of Turkish pasta within the low-price, less-quality-conscious segment of the market).

very limited, as purchasers generally considered quality the most important factor in the market.<sup>90</sup> In addition, retail customers were influenced by brand name familiarity and brand use experience, with petitioners stating that customers generally had an acceptable group of brands from which they were willing to compare prices.<sup>91</sup> Purchasers, who were conscious of their customers' requirements and buying habits, considered the Turkish pasta to be inferior to the domestic and Italian products with regard to brand image, brand loyalty of customers, and quality.<sup>92</sup> Within these conditions of competition, Turkish subject pasta peaked in 1994 with a 2.1 percent market share despite underselling the domestic like product consistently by large margins.<sup>93</sup>

In this five year review, we find that the volume of subject imports from Turkey would likely not be significant if the orders were revoked. Turkish subject imports have been virtually absent from a market in which quality and customer brand recognition remain critically important in purchasers' buying decisions. As discussed above in our analysis of conditions of competition, quality was considered the most important factor by more purchasers than for any other factor,<sup>94</sup> while the majority of purchasers and importers described brand as "very important" in their purchasing decisions regarding dry pasta.<sup>95</sup> Responding purchasers expressed very little familiarity with the Turkish subject pasta, as reflected in very limited responses to questions regarding Turkish pasta that can be contrasted to relatively high responses to questions regarding Italian and domestic pasta.<sup>96</sup> We note that sources of pasta that are neither domestic nor Italian have had limited market presence throughout the period of review, including Turkish nonsubject pasta and dry pasta from nonsubject countries.<sup>97</sup> Therefore, we conclude from this record that Turkish subject pasta would have difficulty entering the U.S. market in any significant volume based on its perceived lack of quality or brand recognition.<sup>98</sup>

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<sup>90</sup> Memorandum INV-T-048 at II-11.

<sup>91</sup> Memorandum INV-T-048 at II-12.

<sup>92</sup> Memorandum INV-T-048 at II-18-19.

<sup>93</sup> CR/PR at Table I-1 (showing market shares of Turkish subject pasta during the original period of investigation) and CR/PR at Table V-16 (showing price underselling margins).

<sup>94</sup> CR/PR at Table II-5.

<sup>95</sup> CRat II-4-5; PR at II-3.

<sup>96</sup> See, e.g., CR at II-26; PR at II-16 (in which seventeen purchasers indicated that they had marketing/pricing knowledge of domestic dry pasta, eleven had knowledge of Italian certain dry pasta, eight had knowledge of Italian nonsubject pasta, one had knowledge of Turkish certain dry pasta, and one had knowledge of Turkish other dry pasta).

<sup>97</sup> CR/PR at Table C-1. Dry pasta from Mexico, the largest source of nonsubject pasta in 2012, accounted for 3.7 percent of apparent U.S. consumption. *Id.*

<sup>98</sup> While Turkish subject pasta could theoretically be sold under a private label, AIPC described private-label pasta sales as only accounting for about one-third of U.S. pasta retail sales. CR at II-3; PR at II-2. Retail sales themselves account for 64.1 percent of U.S. market, which is a calculation derived from producer and importer data used in the staff report for Table II-1, expanding the volumes of subject and nonsubject imports by the ratios of importer data to all imports as provided on page IV-1 of the staff report. Moreover, we do not find it likely that retailers using a private label would purchase significant

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Moreover, during the period of review, the Turkish industry's reported capacity increased, but capacity utilization increased as well.<sup>99</sup> Turkish end-of-period inventories were minimal as a share of total production, falling from 9.9 percent in 2007 to 3.8 percent in 2012.<sup>100</sup> No firm reported producing other products using the same equipment and machinery that they used to produce certain pasta, although firms described efforts to diversify into producing other forms of pasta.<sup>101</sup> Therefore, the data portray an industry where growth in demand for its merchandise has outpaced growth in supply.

Turkish respondents have identified the source of this demand as emerging markets, particularly in Africa and Asia.<sup>102</sup> The Turkish industry reports that they followed a deliberate strategy in pursuing these markets in which they first invested in establishing a presence in these markets after many years and are now reaping the benefits of those initial investments due to rapidly increasing demand in those markets.<sup>103</sup> Examples of these investments include a private-sector and governmental pursuit of trade ties between countries, a strong reputation enjoyed by Turkey generally in Africa, and a long-term development of Turkish brand recognition in markets such as Japan.<sup>104</sup> The data support these assertions, showing a strong orientation in Turkish exports toward Africa in particular and Asian markets in both the Middle East and the Far East that has strongly increased following a period of initial slow growth. Of Turkey's top 20 export destinations in 2012, 19 were in Africa and Asia.<sup>105</sup>

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volumes of an unfamiliar product with a history of lower quality to compete head-to-head against established brands. The entire purpose of private label marketing strategies is to offer lower-priced alternatives to established brands without sacrificing quality expectations of customers.

<sup>99</sup> CR/PR at Table IV-10. Reported Turkish capacity increased from 874.6 million pounds in 2007 to 1.63 billion pounds in 2012. Capacity utilization increased from 70.4 percent to 83.0 percent over the period. *Id.* Reported data represent an estimated 58.0 percent of Turkish non-egg pasta production in 2012, which is the greatest participation rate the Commission has received from the Turkish industry since the original investigations. CR at IV-22; PR at IV-17. We consider the data provided by responding Turkish firms to be adequate in our analysis of the Turkish industry as a whole.

<sup>100</sup> CR/PR at Table IV-10. U.S. importers' inventories of Turkish subject pasta were never higher than 29,000 short tons throughout the period of review. CR/PR at Table IV-3.

<sup>101</sup> CR at IV-24; PR at IV-18.

<sup>102</sup> As stated by one of the Turkish witnesses at the hearing, "We have not increased capacity hoping for more demand. We are simply reacting to demand growth in Turkish pasta, which has been excellent. Turkey's success in developing export markets such as Africa and Asia, coupled with increasing demand in our domestic market, has fueled our industry's growth." Hearing Tr. at 190-92 (Kulahcioglu).

<sup>103</sup> "Turkey has invested a great deal of time and energy over a long 10-15 year period to diversify its world markets. It has looked for, sought out, and determined appropriate markets where conditions of competition and the level of demand and the emerging income levels are conducive to growing the pasta market. Where is this going on? If you look at Africa, that has done phenomenally well for them. They have done quite well in Africa. If you look at Asia, similarly an emerging economy is growing, has resulted in a vast increase in imports, which didn't start right away. There was an investment time that took before it started to take off." Hearing Tr. at 198-99 (Nolan).

<sup>104</sup> Turkish Respondents' Prehearing Brief at p. 8-9 and 16-17.

<sup>105</sup> EDIS Document 514023; Turkish Respondents' Prehearing Brief at Exh. 2 and 3.

The Turkish industry has not had a similar success in exporting pasta to established markets such as the European Union and Canada. Turkish exports are reportedly not subject to third-country trade barriers, with the exception of a tariff-rate quota on Turkish imports imposed by the European Union.<sup>106</sup> However, Turkish exports to Europe have never been strong, and were lower than the amount allowed even prior to the introduction of the tariff-rate quota in 2007. While Turkish exports to the European Union finally reached the quota levels in 2012, this was the result of gradual growth over many years.<sup>107</sup> Turkish respondents reported that they have attempted to establish a market presence in Canada, where Turkish pasta is not subject to antidumping or countervailing duties, since the mid-2000s, and have marketed their products there in campaigns that even included a trade mission from the Prime Minister of Turkey.<sup>108</sup> Canada reportedly is similar to the United States in terms of consumer preferences and pricing.<sup>109</sup> Also like the United States, Canada has an established pasta-producing industry and a local supply of durum wheat. Despite the Turkish industry's long-term efforts, it has only successfully increased its share of Canada's pasta imports from \*\*\* percent in 2006 to \*\*\* percent in 2012.<sup>110</sup> The Turkish industry is clearly most oriented toward serving its customers in emerging markets, and its experience in penetrating established markets is slow and limited to small shares.

Thus, we find that revocation of the orders on pasta from Turkey will likely not change, in the reasonably foreseeable future, the fundamental disadvantage that Turkey has in the U.S. market as well as its successful strategy in pursuing emerging, unsaturated markets. The U.S. market may draw some additional volume of subject imports from Turkey, but such imports are likely to remain limited in terms of distribution and customer acceptance. We consequently conclude that any likely increase in subject imports from Turkey would not be significant either in absolute terms or relative to production or consumption in the United States if the orders were revoked.

## **2. Likely Price Effects**

As discussed above, we find that domestically produced and imported dry pasta compete on the basis of price, but that purchasers are conscious of final customers' quality expectations and preferences for branded products. Therefore, Turkish dry pasta, which does not meet the threshold requirements of perceived quality and brand recognition, is not substitutable for domestic and Italian dry pasta except in very limited low-priced segments of the market. Under these conditions, we find that the price effects of subject imports from Turkey likely will not be significant because Turkish subject pasta, while lower-priced, does not adversely affect the higher prices of domestically produced pasta.

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<sup>106</sup> CR at IV-31-32; PR at IV-25.

<sup>107</sup> Turkish Respondents' Prehearing Brief at Exh. 2.

<sup>108</sup> Hearing Tr. at 202 (Nolan).

<sup>109</sup> See, e.g., Hearing Tr. at 266, 269 (Tendick).

<sup>110</sup> Turkish Respondents' Posthearing Brief at 9-10; Hearing Tr. at 202-203 (Nolan).

Turkish subject pasta has not gained market share in the United States despite underselling the domestic like product by substantial margins. In the original period of investigation, subject pasta from Turkey undersold the domestic like product in all 39 price comparisons, at an average margin of 50.1 percent.<sup>111</sup> In the current period of review, Turkish subject pasta undersold the domestic product in 66 out of 68 price comparisons, at an average margin of 45.6 percent.<sup>112</sup> If Turkish subject imports were comparable with the domestic product in terms of quality and brand perception, we would expect that the low margins of underselling would have allowed them to expand their market share or that the domestic and Turkish prices would have converged over 20 years. Instead, as we have discussed above, the market share of Turkish subject imports peaked at 2.1 percent of the market in 1994 following a slight increase from 1993 levels, and has remained near zero percent during the current period of review.<sup>113</sup> As shown, the average margin of underselling has not shifted.

Based on these findings, we find that despite likely continued underselling by subject imports from Turkey compared to the domestic like product, it is unlikely that there is direct competition between Turkish and U.S.-produced pasta in most segments of the market. In addition, we have found that any likely increase in subject imports from Turkey would not be significant if the orders were revoked. Therefore, we do not find that subject imports from Turkey would have a significant depressing or suppressing effect on the price of the domestic like product. Accordingly, we conclude that subject imports from Turkey are not likely to have significant price effects if the orders were revoked.

### **3. Likely Impact<sup>114</sup>**

The record of these reviews indicates that the U.S. market for dry pasta was stable, experiencing a slight increase in demand over the period of review.<sup>115</sup> As the source of approximately 80 percent of dry pasta consumed in the United States, the domestic industry benefited from this stable demand growth and experienced improvement across virtually all indicators between 2007 and 2012. Production increased by 6.4 percent between 2007 and

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<sup>111</sup> Memorandum INV-T-048 at V-27.

<sup>112</sup> CR/PR at Table V-14.

<sup>113</sup> CR/PR at Table I-1.

<sup>114</sup> Commerce conducted an expedited review with respect to the antidumping duty orders on subject imports from Turkey. It found likely dumping margins of 63.29 percent for Filiz Gıda Sanayi ve Ticaret A.Ş.; 60.87 percent for Maktas Makarnacılık ve Ticaret T.A.Ş.; and an all others rate of 60.87 percent. 78 Fed. Reg. 2368 (January 11, 2013).

Commerce conducted an expedited five-year review with respect to the countervailing duty order on subject imports from Turkey. It found likely net countervailable subsidy rates of 1.63 percent for Filiz Gıda Sanayi ve Ticaret; 13.09 percent for Maktas Makarnacılık ve Ticaret/Gidasa Gıda San.Tic.A.Ş.; 13.08 percent for Oba Makarnacılık Sanayi ve Ticaret; and an all others rate of 8.85 percent. 78 Fed. Reg. 692 (January 4, 2013). 78 Fed. Reg. 692 (January 4, 2013).

<sup>115</sup> Apparent U.S. consumption increased by 6.7 percent between 2007 and 2012. CR/PR at Table C-1.

2012, while the volume of U.S. shipments increased by 5.6 percent.<sup>116</sup> Capacity utilization decreased from 83.1 percent in 2007 to 76.8 percent in 2012, although this occurred as capacity increased by 15.1 percent.<sup>117</sup> Capital expenditures, R&D expenses, and assets each almost doubled.<sup>118</sup> Employment, hours worked, and wages paid increased slightly as productivity and unit labor costs remained relatively flat.<sup>119</sup>

Over the period of review, the U.S. industry has faced higher durum wheat prices,<sup>120</sup> which has caused their per unit raw material costs to increase by 56.0 percent.<sup>121</sup> As a result, the per unit cost of goods sold (COGS) increased by 38.8 percent.<sup>122</sup> Despite the increase in costs, the unit value of net sales increased by 47.2 percent, indicating that the industry has not only been able to pass through higher costs in the form of higher prices, but actually raise prices to a greater extent than increasing costs.<sup>123</sup> As a result, the industry's COGS to net sales ratio decreased from 73.9 percent to 69.7 percent between 2007 and 2012, and operating income increased by 190.1 percent, as operating income margins increased from 7.9 percent in 2007 to 14.5 percent in 2012.<sup>124</sup>

Therefore, we find a large, profitable, and thriving industry that is not vulnerable. Consistent with our findings that the likely volume and likely price effects of subject imports from Turkey will not be significant, we find that subject imports from Turkey would not be likely to have a significant adverse impact on the domestic industry's output, sales, market share, profits, or return on investment, if the orders were revoked. Based on the stable and growing demand in the United States and the sustained healthy condition of the domestic industry, the limited volumes of subject imports from Turkey that are likely to enter the U.S. market upon revocation would not be likely to have a significant adverse impact on the domestic industry.

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<sup>116</sup> CR/PR at Table C-1. Export shipments, while relatively small compared to domestic shipments, increased by 110.9 percent. *Id.*

<sup>117</sup> CR/PR at Table C-1.

<sup>118</sup> CR/PR at Table III-10.

<sup>119</sup> CR/PR at Table C-1.

<sup>120</sup> CR/PR at Figure V-1.

<sup>121</sup> CR/PR at Table III-8.

<sup>122</sup> CR/PR at Table C-1.

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

**C. Revocation of the Antidumping and Countervailing Duty Orders on Subject Imports from Italy Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time**

**1. Likely Volume**

We find that subject imports from Italy would likely be significant and increase significantly from current levels absent the orders. During the original investigation, imports of certain dry pasta from Italy increased steadily from 214.0 million pounds in 1993 to 322.4 million pounds in 1995, a 50.7 percent increase that outpaced any increase in apparent U.S. consumption of dry pasta during the same period.<sup>125</sup> As a share of apparent U.S. consumption of dry pasta, subject imports from Italy rose from 7.6 percent in 1993 to 10.4 percent in 1995, gaining market share at the expense of the domestic industry, whose share fell 3.5 percentage points in the same period.<sup>126</sup>

Since the imposition of the orders, subject imports from Italy have maintained a substantial, continuous presence in the U.S. market, including during the period examined in these reviews. In the first five-year review, the Commission found that subject imports from Italy did not decline until the conclusion of a Commerce anticircumvention inquiry on Barilla in 1998.<sup>127</sup> Subject imports from Italy at the end of the period examined in the first review, 2000, were 309.5 million pounds, which constituted \*\*\* percent of apparent U.S. consumption of dry pasta.<sup>128</sup> At the end of the period in the second review, 2006, their volume was \*\*\* million pounds, which constituted \*\*\* percent of apparent U.S. consumption of dry pasta.<sup>129</sup>

In this third five-year review, subject imports from Italy have fluctuated from a high at the beginning of the period (2007) of \*\*\* million pounds to a low the following year (2008) of \*\*\* million pounds, and steadily climbed each year thereafter. In 2012, the volume was \*\*\* million, which constituted \*\*\* percent of apparent U.S. consumption of dry pasta.<sup>130</sup>

Thus, subject producers in Italy have demonstrated a continued interest in and commitment to serving the U.S. market with subject pasta and they maintain ongoing relationships with U.S. customers in this market. Despite the orders, the U.S. market has remained a major focus of subject producers in Italy. The absolute and relative volumes of subject imports from Italy in the U.S. market following the imposition of the orders indicate that Italy will likely maintain and strengthen its position as a significant supplier to the U.S. market in the event of revocation.

Moreover, subject producers in Italy possess significant excess capacity and inventories with which they could significantly increase exports to the United States. Italy is the global leader in pasta production and has consistently been the leading pasta exporter in the largest

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<sup>125</sup> CR/PR at Table I-1.

<sup>126</sup> CR/PR at Table I-1.

<sup>127</sup> *First Reviews*, USITC Pub. 3462, at 15.

<sup>128</sup> Staff Report, *First Reviews*, at Tables I-4-I-5.

<sup>129</sup> Staff Report, *Second Reviews*, at Table I-13.

<sup>130</sup> CR/PR at Tables I-10-I-11.

world markets.<sup>131</sup> The United States is the fourth largest destination for Italy's exports of non-egg pasta, behind only Germany, France, and the United Kingdom.<sup>132</sup>

The available data reveal that capacity for the production of certain dry pasta in Italy has increased steadily from 2.9 billion pounds in 2007 to 3.3 billion pounds in 2012.<sup>133</sup> Capacity utilization for each full year of the period examined has fluctuated within several percentage points between 83.0 and 86.6 percent.<sup>134</sup> The Italian industry's unused capacity in 2012, 446.9 million pounds, is equivalent to \*\*\* percent of apparent U.S. consumption of dry pasta in the same year.<sup>135</sup>

End-of-period inventories of certain dry pasta in Italy declined from 194.7 million pounds in 2007 to a low of 155.3 million pounds in 2010 before steadily increasing to 182.6 million pounds in 2012.<sup>136</sup> The Italian industry's inventory of subject merchandise at year-end 2012 is equivalent to \*\*\* percent of apparent U.S. consumption of dry pasta in 2012.<sup>137</sup>

We find it likely that subject Italian producers would use their excess capacity and inventories to increase exports significantly to the United States after revocation.<sup>138</sup> The U.S. market is the world's largest for pasta,<sup>139</sup> and unlike pasta from Turkey, Italian pasta has remained competitive with a substantial presence in the U.S. market during the review period. Thus we find that revocation of the orders would likely result in significant volumes of subject imports from Italy.

Barilla America has opposed continuation of the orders on Italy in this review.<sup>140</sup> The record, however, does not support the argument that Barilla America would not take this position if revocation would likely result in large volumes of subject imports that could injure its U.S. operations. Barilla America's representative stated that Barilla America and its Italian (and Turkish) affiliates are organized as independent clusters operating independently.<sup>141</sup> Barilla

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<sup>131</sup> CR at IV-12; PR at IV-10-11.

<sup>132</sup> CR/PR at Table IV-8. All four of these export destinations were major consumers of pasta in 2011. Petitioners' Prehearing Brief at Exh. 5.

<sup>133</sup> CR/PR at Table IV-7.

<sup>134</sup> CR/PR at Table IV-7. Capacity utilization is reportedly higher in interim (Jan.-Mar.) 2013 (91.6 percent) than in interim 2012 (87.7). Full year 2012 shows capacity utilization of 86.3 percent. CR/PR at Table IV-7.

<sup>135</sup> CR/PR at Tables I-10, IV-7.

<sup>136</sup> CR/PR at Table IV-7. Interim 2013 data indicates inventories of 184.6 million pounds as compared to 197.4 million pounds in interim 2012. CR/PR at Table IV-7.

<sup>137</sup> CR/PR at Tables I-10, IV-7.

<sup>138</sup> In light of Italy's excess capacity and inventories, we find that subject producers in Italy could significantly increase exports to the United States without diverting shipments to the United States from any other market. Additionally, the record contains only limited information respecting product shifting and we do not rely upon this factor for our determination. There is also no evidence in the record that Italy faces barriers in any third country markets.

<sup>139</sup> See, e.g., Domestic Producers' Prehearing Brief at Exh. 5, at 140 (International Pasta Organization data).

<sup>140</sup> See, e.g., Hearing Tr. at 178-179 (Tendick).

<sup>141</sup> Hearing Tr. at 178-179, 230 (Tendick).



America provided no evidence of having a coordinated company policy that would allow it to manage subject imports from its Italian parent (or Turkish affiliate). Moreover, Barilla America's imports from its Italian parent only accounted for \*\*\* percent of subject imports from Italy in 2012,<sup>142</sup> and Barilla America would have no control over imports from other subject producers in Italy.

We are also unpersuaded by Italian Respondents' argument that slotting fees charged to manufacturers by some retailers for shelf space benefit the largest U.S. producers that would likely prevent subject imports from increasing their penetration of the U.S. market. We note that significant volumes of subject imports from Italy have been present in the U.S. market, including the retail sector, throughout the period of review, despite the existence of slotting fees.<sup>143</sup> Moreover, the record shows that slotting fees are generally negotiable and that retailers may not require slotting fees for very low-priced pasta.<sup>144</sup> Slotting fees are generally not paid in the food service channel or in private label sales, and are not used by value stores and by many mass merchants.<sup>145</sup> Thus, we do not find that the existence of slotting fees would prevent a significant increase in subject import volume from Italy if the orders were revoked.

Given the significant and growing presence of Italian subject imports in the U.S. market during the original investigation, the continued substantial presence of Italian subject imports in the U.S. market, the significant unused production capacity and inventories of subject merchandise of subject producers in Italy, and the attractiveness of the large U.S. market to Italian pasta exporters and substitutability of U.S. and Italian product, we find that the volume of subject imports, both in absolute terms and relative to production and consumption in the United States, would likely be significant if the orders on Italy were revoked.

## **2. Likely Price Effects**

U.S. imports of certain dry pasta from Italy have demonstrated and continue to demonstrate that they can compete in every subject product line and in every market segment into which subject pasta is sold. In 2012, both U.S. producers and importers of certain dry pasta from Italy sold most of their product to end users in the grocery segment, with additional substantial volumes sold to the food service sector.<sup>146</sup> Most purchasers reported that U.S. and Italian product were comparable across a range of factors, including meeting quality standards, exceeding quality standards, product range, product consistency, and price.<sup>147</sup> Italian pasta has high "positives" in terms of perceived quality and brand that connote authenticity and good taste, but a majority of purchasers identified U.S. produced pasta to be "always" or

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<sup>142</sup> CR/PR at Table I-9.

<sup>143</sup> CR/PR at Table I-1.

<sup>144</sup> Hearing Tr. at 108 (Faucett); 246-47 (DiPietro); Domestic Producers' Posthearing Brief at Exh. 6 (declaration of Shane Faucett of New World).

<sup>145</sup> Hearing Tr. at 74-75, 104-05 (George); Domestic Producers' Posthearing Brief at Exh. 6, paragraph 3 (Declaration of Shane Faucett of New World).

<sup>146</sup> CR at II-7; PR at II-4; CR, PR at Table II-1.

<sup>147</sup> CR/PR at Table II-8.

“frequently” interchangeable with Italian product.<sup>148</sup> Given the substitutability of products, price is an important factor in purchasers choosing between U.S. and Italian product.<sup>149</sup>

In the original investigation, subject imports from Italy undersold the domestic industry in 60 of 83 quarterly comparisons, with margins of underselling averaging approximately 15 percent.<sup>150</sup> The pricing data in these reviews show that subject imports from Italy undersold the domestic product in 77 of 190 quarterly comparisons, with margins of underselling averaging 19.2 percent.<sup>151</sup> Testimony also shows that during the period of review subject imports from Italy competed head-to-head with the domestic like product to obtain sales on the basis of price.<sup>152</sup>

We are not persuaded by Italian Respondents’ contention that the Commission’s pricing data show no correlation between the prices charged by producers and the volumes sold, and a wide disparity among the prices charged by different domestic producers.<sup>153</sup> We note that increased underselling margins for subject imports from Italy coincided with increased sales volumes to distributors.<sup>154</sup> Moreover, some of the apparent differences between prices for individual domestic producers highlighted by Italian Respondents are not reflected in the final pricing data used in the Staff Report, which show that \*\*\*.<sup>155</sup>

Furthermore, evidence that different domestic producers reported different average unit values over the period of review does not indicate that these producers were not competing on the basis of price, since the producers reportedly had different business profiles. For example, \*\*\*. By contrast, \*\*\*.<sup>156</sup>

Based on the record in these reviews, including the evidence of price-based competition between subject imports from Italy and the domestic like product, the degree of underselling by subject imports from Italy in the presence of the orders, and the underselling by subject imports from Italy indicated in the original investigation, we find it likely that subject imports from Italy would significantly undersell the domestic like product in the event of revocation as a means of increasing their penetration of the U.S. market. Moreover, given the likely significant

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<sup>148</sup> CR/PR at Table II-9.

<sup>149</sup> See, e.g., CR at II-33-41; PR at II-20-26; CR/PR at Table II-6.

<sup>150</sup> Original Determination at 27-28.

<sup>151</sup> CR/PR at Table V-14.

<sup>152</sup> Domestic Producers’ Prehearing Brief at Exh. 9, paragraphs 5-7 (declaration of Scott Mekus of AIPC); Domestic Producers’ Posthearing Brief at Exh. 4, paragraph 4 (declaration of Walt George of AIPC).

<sup>153</sup> Italian Respondents’ Prehearing Brief at 27-33.

<sup>154</sup> See CR/PR at Tables V-8, V-9, and V-10.

<sup>155</sup> See Domestic Producers’ Posthearing Brief at Exh. 1, pages 45-47 (response to Commissioner Aranoff) and Exh. 19 (materials regarding Dreamfields Pasta). We note that the Commission’s pricing data with respect to \*\*\* represented only a small share of its total sales during the period of review and may not be representative of its overall product mix. While six of the eight Commission pricing products were for branded product, a \*\*\* of \*\*\* sales were in the lower-price private label market. CR at II-3-4, V-17; PR at V-10.

<sup>156</sup> CR/PR at Table III-8; CR at III-16 n.20, III-21 n.23; PR at III-11 n.20, III-13 n.23.

volume of subject imports from Italy in the event of revocation, we find a likelihood of significant negative price effects on U.S. pasta prices from subject imports from Italy. We conclude that, if the orders on Italy were revoked, significant volumes of subject imports from Italy likely would significantly undersell the domestic like product and likely would have significant suppressing or depressing effects on the prices of the domestic like product.

### **3. Likely Impact<sup>157</sup>**

As discussed in connection with our determination respecting Turkey, the domestic industry's condition, based on its performance across various trade and financial measures, is not vulnerable. The extent to which its performance during the period of review was attributable to the orders on Italy is not clear. Representatives of several domestic producers testified that the orders permitted them to make necessary capital investments to modernize their facilities and to raise prices to cover increases in durum wheat raw material costs.<sup>158</sup> As noted, however, not only was the domestic industry able to pass through higher costs in the form of higher prices, it actually raised prices to a greater extent than increasing costs.<sup>159</sup>

In view of the likely significant volume of subject imports from Italy and the likely significant adverse price effects they would have in the U.S. market absent the orders, we find that subject imports from Italy would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. This reduction in the industry's production, shipments, sales, market share, and revenues would likely result in declines in the industry's profitability as well as its ability to make and maintain necessary capital investments. We therefore conclude that if the antidumping and countervailing duty orders on Italy were revoked, subject imports from Italy would likely have a significant adverse impact on the domestic industry.

The record does not support the contention that an increase in subject imports from Italy could have no significant adverse impact on the domestic industry because the industry performed well during the period of review despite its loss of market share to nonsubject imports. The domestic industry's market share in 2012 was only 0.8 percentage points lower than in 2007, and increased nonsubject import competition did not prevent the domestic industry from maintaining its prices while costs declined between 2008 and 2010, yielding

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<sup>157</sup> Commerce conducted an expedited review with respect to the antidumping duty order on subject imports from Italy. It found likely dumping margins of 20.84 percent for Arrighi S.p.A. Industrie Alimentari and affiliate Italpasta S.p.A.; 14.78 percent for La Molisana Industrie Alimentari S.p.A.; 12.14 percent for Ligouori Pastificio Dal S.p.A.; 18.23 percent for Pastificio Fratelli Pagani S.p.A.; and an all others rate of 16.51 percent. 78 Fed. Reg. 2368 (January 11, 2013).

Commerce conducted an expedited five-year review with respect to the countervailing duty order on subject imports from Italy. It found likely net countervailable subsidy rates for sixteen Italian subject manufacturers/exporters/producers ranging from 5.22 percent to 13.58 percent, and an all others rate of 7.39 percent. 78 Fed. Reg. 693 (January 4, 2013).

<sup>158</sup> Hearing Tr. at 19-20 (Vermylen); 25 (Hasper); 30-31 (Faucett); 142-143 (George).

<sup>159</sup> CR/PR at Table C-1; CR at III-25 and n.33; PR at III-15 and n.33.

higher operating income.<sup>160</sup> By contrast, we have found that subject imports from Italy would likely increase their penetration of the U.S. market significantly after revocation by underselling the domestic like product to a significant degree, which would likely have a significant adverse impact on domestic prices and revenues.

We have also taken into account whether there are other factors that likely would affect the domestic industry. The share of the U.S. market held by nonsubject imports increased irregularly during the period of review from \*\*\* percent in 2007 to \*\*\* percent in 2012.<sup>161</sup> The average unit values of nonsubject imports have been comparable to the average unit values of the domestic industry during most of the period of review.<sup>162</sup> As indicated above, increased nonsubject import competition did not prevent the domestic industry from performing well during the period. There is no evidence in the record suggesting that nonsubject foreign producers have the incentive to increase significantly their presence in the U.S. market in the reasonably foreseeable future.

Accordingly, notwithstanding the presence of nonsubject imports in the U.S. market, we have found that if the antidumping and countervailing duty orders on Italy were revoked subject imports would likely have a significant adverse impact on the domestic industry. In sum, we conclude that if the orders are revoked, subject imports from Italy would likely lead to the continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

#### **IV. Conclusion**

For the above-stated reasons, and those set forth in the sections of the majority views that we join, we determine that revocation of the antidumping and countervailing duty orders on certain pasta from Italy would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time and that revocation of the antidumping and countervailing duty orders on certain pasta from Turkey would not be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

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<sup>160</sup> CR/PR at Table III-7.

<sup>161</sup> CR/PR at Table I-1.

<sup>162</sup> Average unit values for nonsubject imports ranged between \*\*\* in 2007 and \*\*\* in 2012, while average unit values for domestic producers ranged between \*\*\* in 2007 and \*\*\* in 2012. CR/PR at Table I-1.

## PART I: INTRODUCTION

### BACKGROUND

On September 4, 2012, the U.S. International Trade Commission (“Commission” or “USITC”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”)<sup>1</sup>, that it had instituted review(s) to determine whether revocation of the countervailing and antidumping duty orders on certain pasta from Italy and Turkey would likely lead to the continuation or recurrence of material injury to a domestic industry.<sup>2 3</sup> On December 10, 2012, the Commission determined that it would conduct full reviews pursuant to section 751(c)(5) of the Act.<sup>4</sup> The following tabulation presents information relating to the background and schedule of this proceeding:<sup>5</sup>

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<sup>1</sup> 19 U.S.C. 1675(c).

<sup>2</sup> *Certain Pasta From Italy and Turkey; Institution of Five-year Reviews Concerning the Countervailing and Antidumping Duty Orders on Certain Pasta From Italy and Turkey*, 77 FR 53909, September 4, 2012. All interested parties were requested to respond to this notice by submitting the information requested by the Commission.

<sup>3</sup> In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of five-year reviews of the subject antidumping and countervailing duty orders concurrently with the Commission’s notice of institution. *Initiation of Five-Year (“Sunset”) Review*, 77 FR 53867, September 4, 2012.

<sup>4</sup> *Certain Pasta From Italy and Turkey; Notice of Commission Determination To Conduct Full-Five-Year Reviews*, 78 FR 959, January 7, 2013. On December 10, 2012, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (77 FR 53909, September 4, 2012) was adequate and that the respondent interested party group response with respect to Turkey was adequate, and decided to conduct full reviews of the countervailing duty order and antidumping duty order on imports of certain pasta from Turkey. The Commission found that the respondent interested party group response with respect to Italy was inadequate. Notwithstanding the Commission’s adequacy determination regarding Italy, the Commission determined to conduct full reviews of the countervailing duty order and antidumping duty order on imports of certain pasta from Italy to promote administrative efficiency in light of its decision to conduct full reviews with respect to Turkey.

<sup>5</sup> The Commission’s notice of institution, notice to conduct full reviews, scheduling notice, and statement on adequacy appear in appendix A and may also be found at the Commission’s web site (internet address [www.usitc.gov](http://www.usitc.gov)). Commissioners’ votes on whether to conduct expedited or full reviews may also be found at the web site. Appendix B presents the witnesses appearing at the Commission’s hearing.

Effective date	Action
October 12, 2007	Commerce's continuation of countervailing and antidumping duty orders on certain pasta from Italy and Turkey (72 FR 58052)
September 4, 2012	Commission's institution of five-year reviews (77 FR 53909)
September 1, 2012	Commerce's initiation of five-year reviews (77 FR 53867, September 4, 2012)
December 10, 2012	Commission's determinations to conduct full five-year reviews (78 FR 959, January 7, 2013))
January 4, 2013	Commerce's final results of expedited five-year reviews of the countervailing duty orders on certain pasta from Italy (78 FR 693) and Turkey (78 FR 692)
January 11, 2013	Commerce's final results of expedited five-year reviews of the antidumping duty orders on certain pasta from Italy and Turkey (78 FR 2368)
February 6, 2013	Commission's scheduling of the reviews (78 FR 9937, February 12, 2013)
March 1, 2013	Commission's revised scheduling of the reviews (78 FR 15046, March 8, 2013)
July 11, 2013	Commission's hearing
August 19, 2013	Commission's vote
August 30, 2013	Commission's determinations and views

### The original investigations

The original investigations resulted from petitions filed by Borden, Inc. ("Borden"), Columbus, Ohio; Hershey Foods Corp. ("Hershey"), Hershey, Pennsylvania; and Gooch Foods, Inc. (Archer Daniels Midland Co.), Lincoln, Nebraska, on May 12, 1995, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair value ("LTFV") imports of certain pasta from Italy and Turkey. Following notification of final determinations by Commerce that imports of certain pasta from Italy and Turkey were being subsidized and sold at LTFV, the Commission determined on July 9, 1996 that a domestic industry was materially injured by reason of subsidized and LTFV imports of certain pasta from Italy and Turkey.<sup>6</sup> Commerce published the countervailing and antidumping duty orders on subject imports of certain pasta from Italy and Turkey on July 24, 1996.<sup>7</sup>

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<sup>6</sup> *Certain Pasta from Italy and Turkey*, Inv. Nos. 701-TA-365-366 and 731-TA-734-735 (Final), USITC Publication 2977 (July 1996).

<sup>7</sup> *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") From Italy*, 61 FR 38544; *Notice of Countervailing Duty Order: Certain Pasta ("Pasta") From Turkey*, 61 FR 38546; *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy*, 61 FR 38547; *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.

### Subsequent five-year reviews

In October 2001, the Commission completed expedited five-year reviews of the subject orders and determined that revocation of the antidumping and countervailing duty orders on certain pasta from Italy and Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>8</sup> Following affirmative determinations in the first five-year reviews by Commerce and the Commission,<sup>9</sup> Commerce issued a continuation of the antidumping and countervailing duty orders on imports of certain pasta from Italy and Turkey, effective November 16, 2001.<sup>10</sup>

In September 2007, the Commission completed full five-year reviews of the subject orders and determined that revocation of the antidumping and countervailing duty orders on certain pasta from Italy and Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>11</sup> Following affirmative determinations in the second five-year reviews by Commerce and the Commission,<sup>12</sup> Commerce issued a continuation of the antidumping and countervailing duty orders on imports of certain pasta from Italy and Turkey, effective October 12, 2007.<sup>13</sup>

### PREVIOUS AND RELATED INVESTIGATIONS

The Commission has not conducted any previous investigations concerning certain dry pasta.

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<sup>8</sup> *Certain Pasta From Italy and Turkey*, Inv. Nos. 701-TA-365-366 and 731-TA-734-735 (Review), USITC Publication 3462 (October 2001).

<sup>9</sup> *Certain Pasta From Italy and Turkey*, 66 FR 55697, November 2, 2001; *Final Results of Expedited Sunset Reviews: Certain Pasta From Italy and Turkey*, 66 FR 51015, October 5, 2001; *Final Results of Expedited Sunset Review: Countervailing Duty Order on Certain Pasta From Turkey*, 66 FR 51019, October 5, 2001; *Final Results of Sunset Review: Countervailing Duty Order on Certain Pasta From Italy*, 66 FR 51640, October 10, 2001; *Notice of Amendment of Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision and Revocation in Part: Certain Pasta From Italy*, 66 FR 65889, December 21, 2001.

<sup>10</sup> *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>11</sup> *Certain Pasta From Italy and Turkey*, Inv. Nos. 701-TA-365-366 and 731-TA-734-735 (Second Review), USITC Publication 3947 (September 2007).

<sup>12</sup> *Certain Pasta From Italy and Turkey*, 72 FR 56382, October 3, 2007; *Notice of Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders: Certain Pasta from Italy and Turkey*, 72 FR 5266, February 5, 2007; *Certain Pasta From Turkey: Final Results of Expedited Five-Year ("Sunset") Review of the Countervailing Duty Order*, 72 FR 5269, February 5, 2007; and *Certain Pasta From Italy: Final Results of Expedited Five-Year ("Sunset") Review of the Countervailing Duty Order*, 72 FR 5271, February 5, 2007.

<sup>13</sup> *Certain Pasta from Turkey and Italy: Continuation of Countervailing Duty and Antidumping Duty Orders*, 72 FR 58052, October 12, 2007.

## **SUMMARY DATA**

Table I-1 presents a summary of data from the original investigations, first five-year reviews, and second five-year reviews, as well as the data collected in the current proceeding.



Table I-1

Dry pasta: Summary data from the original investigations and subsequent reviews, 1993-95,  
2000-12

(Quantity in 1,000 pounds; value in 1,000 dollars; shares/ratios in percent)

Item	1993	1994	1995	2000	2001	2002	2003	2004	2005	2006
<b>U.S. consumption quantity:</b>	2,833,625	3,028,555	3,112,308	***	3,077,865	3,207,956	3,073,963	3,065,628	3,186,474	3,236,966
Producers' share:	87.0	84.1	83.5	***	81.7	82.0	82.0	83.1	81.8	82.0
Importers' share:										
Subject sources--										
Italy	7.6	9.4	10.4	***	***	***	***	***	***	***
Turkey	1.7	2.1	1.8	***	***	***	***	***	***	***
Subtotal, subject	9.3	11.6	12.2	***	10.8	9.9	10.1	9.0	8.5	8.2
Nonsubject sources--										
Italy	0.1	0.3	0.2	( <sup>1</sup> )	***	***	***	***	***	***
Turkey	0.0	0.2	0.2	( <sup>1</sup> )	***	***	***	***	***	***
All other	3.7	3.8	3.9	***	6.9	7.4	7.2	7.3	7.5	8.2
Subtotal, nonsubject	3.8	4.3	4.3	***	7.5	8.1	7.9	7.9	9.7	9.8
Total imports	13.1	15.9	16.5	***	18.3	18.0	18.0	16.9	18.2	18.0
<b>U.S. consumption value:</b>	1,294,039	1,453,236	1,474,894	( <sup>1</sup> )	1,325,794	1,343,609	1,347,483	1,355,452	1,478,026	1,504,947
Producers' share:	87.8	85.7	84.4	( <sup>1</sup> )	82.7	82.3	81.3	81.2	79.5	80.1
Importers' share:										
Subject sources--										
Italy	6.8	8.6	10.0	( <sup>1</sup> )	***	***	***	***	***	***
Turkey	0.9	1.1	0.9	( <sup>1</sup> )	***	***	***	***	***	***
Subtotal, subject	7.7	9.7	11.0	( <sup>1</sup> )	9.0	8.8	9.6	9.5	9.0	8.5
Nonsubject sources--										
Italy	0.1	0.3	0.2	( <sup>1</sup> )	***	***	***	***	***	***
Turkey	0.0	0.1	0.1	( <sup>1</sup> )	***	***	***	***	***	***
All other	4.4	4.2	4.3	( <sup>1</sup> )	7.6	8.1	8.2	8.4	8.7	9.3
Subtotal, nonsubject	4.5	4.6	4.7	( <sup>1</sup> )	8.2	8.9	9.1	9.3	11.5	11.3
Total imports	12.2	14.3	15.7	( <sup>1</sup> )	17.3	17.7	18.7	18.8	20.5	19.9

Table continued on next page.

**Table I-1—Continued**

Item	2007	2008	2009	2010	2011	2012
Apparent U.S. consumption quantity:	2,917,197	2,948,955	3,028,138	3,125,201	3,113,794	3,111,339
Producers' share:	79.4	81.7	82.0	81.7	80.1	78.6
Importers' share:						
Subject sources--						
Italy	***	***	***	***	***	***
Turkey	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***
Nonsubject sources--						
Italy	***	***	***	***	***	***
Turkey	***	***	***	***	***	***
All other countries	9.4	10.4	9.5	9.7	10.6	11.4
Subtotal, nonsubject	***	***	***	***	***	***
Total imports	20.6	18.3	18.0	18.3	19.9	21.4
Apparent U.S. consumption value:	1,562,177	2,198,345	2,125,477	2,068,389	2,224,611	2,313,170
Producers' share:	78.4	82.5	83.1	81.7	80.6	79.3
Importers' share:						
Subject sources--						
Italy	***	***	***	***	***	***
Turkey	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***
Nonsubject sources--						
Italy	***	***	***	***	***	***
Turkey	***	***	***	***	***	***
All other countries	9.6	8.8	8.2	9.3	10.3	10.8
Subtotal, nonsubject	***	***	***	***	***	***
Total imports	21.6	17.5	16.9	18.3	19.4	20.7

Table continued on next page.

**Table I-1--Continued**

**Dry pasta: Summary data from the original investigations and subsequent reviews, 1993-95, 2000-12**

**(Quantity in 1,000 pounds; value in 1,000 dollars; shares/ratios in percent)**

Item	1993	1994	1995	2000	2001	2002	2003	2004	2005	2006
U.S. imports from--										
Subject sources--										
Italy:										
Quantity	213,966	285,860	322,448	309,498	***	***	***	***	***	***
Value	88,237	125,602	147,580	( <sup>1</sup> )	***	***	***	***	***	***
Unit value	\$0.41	\$0.44	\$0.46	( <sup>1</sup> )	\$0.36	\$0.38	\$0.42	\$0.47	\$0.50	\$0.49
Turkey:										
Quantity	48,803	64,022	57,046	2,737	***	***	***	***	***	***
Value	11,490	15,541	13,935	( <sup>1</sup> )	***	***	***	***	***	***
Unit value	\$0.24	\$0.24	\$0.24	( <sup>1</sup> )	\$0.22	\$0.21	\$0.22	\$0.23	\$0.26	\$0.30
Subtotal, subject										
Quantity	262,769	349,882	379,494	312,235	332,430	317,271	310,338	275,709	269,604	265,454
Value	99,727	141,143	161,515	( <sup>1</sup> )	119,806	118,732	129,571	128,122	133,259	128,488
Unit value	\$0.38	\$0.40	\$0.43	( <sup>1</sup> )	\$0.36	\$0.37	\$0.42	\$0.46	\$0.49	\$0.48
Nonsubject sources--										
Italy:										
Quantity	1,500	7,832	4,983	( <sup>1</sup> )	***	***	***	***	***	***
Value	1,412	4,407	3,119	( <sup>1</sup> )	***	***	***	***	***	***
Unit value	\$0.94	\$0.56	\$0.63	( <sup>1</sup> )	\$0.47	\$0.48	\$0.59	\$0.77	\$0.66	\$0.68
Turkey:										
Quantity	1,369	5,812	7,529	( <sup>1</sup> )	***	***	***	***	***	***
Value	314	1,347	1,754	( <sup>1</sup> )	***	***	***	***	***	***
Unit value	\$0.23	\$0.23	\$0.23	( <sup>1</sup> )	\$0.23	\$0.21	\$0.26	\$0.29	\$0.17	\$0.16
All other										
Quantity	103,609	116,559	121,090	217,381	213,109	236,751	222,803	224,836	240,029	266,236
Value	56,476	60,437	63,835	( <sup>1</sup> )	101,038	108,626	110,509	113,286	128,936	140,452
Unit value	\$0.55	\$0.52	\$0.53	( <sup>1</sup> )	\$0.47	\$0.46	\$0.50	\$0.50	\$0.54	\$0.53
Subtotal, nonsubject:										
Quantity	106,478	130,203	133,602	217,381	230,611	260,521	242,567	242,261	309,930	318,762
Value	58,202	66,191	68,708	( <sup>1</sup> )	109,188	119,659	122,009	126,521	169,236	170,590
Unit value	\$0.55	\$0.51	\$0.51	( <sup>1</sup> )	\$0.47	\$0.46	\$0.50	\$0.52	\$0.55	\$0.54
Total imports:										
Quantity	369,247	480,085	513,096	529,616	563,041	577,792	552,905	517,970	579,534	584,216
Value	157,929	207,334	230,223	( <sup>1</sup> )	228,994	238,391	251,580	254,643	302,494	299,079
Unit value	\$0.43	\$0.43	\$0.45	( <sup>1</sup> )	0	\$0.41	\$0.46	\$0.49	\$0.52	\$0.51

Table continued on next page.

**Table I-1—Continued**

Item	2007	2008	2009	2010	2011	2012
U.S. imports from--						
Subject sources--						
Italy:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Turkey:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Subject sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Nonsubject sources--						
Italy:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Turkey:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Other countries:						
Quantity	273,779	306,999	287,497	302,840	329,967	354,045
Value	149,539	193,164	174,885	191,513	228,082	250,936
Unit value	\$0.55	\$0.63	\$0.61	\$0.63	\$0.69	\$0.71
Subtotal, nonsubject:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Total imports:						
Quantity	602,125	539,723	544,419	571,835	618,097	665,765
Value	338,009	384,999	359,342	377,891	432,097	478,921
Unit value	\$0.56	\$0.71	\$0.66	\$0.66	\$0.70	\$0.72

Table continued on next page.

**Table I-1--Continued**

**Dry pasta: Summary data from the original investigations and subsequent reviews, 1993-95, 2000-12**

**(Quantity in 1,000 pounds; value in 1,000 dollars; shares/ratios in percent)**

Item	1993	1994	1995	2000	2001	2002	2003	2004	2005	2006
U.S. producers'--										
Capacity quantity	3,492,033	3,703,316	3,668,937	( <sup>1</sup> )	3,169,432	3,108,118	3,224,488	3,392,234	3,318,954	3,431,482
Production quantity	2,441,469	2,616,714	2,589,015	***	2,519,030	2,677,280	2,603,192	2,578,992	2,679,998	2,743,862
Capacity utilization	69.9	70.7	70.6	( <sup>1</sup> )	79.5	86.1	80.7	76.0	80.7	80.0
U.S. shipments:										
Quantity	2,464,378	2,548,470	2,599,212	***	2,514,824	2,630,165	2,521,058	2,547,658	2,606,940	2,652,751
Value	1,136,110	1,246,002	1,244,671	***	1,096,800	1,105,218	1,095,903	1,100,809	1,175,532	1,205,868
Unit value	\$0.46	\$0.49	\$0.48	\$***	\$0.44	\$0.42	\$0.43	\$0.43	\$0.45	\$0.45
Ending inventory quantity	204,913	243,197	226,142	( <sup>1</sup> )	214,697	219,928	245,614	203,853	198,490	211,990
Inventories/total shipments	8.3	9.5	8.7	( <sup>1</sup> )	8.4	8.2	9.5	7.8	7.4	7.8
PRWs	4,418	4,694	4,516	( <sup>1</sup> )	2,667	2,578	2,437	2,400	2,360	2,365
Hours worked (1,000 hours)	9,826	9,500	9,142	( <sup>1</sup> )	7,348	7,155	7,603	7,406	7,383	7,294
Wages paid (1,000 dollars)	114,040	115,423	118,849	( <sup>1</sup> )	83,770	80,521	80,566	81,310	82,972	86,504
Hourly wages	\$11.61	\$12.15	\$13.00	( <sup>1</sup> )	\$11.40	\$11.25	\$10.60	\$10.98	\$11.24	\$11.86
Productivity (pounds per hour)	248.5	275.4	283.2	( <sup>1</sup> )	342.8	374.2	342.4	348.2	363.0	376.2
Net sales:										
Quantity	1,944,520	1,888,585	1,864,680	( <sup>1</sup> )	2,324,938	2,461,849	2,445,006	2,446,932	2,450,666	2,522,206
Value	1,150,425	1,187,471	1,177,970	( <sup>1</sup> )	1,021,200	1,051,892	1,069,108	1,086,142	1,127,520	1,167,883
Unit value	\$0.59	\$0.63	\$0.62	( <sup>1</sup> )	\$0.44	\$0.43	\$0.44	\$0.44	\$0.46	\$0.46
Cost of goods sold	687,700	770,236	778,856	( <sup>1</sup> )	777,184	828,532	846,425	871,028	870,136	867,135
Gross profit or (loss)	462,725	417,235	399,114	( <sup>1</sup> )	244,016	223,360	222,683	215,114	257,384	300,748
Operating income or (loss)	103,971	46,525	(14,794)	( <sup>1</sup> )	87,076	71,440	55,071	50,360	68,834	116,690
Unit cost of goods sold	\$0.35	\$0.41	\$0.41	( <sup>1</sup> )	\$0.33	\$0.34	\$0.35	\$0.36	\$0.36	\$0.34
Unit operating income or (loss)	\$0.05	\$0.02	(\$0.01)	( <sup>1</sup> )	\$0.04	\$0.03	\$0.02	\$0.02	\$0.03	\$0.05
Cost of goods sold/sales	59.8	64.9	66.1	( <sup>1</sup> )	76.1	78.8	79.2	80.2	77.2	74.2
SG&A expenses/sales	31.2	31.2	35.1	( <sup>1</sup> )	15.4	14.4	15.7	15.2	16.7	15.8
Operating income or (loss)/sales	9.0	3.9	(1.3)	( <sup>1</sup> )	8.5	6.8	5.2	4.6	6.1	10.0

Table continued on next page.

**Table I-1—Continued**

Item	2007	2008	2009	2010	2011	2012
U.S. producers'--						
Capacity quantity	2,806,561	2,877,370	2,944,373	3,108,463	3,169,131	3,231,406
Production quantity	2,331,898	2,429,015	2,532,865	2,562,900	2,557,485	2,481,352
Capacity utilization	83.1	84.4	86.0	82.4	80.7	76.8
U.S. shipments:						
Quantity	2,315,072	2,409,232	2,483,719	2,553,366	2,495,697	2,445,574
Value	1,224,168	1,813,346	1,766,135	1,690,498	1,792,514	1,834,249
Unit value	0.53	0.75	0.71	0.66	0.72	0.75
Ending inventory quantity	201,644	202,606	220,442	200,800	227,628	223,961
Inventories/total shipments	8.6	8.3	8.8	7.8	9.0	9.0
PRWs	2,034	2,044	2,119	2,103	2,156	2,153
Hours worked (1,000 hours)	4,593	4,599	4,786	4,808	4,919	4,855
Wages paid (1,000 dollars)	91,140	96,683	104,000	106,333	110,213	107,984
Hourly wages	\$19.84	\$21.02	\$21.73	\$22.12	\$22.41	\$22.24
Productivity (pounds per hour)	507.7	528.2	529.2	533.0	519.9	511.1
Net sales:						
Quantity	2,285,993	2,359,642	2,503,046	2,542,561	2,493,341	2,460,510
Value	1,185,293	1,691,345	1,808,035	1,684,710	1,770,503	1,877,747
Unit value	\$0.52	\$0.72	\$0.72	\$0.66	\$0.71	\$0.76
Cost of goods sold	875,703	1,296,577	1,248,908	1,041,471	1,144,560	1,308,400
Gross profit or (loss)	309,590	394,768	559,127	643,238	625,943	569,347
Operating income or (loss)	93,559	121,419	286,715	372,533	328,143	271,452
Unit cost of goods sold	\$0.38	\$0.55	\$0.50	\$0.41	\$0.46	\$0.53
Unit operating income or (loss)	\$0.04	\$0.05	\$0.11	\$0.15	\$0.13	\$0.11
Cost of goods sold/sales	73.9	76.7	69.1	61.8	64.6	69.7
SG&A expenses/sales	18.2	16.2	15.1	16.1	16.8	15.9
Operating income or (loss)/sales	7.9	7.2	15.9	22.1	18.5	14.5

<sup>1</sup> Not applicable/available.

Note.—Because of rounding, figures may not add to the totals shown.

Note.—Historical data are presented as originally reported. Subject import data for Italy and Turkey from the first reviews include nonsubject import data. Official Commerce statistics used in the second reviews for all dry pasta include HTS subheadings 1902.19.20 (non-egg pasta) and 1902.11.20 (egg pasta). Adjustments to official Commerce statistics for nonsubject product included in the HTS subheadings (e.g., excluded Lensi product (since January 1, 2005) and bulk non-egg pasta) were made based on data submitted in response to the Commission's questionnaires and Customs data. In the current reviews, adjusted Customs data were used for "certain dry pasta" imports from Italy and Turkey (subject) and "other dry pasta" imports from Italy and Turkey (nonsubject); and official Commerce statistics were used for "all dry pasta" from all other sources, HTS subheadings 1902.19.20 (non-egg pasta) and 1902.11.20 (egg pasta).

Source: Compiled from data presented in original staff report and subsequent reviews, official Commerce statistics, Customs data, and data submitted in response to Commission questionnaires.

## STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

### Statutory criteria

Section 751(c) of the Act requires Commerce and the Commission to conduct a review no later than five years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation “would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.”

Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury--

*(1) IN GENERAL.-- . . . the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--*

*(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,*

*(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,*

*(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and*

*(D) in an antidumping proceeding . . ., (Commerce’s findings) regarding duty absorption . . .*

*(2) VOLUME.--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--*

*(A) any likely increase in production capacity or existing unused production capacity in the exporting country,*

*(B) existing inventories of the subject merchandise, or likely increases in inventories,*

*(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and*

*(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.*

*(3) PRICE.--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--*

*(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and*

*(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.*

*(4) IMPACT ON THE INDUSTRY.--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--*

*(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,*

*(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and*

*(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.*

*The Commission shall evaluate all such relevant economic factors . . . within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.*

Section 752(a)(6) of the Act states further that in making its determination, “the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement.”



## Organization of report

Information obtained during the course of the reviews that relates to the statutory criteria is presented throughout this report. A summary of trade and financial data for dry pasta as collected in the reviews is presented in appendix C. U.S. industry data are based on the questionnaire responses of eight U.S. producers of dry pasta that are believed to have accounted for 79.2 percent of total shipment value of U.S. production of dry pasta in 2011.<sup>14</sup> <sup>15</sup> U.S. import data and related information are based on adjusted Customs statistics to account for all dutiable imports of certain dry pasta from Italy and Turkey, official import statistics for nonsubject imports of all dry pasta, and the questionnaire responses of 22 U.S. importers that are believed to have accounted for \*\*\* percent of total subject U.S. imports during 2012. Foreign industry data and related information are based on the questionnaire responses of 18 producers of certain dry pasta in Italy and 8 producers of certain dry pasta in Turkey.<sup>16</sup> Responses by U.S. producers, importers, purchasers, and foreign producers of dry pasta to a series of questions concerning the significance of the existing antidumping and countervailing duty orders and the likely effects of revocation of such orders are presented in appendix D.

## COMMERCE'S REVIEWS

### Administrative reviews<sup>17</sup>

The following tables present information on Commerce's administrative reviews of the subject orders.<sup>18</sup>

#### Italy

Since the second five-year reviews, Commerce has completed five countervailing duty administrative reviews with regard to subject imports of certain dry pasta from Italy. Commerce has also completed eight antidumping duty administrative reviews with regard to subject imports of certain dry pasta from Italy. The results of the administrative reviews are shown in tables I-2 and I-3. As presented below, four Italian firms had zero cash deposit rates for their certain dry pasta imports during the period of review (January 2007-March 2013). Atar had a zero cash deposit rate on its imports *prior* to February 14, 2007, when it received a company-

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<sup>14</sup> U.S. Census Bureau, *Annual Survey of Manufactures, Value of Product Shipments: 2011 and 2010*, November 2012, table 1, product class code 311823, dry pasta manufacturing.

<sup>15</sup> Three additional U.S. producers, \*\*\*, provided partial questionnaire responses, and were thus excluded from the data, except for \*\*\*.

<sup>16</sup> Italian producer \*\*\* provided selected trade data only.

<sup>17</sup> Commerce has not issued any duty absorption findings with respect to certain dry pasta from the subject countries.

<sup>18</sup> For previously reviewed or investigated companies not included in an administrative review, the cash deposit rate continues to be the company-specific rate published for the most recent period.

specific dumping margin of 18.18 percent.<sup>19</sup> Fabianelli and Zara received zero cash deposit rates effective June 18, 2012, resulting from Commerce's implementation of USTR's determination under Section 129 of the Uruguay Round Agreements Act and subsequent recalculation of company-specific cash deposit rates for estimated antidumping duties.<sup>20</sup> De Cecco received a zero cash deposit rate effective June 29, 2010, resulting from a *de minimis* subsidy rate in Commerce's administrative review.<sup>21</sup>

As a result of Commerce's reviews (and court decision with respect to Delverde), the antidumping duty orders have been revoked in part with respect to the following eight manufacturers/exporters of certain dry pasta.

Firm	FR cite	Effective date
<b>Antidumping duty order:</b>		
Corex	67 FR 300, January 3, 2002	June 30, 2000
De Cecco	65 FR 77852, December 13, 2000	June 30, 1999
Delverde/Tamma	66 FR 65889, December 21, 2001	January 19, 1996
De Matteis	61 FR 30288, June 14, 1995	June 14, 1995
Ferrara	70 FR 6832, February 9, 2005	June 30, 2003
Pallante/Vitelli	70 FR 71464, November 29, 2005	June 30, 2004
Puglisi	67 FR 300, January 3, 2002	June 30, 2000
<b>Countervailing duty order</b>		
Lensi	71 FR 36320, June 26, 2006	December 31, 2004

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<sup>19</sup> Prior to February 14, 2007, Atar had *de minimis* dumping and subsidy margins, effective May 25, 2005 (70 FR 30083) and June 26, 2006 (71 FR 36318), respectively.

<sup>20</sup> Fabianelli and Zara have *de minimis* or zero subsidy rates, effective February 10, 2012 (77 FR 7129) and December 7, 2004 (69 FR 70657), respectively.

<sup>21</sup> De Cecco is excluded from the antidumping duty order, effective June 1999.

Table I-2

## Certain dry pasta: Administrative reviews of the countervailing duty order for Italy

Date results published	Period of review	Producer or exporter	Firm-specific rate (percent)
June 26, 2006 (71 FR 36318) <sup>1</sup>	1/1/2004-12/31/2004	Atar	0.20 <sup>2</sup>
		Corticella/Combattenti	0.12 <sup>2</sup>
		Lensi	0.00 <sup>3</sup>
		All others	3.89
February 7, 2008 (73 FR 7251)	1/1/2005-12/31/2005	De Matteis Agroalimentare S.p.A.	1.83
		Pastificio Antonio Pallante S.r.L.	2.02
		Atar S.r.L.	0.00 <sup>4</sup>
September 15, 2009 (74 FR 47204)	1/1/2007-12/31/2007	De Matteis Agroalimentare S.p.A.	2.48
		All others	3.85
June 29, 2010 (75 FR 37386)	1/1/2008-12/31/2008	F.Ili De Cecco di Filippo Fara San Martino S.p.A./Molino e Pastificio De Cecco S.p.A.	0.44 <sup>2</sup>
		Pastificio Lucio Garofalo S.p.A.	0.62
		De Matteis Agroalimentare S.p.A.	0.62
		Agritalia S.r.L.	0.62
		F. Divella S.p.A.	0.62
		All others	3.85
February 10, 2012 (77 FR 7129)	1/1/2009-12/31/2009	F.Ili De Cecco di Filippo Fara San Martino S.p.A.	0.39 <sup>2</sup>
		Pastificio Fabianelli S.p.A.	0.00 <sup>4</sup>
		Molino e Pastificio Tomasello S.p.A.	5.11
		Pastificio Antonio Pallante, S.r.L.	1.00
November 21, 2012 (77 FR 69793)	1/1/2010-12/31/2010	Molino e Pastificio Tomasello S.p.A.	2.49

<sup>1</sup> As presented in the Commission's second reviews, USITC publication 3947, September 2007, p I-14 (table I-5).

<sup>2</sup> Rates less than 0.50 percent were considered *de minimis* and liquidated without regard to countervailing duties.

<sup>3</sup> Countervailing duty order revoked for Pasta Lensi, because it did not receive countervailable subsidies during the period of review, and had zero net subsidy rates for the previous four reviews.

<sup>4</sup> No countervailable subsidies received during the period of review.

Source: Cited Federal Register notices.

**Table I-3**

**Certain dry pasta: Administrative reviews of the antidumping duty order for Italy**

<b>Date results published</b>	<b>Period of review</b>	<b>Producer or exporter</b>	<b>Firm-specific margin (percent)</b>
February 14, 2007 (72 FR 7011) <sup>1</sup>	7/1/2004-6/30/2005	Atar	18.18
		Corticella/Combattenti	1.95
		All others	11.26
December 11, 2007 (72 FR 70298)	7/1/2005-6/30/2006	Rummo	1.41
December 11, 2008 (73 FR 75400)	7/1/2006-6/30/2007	Divella	2.83
		Zara	9.71
		Gaetano	6.27
		Felicetti	6.27
February 9, 2010 (75 FR 6352)	7/1/2007-6/30/2008	PAM	8.54
		Garofalo	16.26
		Erasmus	12.40
		Indalco	12.40
		Lensi	12.40
		Pagani	12.40
		Labor	12.40
		Riscossa	12.40
		Rummo	12.40
		Rustichella	12.40
March 10, 2010 (75 FR 11116)	7/1/2007-6/30/2008	Garofalo	15.87
		PAM	8.54
		Review-Specific Average <sup>2</sup>	12.21
December 27, 2010 (75 FR 81212)	7/1/2008-6/30/2009	Garofalo	3.61
		Granoro	0.80
February 7, 2011 (76 FR 6601)	7/1/2008-6/30/2009	Granoro	0.47 <sup>3</sup>
December 9, 2011 (76 FR 76937)	7/1/2009-6/30/2010	Garofalo	3.20
		Tomasello	4.18
		Agritalia	3.57
		Erasmus	
		Indalco	
		Labor	
		PAM	
		P.A.P. Afeltra	
		Fabianelli	
		Riscossa	
		Rummo	
		Rustichella.	

Table continued on next page.

**Table I-3--Continued**

**Certain dry pasta: Administrative reviews of the antidumping duty order for Italy**

<b>Date results published</b>	<b>Period of review</b>	<b>Producer or exporter</b>	<b>Firm-specific margin (percent)</b>
June 18, 2012 (77 FR 36257) <sup>4</sup>	7/1/2006-6/30/2007	F. Divella S.p.A.	0.00
		Pasta Zara S.p.A. 1 and Pasta Zara S.p.A. 2	0.00
		Pastificio Di Martino Gaetano & F.lli S.r.L.	0.00
		Pastificio Felicetti S.r.L.	0.00
June 18, 2012 (77 FR 36257) <sup>4</sup>	7/1/2007-6/30/2008	PAM S.p.A. and Liguori Pastificio dal 1820 S.p.A.	5.49
		Pastificio Lucio Garofalo S.p.A.	14.63
		Pasta Lensi S.r.L.	10.06
		Pastificio Fratelli Pagani S.p.A.	10.06
June 18, 2012 (77 FR 36257) <sup>4</sup>	7/1/2009-6/30/2010	Pastificio Lucio Garofalo S.p.A.	0.00
		Molino e Pastificio Tomasello S.p.A.	
		Agritalia S.r.L.	
		Domenico Paone fu Erasmo S.p.A.	
		Industria Alimentare Colavita, S.p.A.	
		Labor S.r.L.	
		PAM S.p.A. and Liguori Pastificio dal 1820 S.p.A.	
		P.A.P. SNC Di Paziienza G.B. & C.	
		Premiato Pastificio Afeltra S.r.L.	
		Pastificio Fabianelli S.p.A.	
		Pastificio Riscossa F.lli Mastromauro S.p.A.	
		Rustichella d'Abruzzo S.p.A.	
February 8, 2013 (78 FR 9364)	7/1/2010-6/30/2011	Rummo	5.11
		Attilio Mastromauro Granoro S.r.L. (Granoro)	0.00 <sup>5</sup>
		Filiberto	5.11
		Cellino	5.11
		Zaffiri	5.11

<sup>1</sup> As presented in the Commission's second reviews, USITC publication 3947, September 2007, p. I-13 (table I-4). Prior to February 14, 2007, Atar had a zero cash deposit rate.

<sup>2</sup> Because there are only two respondents for which a company-specific margin was calculated in this review, the Department of Commerce has calculated a simple average margin to ensure that the total import quantity and value for each company is not inadvertently revealed.

<sup>3</sup> Margins less than 0.50 percent were considered *de minimis* and liquidated without regard to antidumping duties.

<sup>4</sup> Commerce implemented the USTR's determination under Section 129 of the Uruguay Round Agreements Act and recalculated the cash deposit rates for estimated antidumping duties currently in effect for certain companies in a manner which renders them not inconsistent with the WTO's dispute settlement findings in *US-Zeroing (EC)*, *US-Continued Zeroing (EC)*, and *US-Zeroing (Japan)*.

<sup>5</sup> No entries or sales subject to this review.

Source: Cited Federal Register notices.

## Turkey

Since the second five-year reviews, Commerce has completed one countervailing duty administrative review with regard to subject imports of certain dry pasta from Turkey. Commerce has also completed one antidumping duty administrative review with regard to subject imports of certain dry pasta from Turkey. The results of the administrative reviews are shown in tables I-4 and I-5.

**Table I-4**  
**Certain dry pasta: Administrative reviews of the countervailing duty order for Turkey**

Date results published	Period of review	Producer or exporter	Firm-specific rate (percent)
November 21, 2012 (77 FR 69792)	1/1/2010-12/31/2010	Marsan Gida Sanayi ve Ticaret A.S.	0.15 <sup>1</sup>
		Istanbul Gida Dis Ticaret A.S./Birlik Pazarlama Sanayi ve Ticaret A. Scedil;/Bellini Gida Sanayi A.S.	0.28 <sup>1</sup>

<sup>1</sup> Rates less than 0.50 percent were considered *de minimis* and liquidated without regard to countervailing duties.

Source: Cited *Federal Register* notices.

**Table I-5**  
**Certain dry pasta: Administrative reviews of the antidumping duty order for Turkey**

Date results published	Period of review	Producer or exporter	Firm-specific margin (percent)
November 4, 2011 (76 FR 68399)	7/1/2009-6/30/2010	Marsan Gida Sanayi ve Ticaret A.S.	51.49 <sup>1</sup>

<sup>1</sup> Marsan, exporter of subject merchandise, received the same rate as Birlik, producer of subject merchandise.

Source: Cited *Federal Register* notices.

## Changed circumstances reviews

Since the second five-year reviews, Commerce has conducted three changed circumstances reviews with respect to Italy and two changed circumstances reviews with respect to Turkey. Effective January 12, 2009, Commerce reinstated the antidumping duty order with respect to Italian producer/exporter Lenzi. Commerce determined that Lenzi made sales at LTFV during the 2002-03 administrative review, and that, consequently, Lenzi no longer qualified for revocation based upon three consecutive reviews resulting in *de minimis*

margins.<sup>22</sup> Commerce also revoked, in part, the antidumping duty order from Italy with respect to gluten-free pasta, effective July 1, 2008. Commerce determined that the petitioners had no interest in the antidumping duty order with respect to gluten-free pasta.<sup>23</sup> Similarly, Commerce partially revoked the countervailing duty order from Italy with respect to gluten-free pasta, effective January 1, 2009.<sup>24</sup>

With respect to certain dry pasta from Turkey, effective June 2, 2009, Commerce determined that Marsan is the successor-in-interest to Gidasa and, thus, should receive the same antidumping duty treatment with respect to certain pasta from Turkey as the former Gidasa.<sup>25</sup> Effective October 21, 2009, Commerce further determined that Marsan is not the successor-in-interest to Gidasa for purposes of the CVD cash deposit rates. Accordingly, Commerce determined that Marsan's merchandise should continue to enter under the "all others" CVD cash deposit rate of 9.38 percent.<sup>26</sup>

### **Scope and anti-circumvention inquiries**

Since the second five-year reviews, Commerce has not conducted any scope or anti-circumvention proceedings with respect to the orders.

### **Five-year reviews**

Commerce has issued the final results of its expedited third reviews with respect to all subject countries.<sup>27</sup> Tables I-6 and I-7 present the countervailable subsidy rates and dumping margins calculated by Commerce in its original investigations, first reviews, second reviews, and third reviews, respectively.

Programs determined by Commerce to be countervailable are presented below.<sup>28</sup>

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<sup>22</sup> *Certain Pasta from Italy: Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement of Order*, 74 FR 1173, January 12, 2009.

<sup>23</sup> *Certain Pasta From Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part*, 74 FR 41120, August 14, 2009.

<sup>24</sup> *Certain Pasta From Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634, May 12, 2011.

<sup>25</sup> *Certain Pasta from Turkey: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 74 FR 26373, June 2, 2009.

<sup>26</sup> *Certain Pasta From Turkey: Final Results of Countervailing Duty Changed Circumstances Review*, 74 FR 54022, October 21, 2009.

<sup>27</sup> *Certain Pasta From Italy: Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order*, 78 FR 693, January 4, 2013; *Certain Pasta From Turkey: Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order*, 78 FR 692, January 4, 2013; and *Certain Pasta From Italy and Turkey: Final Results of Expedited Third Sunset Reviews of the Antidumping Duty Orders*, 78 FR 2368, January 11, 2013.

<sup>28</sup> For details concerning Commerce's subsidy findings, please see Commerce's unpublished decision memoranda, EDIS Doc. No. 514785.

## **Italy**

- 1) Export Restitution Payments
- 2) Industrial Development Grants Under Law 64/86
- 3) Industrial Development Loans Under Law 64/86
- 4) Social Security Reductions and Exemptions Law 407/90 Benefits
- 5) Social Security Reductions and Exemptions Law 863 Benefits
- 6) European Regional Development Fund ("ERDF")
- 7) European Social Fund ("ESF")
- 8) Lump-Sum Interest Payment Under the Sabatini Law
- 9) Industrial Development Grants Under Law 488/92
- 10) Law 183/76 Industrial Development Grant
- 11) Law 598/94 Interest Subsidies
- 12) Law 236/93 Training Grants
- 13) Duty Free Import Rights
- 14) Development Grants Under Law 30 of 1984
- 15) Law 908/55 (Revolving Fund for Economic Initiatives) Loan
- 16) Article 14 of Law 46/1982 (Fondo Innovazione Tecnologica)
- 17) Regional Law 34/1988
- 18) Law 341/95 Interest Contribution to Debt
- 19) Measure 3.14 of the POR Sicilia 2000/2006
- 20) Tax Credits Under Article 280 of Law 296/2006
- 21) Article 23 of Legislative Decree 38/2000
- 22) Law 289/02, Article 62, Investments in Disadvantaged Areas

## **Turkey**

- 1) Pre-Shipment Export Loans;
- 2) Pasta Export Grants;
- 3) Deduction from Taxable Income for Export Revenue
- 4) Export Subsidy Program for Agricultural Products
- 5) VAT Support Program
- 6) Law 5084: Incentive for Employers' Share in Insurance Premiums



**Table I-6**

**Certain dry pasta: Commerce's original, first five-year, second five-year, and third five-year countervailable subsidy rates for producers/exporters, by subject country**

Producer/exporter	Original rate (percent)	First five-year review rate (percent)	Second five-year review rate (percent)	Third five-year review rate (percent)
<b>Italy<sup>1</sup></b>				
Agritalia	2.55	3.03	3.96	6.84
Arrighi	2.44	2.92	3.85	6.73
Barilla	0.65 <sup>2</sup>	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>3</sup> )
De Matteis	2.47	2.55	3.48	6.01
Delverde	5.90	4.04	6.76	9.64
De Cecco	3.37	3.47	3.40	6.28
Gruppo Agricoltura Sana	0.00 <sup>2</sup>	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>3</sup> )
Industria Alimentare Colavita	2.04	2.08	3.01	5.89
Isola del Grano	11.23	11.71	10.70	13.58
Italpasta	11.23	11.71	10.70	13.58
Italpasta	2.44	2.92	3.85	6.73
La Molisana	4.17	3.94	4.82	7.70
Labor	11.23	11.71	10.70	13.58
Molino e Pastificio De Cecco	3.37	3.47	3.40	6.28
Ferrara	1.21	1.41	2.34	5.22
Pastificio Campano	2.59	2.54	3.47	6.35
Riscossa	6.91	6.48	7.81	10.69
Tamma	5.90	( <sup>3</sup> )	6.76	9.64
All others	3.85	3.89	4.52	7.39
<b>Turkey<sup>4</sup></b>				
Filiz	3.87	3.87	3.03	1.63
Maktas/Gida	12.61	13.12	4.49	13.09
Oba	15.82	15.82	14.48	13.08
All others	9.38	9.70	10.25	8.85

<sup>1</sup> Countervailing duty order, 61 FR 38544, July 24, 1996; final results of Commerce's review, 66 FR 51640, October 10, 2001; final results of Commerce's second review, 72 FR 5271, February 5, 2007; final results of Commerce's third review, 78 FR 693, January 4, 2013.

<sup>2</sup> Since the countervailable subsidy rate is either 0.00 or de minimis, companies are excluded from the countervailing duty order on pasta from Italy.

<sup>3</sup> Rate not specified.

<sup>4</sup> Countervailing duty order, 61 FR 38546, July 24, 1996; final results of Commerce's reviews, 66 FR 51019, October 5, 2001; final results of Commerce's second reviews, 72 FR 5269, February 2007; final results of Commerce's third review, 78 FR 692, January 4, 2013.

Source: Cited *Federal Register* notices

**Table I-7**

**Certain dry pasta: Commerce's original, first five-year, second five-year, and third five-year antidumping duty margins for producers/exporters, by subject country**

Producer/exporter	Original margin (percent)	First five-year review margin (percent)	Second five-year review margin (percent)	Third five-year review margin (percent)
<b>Italy<sup>1</sup></b>				
Arrighi/Italpasta	20.84	19.09	21.34	20.84
De Cecco	46.67	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>3</sup> )
De Matteis	0.00 (excluded)	0.00	( <sup>4</sup> )	( <sup>3</sup> )
Delverde	1.44 (de minimis)	1.68	( <sup>5</sup> )	( <sup>3</sup> )
La Molisana	14.78	14.73	14.78	14.78
Liguori	12.14	11.58	12.41	12.14
Pagani	18.23	17.47	18.30	18.23
All others	16.51	11.26	12.09 <sup>6</sup>	16.51 <sup>7</sup>
<b>Turkey<sup>8 9</sup></b>				
Filiz	63.29	63.29	63.29	63.29
Maktas <sup>10</sup>	48.26	48.26	60.87	60.87 <sup>11</sup>
All others	51.49	51.49	60.87	60.87 <sup>12</sup>

<sup>1</sup> Amended antidumping duty order, 61 FR 42231, August 14, 1996; final results of Commerce's review, 66 FR 51015, October 5, 2001; final results of Commerce's second review, 72 FR 5266, February 5, 2007; final results of Commerce's third review, 78 FR 2368, January 11, 2013.

<sup>2</sup> Order revoked for De Cecco, because of sales at not less than fair value for three consecutive periods. 65 FR 77862, December 13, 2000.

<sup>3</sup> Rate not specified.

<sup>4</sup> Excluded from order. 72 FR 5268, February 5, 2007.

<sup>5</sup> Order revoked for Delverde in accordance with Court Decision. 66 FR 65889, December 21, 2001.

<sup>6</sup> Does not apply to Corex, De Cecco, Delverde and its affiliate Tamma, De Matteis, Ferrara, Lensi, Puglisi, and Pallante and its affiliate Vitelli Foods because these companies are excluded from the order. 72 FR 5268, February 5, 2007.

<sup>7</sup> The cash deposit rate for All Others was modified to account for export subsidies.

<sup>8</sup> Amended antidumping duty order, 61 FR 38545, July 24, 1996; final results of Commerce's review, 66 FR 51015, October 5, 2001; final results of Commerce's second review, 72 FR 5266, February 5, 2007; and final results of Commerce's third review, 78 FR 2368, January 11, 2013.

<sup>9</sup> The margins for the antidumping duty order and the first review for Maktas and 'All others' are the deposit rates, which are the margins with the countervailing duty rates subtracted from them.

<sup>10</sup> Gidasa Sabanci Gida Sanayi ve Ticaret is the successor-in-interest to Maktas.

<sup>11</sup> Marsan Gida Sanayi ve Ticret A.S. was found to be the successor-in-interest to Gidasa in 2009; Gidasa was found to be the successor-in-interest to Maktas in 2003.

<sup>12</sup> The cash deposit rate for Maktas and All Others were modified to account for export subsidies.

Source: Cited *Federal Register* notices.

## THE SUBJECT MERCHANDISE

### Commerce's scope

The imported product subject to the antidumping and countervailing duty orders under review, as defined by Commerce is:

*certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions. Excluded from the scope of the orders 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.*<sup>29</sup>

Also excluded are imports of gluten-free pasta from Italy.<sup>30</sup>

### Tariff treatment

Certain pasta is classifiable in HTS subheading 1902.19.20 and enters at a column 1-general duty rate of free.<sup>31</sup> The HTS subheading is provided for convenience and for Customs purposes, but Commerce's written description of the merchandise is dispositive as to the products covered by the orders.

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<sup>29</sup> *Certain Pasta from Turkey and Italy: Continuation of Countervailing Duty and Antidumping Duty Orders*, 72FR 58052, October 12, 2007.

<sup>30</sup> *Certain Pasta From Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part*, 74 FR 41120, August 14, 2009; and *Certain Pasta From Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634, May 12, 2011.

<sup>31</sup> HTS subheading 1902.19.20 covers uncooked pasta, not stuffed or otherwise prepared, not containing eggs, that is exclusively pasta. The HTS provision covers goods outside the scope of these orders, as it also includes some nonsubject merchandise (e.g. dry non-egg pasta in packages greater than 5 pounds four ounces).

## DOMESTIC LIKE PRODUCT

In its original investigations, the Commission defined the domestic like product to be all dry pasta (including pasta for industrial use and dry egg pasta) although the scope of Commerce's investigations consisted of non-egg dry pasta in packages of five pounds or less.<sup>32</sup> The Commission found that all dry pasta shared the same basic physical characteristics and uses, and was manufactured with the same basic equipment and processes. While the different products had some distinctive features, similar variations were present throughout the continuum of dry pasta products and this did not create clear dividing lines between any of the dry pasta products. Hence, the Commission determined that there was one domestic like product consisting of all dry pasta.<sup>33</sup>

The following tabulation provides the definitions for the various dry pasta categories for which the Commission requested data and are used in this report:

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<sup>32</sup> On May 24, 1999, Commerce issued a final scope ruling, which found that pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the orders. *Certain Pasta From Italy: Final Results of the Second Countervailing Duty Administrative Review*, 64 FR 44489, August 16, 1999.

<sup>33</sup> *Certain Pasta from Italy and Turkey*, Inv. Nos. 701-TA-365-366 and 731-TA-734-735 (Final), USITC Publication 2977 (July 1996), p. 7. In the preliminary determinations of the original investigations, the Commission found two domestic like products consisting of (1) dry pasta other than oriental-style noodles and (2) oriental-style noodles. It determined that imports of oriental-style noodles from both Italy and Turkey were negligible, and the investigations with respect to oriental-style noodles from both countries were accordingly terminated. *Certain Pasta from Italy and Turkey*, Inv. Nos. 701-TA-365-366 and 731-TA-734-735 (Preliminary), USITC Pub. 2905 (July 1995) at I-8, I-16 to I-17.

<b>Certain dry pasta</b>	<p>Certain dry pasta consists of non-egg dry pasta in packages of 5 pounds 4 ounces 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 2 percent egg white. Certain dry pasta is typically sold in the retail market in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions. Certain dry pasta from Italy also includes six, one-pound packages of pasta shrink-wrapped into a single package.</p> <p>Excluded from the scope of the orders 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 oriental-style noodles. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate. Imports of gluten-free pasta from Italy are also excluded.</p>
<b>Other dry pasta</b>	<p>Dry pasta not specified above, including dry pasta for industrial use (i.e., pasta in packages of more than 5 pounds 4 ounces), dry egg pasta (i.e., dry pasta containing egg yolk or containing more than 2 percent egg white), organic dry pasta, and gluten-free dry pasta.</p>
<b>All dry pasta</b>	<p>All dry pasta consists of dry pasta regardless of package size and end use (i.e., “certain dry pasta” and all other dry pasta), other than oriental-style noodles. This definition includes dry pasta for industrial use (i.e., pasta in packages of more than 5 pounds 4 ounces, dry egg pasta (i.e., dry pasta containing egg yolk or containing more than 2 percent egg white), organic dry pasta, and gluten-free dry pasta.</p>

In its notice of institution in these current five-year reviews, the Commission solicited comments from interested parties regarding the appropriate domestic like product and domestic industry.<sup>34</sup> The domestic interested parties commented on the Commission’s definition of the domestic like product and indicated that they agree with the Commission’s domestic like product definition but reserve the right to comment during the current proceeding.<sup>35</sup> La Molisana, the Italian respondent interested party, did not argue with the Commission’s like product definition.<sup>36</sup> The Turkish respondent interested parties indicated in their substantive response that they did not wish to comment on the domestic like product definition at this time while the Government of Turkey did not comment on the Commission’s domestic like product definition.<sup>37</sup> In addition, no party requested in its comments on the Commission’s draft questionnaires that the Commission collect data concerning other possible domestic like products.

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<sup>34</sup> *Certain Pasta From Italy and Turkey; Institution of Five-year Reviews Concerning the Countervailing and Antidumping Duty Orders on Certain Pasta From Italy and Turkey*, 77 FR 53909, September 4, 2012.

<sup>35</sup> Substantive Response of domestic interested parties, p. 20.

<sup>36</sup> Substantive Response of Italian respondent interested party, p. 11.

<sup>37</sup> Substantive Response of Turkish respondent interested parties, p. 13.

## THE PRODUCT

### Description and applications

Pasta has been used as a food for many centuries in many and varied ways. It is an important dietary component due to its relative ease of preparation, versatility, long shelf life, nutritive value, and low cost relative to other foods.<sup>38</sup> Pasta is a food product such as macaroni (including spaghetti, rigatoni, and other forms) or noodles, which may be enriched or contain ingredients for coloring or flavoring. Pasta is made from durum wheat semolina and water and is formed by mixing semolina (and possibly flour) and water into a dough that is then rolled to a uniform thickness or extruded.<sup>39</sup> The pasta is then dried to the desired moisture level, cooled, and packaged. Pasta generally ranges from off-white to yellowish in color. Pasta may take any of several hundred forms, including solid goods, extruded hollow goods, and rolled and cut goods. Pasta may also be categorized as long goods (e.g. spaghetti and linguine), short goods (e.g. elbows and twists), and specialty items (e.g. lasagna and shells).

Dry pasta is pasta that has been dried into a brittle form that is ready for cooking or for incorporation into downstream products such as macaroni and cheese, canned soup, or other prepared foods. Excluded from the definition of dry pasta used in the original investigation is all pasta that is fresh, moist, or frozen, as well as couscous.<sup>40</sup> <sup>41</sup>Dry non-egg pasta is pasta that contains no egg yolk but which may contain up to 2 percent egg white by weight. Dry egg pasta is dry pasta that contains egg yolk or contains more than 2 percent egg white. Dry egg pasta normally contains at least 5.5 percent egg or egg yolk.<sup>42</sup> The addition of egg gives the pasta a certain richness and taste that is considered more appropriate for certain recipes.

Dry pasta sold in the United States is typically enriched if produced from semolina or flour from which the bran and germ have been removed. Pasta produced from whole wheat is

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<sup>38</sup> The discussion in this section is taken principally from the original investigation, unless otherwise noted. *Certain Pasta from Italy and Turkey, Invs. Nos. 701-TA-365-366 (Final)*, USITC Publication 2977, July 1996, pp. I-10–I-14.

<sup>39</sup> Semolina is coarsely-ground durum wheat. Some pasta products may also contain finely-ground durum wheat flour.

<sup>40</sup> Couscous is also produced from durum semolina, but is traditionally produced by agglomeration. A. Debbouz and B. J. Donnelly, "Process Effect on Couscous Quality," *Cereal Chemistry*, 1996 (73), 668-671; Afrem International, "Couscous," <http://deutsch.bizi.co.il/Couscous1.pdf>.

<sup>41</sup> As previously noted, the investigations with respect to oriental-style noodles were terminated as a result of the Commission's determination that subject imports were negligible. *Certain Pasta from Italy and Turkey*, Inv. Nos. 701-TA-365-366 and 731-TA-734-735 (Preliminary), USITC Pub. 2905 (July 1995) at I-8, I-16 to I-17.

<sup>42</sup> The term "non-egg pasta" as used in this report means pasta that contains no egg yolk but which may contain up to 2 percent egg white by weight, and the term "dry egg pasta" means dry pasta that contains egg yolk or contains more than 2 percent egg white, pursuant to Commerce's definition of the subject merchandise. Commerce's scope definition does not follow the FDA standard of identity for noodles.

not typically enriched. Dry enriched pasta contains niacin or niacinamide, iron, thiamin, riboflavin, and folic acid in addition to durum wheat semolina or flour. Enrichment of pasta produced from semolina or flour from which the bran and germ have been removed is required by 36 states, and is a *de facto* requirement for the United States as a whole since products may be sold across state lines.<sup>43</sup> Requirements for enriched pasta (“macaroni products”) are set by the Food and Drug Administration.<sup>44</sup>

Pasta made from organically grown wheat is sold as organic pasta, or may be marketed as produced from organic ingredients. Dry organic pasta is processed in accordance with existing specific organic-certification regulations. In general, the wheat is produced without the use of petroleum-based fertilizers, insecticides, herbicides, or fungicides. U.S. sales of organic foods in 2011 were \$29.2 billion and accounted for 4.2 percent of all food sales.<sup>45</sup> Information provided by \*\*\*.<sup>46</sup>

Gluten-free pasta is produced from grains other than wheat that do not contain gluten, a type of protein. Gluten-free pasta may be produced from a variety of ingredients including buckwheat, corn, potato, rice, and soy. U.S. sales of gluten-free products were expected to reach \$4.2 billion in 2012, and have grown at a compound annual growth rate of 28 percent during 2008-12.<sup>47</sup> However, gluten-free pasta accounts for a small share of overall sales of gluten-free products. Information provided by \*\*\*.<sup>48</sup> \*\*\*.

## U.S. MARKET PARTICIPANTS

### U.S. producers

In the original investigations, the Commission received data from 26 firms that accounted for approximately 95 percent of U.S. production of dry pasta in 1995. The five major U.S. producers of dry pasta in 1995 were Borden (petitioner), Hershey (petitioner), \*\*\*, \*\*\*, and \*\*\*, and accounted for approximately 70 percent of U.S. production of dry pasta in 1995. In the expedited first reviews, the domestic interested party group included American Italian Pasta Company (“AIPC”), Borden, Dakota Growers, and New World,<sup>49</sup> and accounted for an estimated \*\*\* percent of overall U.S. production of dry pasta in 2000. In the full second reviews, 18 producers of dry pasta provided questionnaire responses, and accounted for

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<sup>43</sup> “70 Years and Counting of Enriched Wheat,” Baking Business.com, September 1, 2011, [http://www.bakingbusiness.com/Features/Formulations/2011/9/70%20years%20and%20counting%20of%20enriched%20wheat.aspx?AdKeyword=2013RA\\_0401](http://www.bakingbusiness.com/Features/Formulations/2011/9/70%20years%20and%20counting%20of%20enriched%20wheat.aspx?AdKeyword=2013RA_0401).

<sup>44</sup> The FDA standard of identity for enriched pasta can be found in the Code of Federal Regulations, Title 21, part 139, <http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?fr=139.115>.

<sup>45</sup> Food Business News, “Organic Food Sales Increase more than 9% in 2011,” April 24, 2012.

<sup>46</sup> \*\*\*. This category includes products outside the scope of these orders.

<sup>47</sup> Food Business News, “Gluten-free Market to hit \$4.2 Billion in 2012,” October 22, 2012.

<sup>48</sup> \*\*\*.

<sup>49</sup> New World Pasta was created in 1999 as a private company out of the Hershey Pasta Group. [http://www.newworldpasta.com/pasta\\_corp\\_about.cfm](http://www.newworldpasta.com/pasta_corp_about.cfm), accessed 5/29/13.

approximately 70 percent of total pasta shipment value in 2005. As in the original investigations, production in 2006 was concentrated among five U.S. producers accounting for approximately \*\*\* percent of reported U.S. production, including AIPC, Barilla, Dakota Growers, Kraft, and New World.

In these current reviews, the Commission issued U.S. producer questionnaires to 54 firms, eight of which provided the Commission with information on their dry pasta operations.<sup>50</sup> These firms are believed to account for 79.2 percent of total shipment value of U.S. production of dry pasta in 2011. Presented in table I-8 is a list of current domestic producers of dry pasta and each company's position on continuation of the orders, production locations(s), parent company, and share of reported production of dry pasta in 2012.

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<sup>50</sup> Three additional U.S. producers, \*\*\*, provided partial questionnaire responses.



Table I-8

**Dry pasta: U.S. producers, positions on orders, U.S. production locations, parent company, and shares of 2012 reported U.S. production**

Firm	Position on orders for Italy	Position on orders for Turkey	U.S. production locations	Parent company	2012 production (1,000 pounds)	Share of production (percent)
A. Zerega's Sons, Inc.	Support	Support	Fair Lawn, NJ Lee's Summit, MO	None	***	***
American Italian Pasta Company	Support	Support	Excelsior Springs, MO Columbia, SC Tolleson, AZ	ConAgra Foods Inc. (US)	***	***
Barilla America, Inc.	***	***	Ames, IA Avon, NY	Barilla G.e R. Fratelli S.p.A (Italy)	***	***
Dakota Growers Pasta Company, Inc.	Support	Support	Carrington, ND New Hope, MN	Agricore United Holdings Inc. (US)	***	***
Gilster-Mary Lee Corp.	***	***	Steelville, IL	None.	***	***
Golden Grain Company	***	***	Purchase, NY	PepsiCo, Inc. (US)	***	***
Gondola Brands Macaroni	***	***	Buffalo, NY	None	***	***
New World Pasta Company	Support	Support	Fresno, CA St. Louis, MO Winchester, VA	Ebro Foods, S.A. (Spain)	***	***
O.B. Macaroni Company	***	***	Fort Worth, TX	None	***	***
Philadelphia Macaroni Company	Support	Support	Grand Forks, ND Warminster, PA Spokane, WA	None	***	***
Royal Angelus	***	***	Ontario, CA		***	***
Total					2,505,561	100.0

<sup>1</sup> \*\*\*.

<sup>2</sup> \*\*\*.

Note.—\*\*\* provided partial questionnaire responses and were excluded from U.S. industry data.

Source: Compiled from data submitted in response to Commission questionnaires.

Two U.S. producers, AIPC and Barilla, are related to foreign producers/exporters of the subject merchandise. AIPC has a wholly owned Italian subsidiary, Lensi. Barilla is owned by Barilla G&R Fratelli Spa (“Barilla (Italy)”), an Italian producer that also owns Filiz Gida Sanayive Ti Ticaret A.S., a Turkish pasta producer.<sup>51</sup> No U.S. producers are related to U.S. importers of the subject merchandise. In addition, as discussed in greater detail in Part III, three U.S. producers directly import the subject merchandise and \*\*\* purchase the subject merchandise from U.S. importers.

### **U.S. importers**

In the original investigations, the Commission received 50 usable importer questionnaires responses, accounting for approximately two-thirds of U.S. imports from Italy and the vast majority of imports from Turkey. Import data used for the original investigations were official Commerce statistics with adjustments based on questionnaire responses to remove industrially packaged pasta, which is outside of Commerce’s scope. In the expedited first reviews of the countervailing and antidumping duty orders on imports of certain dry pasta from Italy and Turkey, official Commerce statistics were used for import data. In the second five-year (full) reviews of the countervailing duty and antidumping duty orders on imports from Italy and Turkey, the Commission received 35 usable importer questionnaire responses. Import data used for the second five-year reviews were based on official Commerce statistics with adjustments made based on questionnaire responses to remove certain nonsubject imports from Italy.

In the current proceedings, the Commission issued U.S. importers’ questionnaires to 78 firms believed to be importers of certain dry pasta, as well as to all U.S. producers of certain dry pasta. Usable questionnaire responses were received from 22 firms, representing \*\*\* percent of total subject U.S. imports during 2012. Table I-9 lists all responding U.S. importers of dry pasta from subject countries and other sources, their locations, and their shares of U.S. imports in 2012. Of the responding U.S. importers, three were domestic producers: AIPC, Barilla, and New World.

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<sup>51</sup> Barilla’s global operations are managed by its Italian parent company, while organizationally the company consists of three regional “clusters,” Americas, Europe, and Asia-Oceania, that operate independently of each other. Hearing transcript, Ms. Tendick, pp. 178-179.

Table I-9

Dry pasta: U.S. importers, source(s) of imports, U.S. headquarters, and shares of imports in 2012

Firm	Headquarters	Source of imports			Share of imports (percent)			
		Italy (subject)	Turkey (subject)	All other <sup>1</sup>	Italy (subject)	Turkey (subject)	All other	Total
A.C. of Miami, Inc.	Doral, FL	***	***	***	***	***	***	***
American Italian Pasta Company	St. Louis, MO	***	***	***	***	***	***	***
Ari's Wholesale	Santa Fe Springs, CA	***	***	***	***	***	***	***
Atalanta Corporation	Elizabeth, NJ	***	***	***	***	***	***	***
Barilla America, Inc.	Chicago, IL	***	***	***	***	***	***	***
Cost Plus World Market	Oakland, CA	***	***	***	***	***	***	***
George DeLallo Co. Inc.	Mount Pleasant , PA	***	***	***	***	***	***	***
Italpasta Limited	Brampton, ON	***	***	***	***	***	***	***
Liguori Pastificio dal 1820 S.P.A.	Gragnano, Italy	***	***	***	***	***	***	***
Makka Halal Meat & Foods Mart, Inc.	Clarkston, GA	***	***	***	***	***	***	***
Manzo Food Sales, Inc.	Miami, FL	***	***	***	***	***	***	***
Massoud Brothers, Inc.	Houston, TX	***	***	***	***	***	***	***
New World Pasta Company	Harrisburg, PA	***	***	***	***	***	***	***
P & L Imports	Los Angeles, CA	***	***	***	***	***	***	***
Pastificio Lucio Garofalo S.p.A.	Gragnano, Italy	***	***	***	***	***	***	***
Port Royal Sales	Woodbury, NY	***	***	***	***	***	***	***
Rao's Specialty Foods, Inc.	New York, NY	***	***	***	***	***	***	***
Rummo USA	Phoenix, AZ	***	***	***	***	***	***	***
Square Enterprises Corp.	Wallington, NJ	***	***	***	***	***	***	***
Target Corporation	Minneapolis, MN	***	***	***	***	***	***	***
World Finer Foods, Inc.	Bloomfield, NJ	***	***	***	***	***	***	***
Zenith Quest International LLC	Charlottesville, VA	***	***	***	***	***	***	***
Total					100.0	100.0	100.0	100.0

<sup>1</sup> "All other" includes reported nonsubject merchandise from Italy and Turkey as well as dry pasta imports from all other sources.

<sup>2</sup> \*\*\*.

Source: Compiled from data submitted in response to Commission questionnaires.

### **U.S. purchasers**

The Commission emailed purchaser questionnaires to approximately 40 purchasers, including purchasers supplied by the domestic industry, an Italian producer, and Turkish producers. The Commission received questionnaires from 18 purchasers, including distributors such as \*\*\*, retailers such as \*\*\*, and grocery stores including \*\*\*.

### **APPARENT U.S. CONSUMPTION**

Data concerning apparent U.S. consumption of dry pasta during the period for which data were collected in this proceeding are shown in table I-10.

**Table I-10**

**Dry pasta: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2007-2012 and January-March 2012 and 2013**

Item	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
	<b>Quantity (1,000 pounds)</b>							
U.S. producers' shipments	2,315,072	2,409,232	2,483,719	2,553,366	2,495,697	2,445,574	626,328	615,536
U.S. imports from--								
Italy (subject)	***	***	***	***	***	***	***	***
Turkey (subject)	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***
Italy (nonsubject)	***	***	***	***	***	***	***	***
Turkey (nonsubject)	***	***	***	***	***	***	***	***
All other sources	273,779	306,999	287,497	302,840	329,967	354,045	87,186	83,896
Subtotal, nonsubject	***	***	***	***	***	***	***	***
Total imports	602,125	539,723	544,419	571,835	618,097	665,765	161,493	153,195
Apparent consumption	2,917,197	2,948,955	3,028,138	3,125,201	3,113,794	3,111,339	787,821	768,731
	<b>Value (\$1,000)</b>							
U.S. producers' shipments	1,224,168	1,813,346	1,766,135	1,690,498	1,792,514	1,834,249	482,243	449,935
U.S. imports from--								
Italy (subject)	***	***	***	***	***	***	***	***
Turkey (subject)	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***
Italy (nonsubject)	***	***	***	***	***	***	***	***
Turkey (nonsubject)	***	***	***	***	***	***	***	***
All other sources	149,539	193,164	174,885	191,513	228,082	250,936	61,127	63,635
Subtotal, nonsubject	***	***	***	***	***	***	***	***
Total imports	338,009	384,999	359,342	377,891	432,097	478,921	114,302	116,140
Apparent consumption	1,562,177	2,198,345	2,125,477	2,068,389	2,224,611	2,313,170	596,545	566,075

Note.--Certain dry pasta imports from Lensi were excluded from Commerce's countervailing and antidumping duty orders in 2007 and 2008 and are presented within "Italy (nonsubject)" for those years. The antidumping duty order with respect to Lensi was reinstated effective January 2009.

Note.--Customs statistics were adjusted to account for all dutiable imports and exclude nearly all nonsubject product (e.g., certain dry pasta imports from Italian firm Lensi in 2007-08, non-egg bulk pasta, gluten-free pasta from Italy, and organic pasta from Italy). During the period of review, four Italian firms received a zero cash deposit rate as a result of Commerce's administrative reviews—Atar (prior to February 14, 2007), De Cecco (effective June 29 2010), and Fabianelli and Zara (effective June 18, 2012). (See discussion in the Administrative Reviews section, Part I of this report). Staff classified all imports subsequent to their zero cash deposit rate as "Italy, subject," the vast majority of which originated from \*\*\*. As a result, subject imports from Italy may be slightly overstated, as the data do not distinguish between what is excluded product and what is subject merchandise with no AD/CVD duties for these four firms. Staff believes this overstatement to be minimal, as the vast majority of \*\*\*'s imports were dutied prior to its zero cash deposit rate.

Source: Compiled from adjusted Customs statistics for "certain dry pasta" imports from Italy and Turkey (subject) and "other dry pasta" imports from Italy and Turkey (nonsubject); and from official Commerce statistics, HTS subheadings 1902.19.20 (non-egg pasta) and 1902.11.20 (egg pasta) for "all dry pasta" imports from all other sources.

## U.S. MARKET SHARES

U.S. market share data are presented in table I-11.

**Table I-11**

**Dry pasta: U.S. consumption and market shares, 2007-12, January-March 2012, and January-March 2013**

Item	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
	<b>Quantity (1,000 pounds)</b>							
Apparent U.S. consumption	2,917,197	2,948,955	3,028,138	3,125,201	3,113,794	3,111,339	787,821	768,731
	<b>Value (\$1,000)</b>							
Apparent U.S. consumption	1,562,177	2,198,345	2,125,477	2,068,389	2,224,611	2,313,170	596,545	566,075
	<b>Share of quantity (percent)</b>							
U.S. producers' shipments	79.4	81.7	82.0	81.7	80.1	78.6	79.5	80.1
U.S. imports from--								
Italy (subject)	***	***	***	***	***	***	***	***
Turkey (subject)	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***
Italy (nonsubject)	***	***	***	***	***	***	***	***
Turkey (nonsubject)	***	***	***	***	***	***	***	***
All other sources	9.4	10.4	9.5	9.7	10.6	11.4	11.1	10.9
Subtotal, nonsubject	***	***	***	***	***	***	***	***
Total imports	20.6	18.3	18.0	18.3	19.9	21.4	20.5	19.9
	<b>Share of value (percent)</b>							
U.S. producers' shipments	78.4	82.5	83.1	81.7	80.6	79.3	80.8	79.5
U.S. imports from--								
Italy (subject)	***	***	***	***	***	***	***	***
Turkey (subject)	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***
Italy (nonsubject)	***	***	***	***	***	***	***	***
Turkey (nonsubject)	***	***	***	***	***	***	***	***
All other sources	9.6	8.8	8.2	9.3	10.3	10.8	10.2	11.2
Subtotal, nonsubject	***	***	***	***	***	***	***	***
Total imports	21.6	17.5	16.9	18.3	19.4	20.7	19.2	20.5

Footnotes continued on next page.

Note.--Certain dry pasta imports from Lensi were excluded from Commerce's countervailing and antidumping duty orders in 2007 and 2008 and are presented within "Italy (nonsubject)" for those years. The antidumping duty order with respect to Lensi was reinstated effective January 2009.

Note.--Customs statistics were adjusted to account for all dutiable imports and exclude nearly all nonsubject product (e.g., certain dry pasta imports from Italian firm Lensi in 2007-08, non-egg bulk pasta, gluten-free pasta from Italy, and organic pasta from Italy). During the period of review, four Italian firms received a zero cash deposit rate as a result of Commerce's administrative reviews—Atar (prior to February 14, 2007), De Cecco (effective June 29 2010), and Fabianelli and Zara (effective June 18, 2012). (See discussion in the Administrative Reviews section, Part I of this report). Staff classified all imports subsequent to their zero cash deposit rate as "Italy, subject," the vast majority of which originated from \*\*\*. As a result, subject imports from Italy may be slightly overstated, as the data do not distinguish between what is excluded product and what is subject merchandise with no AD/CVD duties for these four firms. Staff believes this overstatement to be minimal, as the vast majority of \*\*\*'s imports were dutied prior to its zero cash deposit rate.

*Source:* Compiled from adjusted Customs statistics for "certain dry pasta" imports from Italy and Turkey (subject) and "other dry pasta" imports from Italy and Turkey (nonsubject); and from official Commerce statistics, HTS subheadings 1902.19.20 (non-egg pasta) and 1902.11.20 (egg pasta) for "all dry pasta" imports from all other sources.





## **PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET**

### **U.S. MARKET CHARACTERISTICS**

#### **Summary**

Dry pasta is used in main courses or in side dishes by end consumers, restaurants, and food service companies. U.S. producer Dakota Growers described certain dry pasta sales as accounting for the vast majority of pasta sales in the United States.<sup>1</sup> Historically, demand for pasta has been relatively stable.<sup>2</sup> In questionnaires, some importers described the U.S. dry pasta market as divided between lower-priced high-volume pasta products and more specialty products that command higher prices. The domestic industry described specialty products as representing a small percentage of overall sales.<sup>3</sup> Additionally, “healthy” products (e.g., whole wheat pasta) make up about 12 percent of total pasta sales.<sup>4</sup> While pasta is sold in a variety of shapes and sizes, several shapes (spaghetti, thin spaghetti, elbow macaroni, penne rigate, and a few more) represent about 60 to 65 percent of U.S. pasta sales.<sup>5</sup>

The production of pasta in the United States is dominated by four large firms (\*\*\*) that account for the vast majority (over three-quarters in 2012) of all U.S. dry pasta sales. In addition to the big four national producers, there are a number of smaller regional producers, as well as a number of very small specialty producers.<sup>6</sup>

#### **Purchasers**

The Commission received questionnaires from 18 purchasers,<sup>7</sup> including four distributors (such as \*\*\*), nine retail chains (such as \*\*\*), four industrial users (such as \*\*\*), and \*\*\*. Some purchasers bought dry pasta for multiple uses, including \*\*\*.<sup>8</sup> Producer AIPC described the grocery retailer market as becoming increasingly concentrated, with 50 percent of the value of pasta sales coming from sales at five retailers.<sup>9</sup>

Purchasers represented approximately 16.5 percent of U.S. dry pasta consumption. Seventeen purchasers reported purchases of U.S.-produced dry pasta in 2012, with 14

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<sup>1</sup> Hearing transcript, p. 23 (Hasper).

<sup>2</sup> Staff Report to the Commission, Investigations Nos. 701-TA-365-366 and 731-TA-734-735 (Second Review), August 16, 2007 p. II-1.

<sup>3</sup> Hearing transcript, p. 48 (Rosenthal).

<sup>4</sup> Hearing transcript, p. 134 (Fox).

<sup>5</sup> Hearing transcript, p. 110 (Fox).

<sup>6</sup> Staff Report to the Commission, Investigations Nos. 701-TA-365-366 and 731-TA-734-735 (Second Review), August 16, 2007 pp. II-1-2.

<sup>7</sup> \*\*\*. No other purchasers were related to any producers or importers of dry pasta.

<sup>8</sup> The major customers for retailers were consumers; the major customers for distributors were retailers.

<sup>9</sup> Hearing transcript, p. 90 (Fox). See also hearing transcript, p. 93 (Hasper).

purchasing the majority of their 2012 dry pasta from U.S. producers. Fourteen purchasers had purchased certain dry pasta from Italy, with four having such purchases as the majority of their 2012 dry pasta purchases, and the rest having such purchases as 20 percent or less of their 2012 dry pasta purchases. Only one purchaser reported 2012 purchases of certain dry pasta from Turkey. Four purchasers reported 2012 purchases of certain dry pasta from all other countries (including Canada and Mexico), with \*\*\* percent of its purchases falling into this category.

## **Brand**

### **Brand in the U.S. dry pasta market**

Pasta is often sold under different brand names to consumers in different parts of the country. For example, New World Pasta sells the same pasta under the brand name Ronzoni in some areas, under the brand name San Giorgio in other areas, and under other brand names or as store brands in other areas.<sup>10</sup> Often, two or more products on the shelf in one store will have been manufactured by the same producer. In addition to producing a variety of different name brands, \*\*\* also produce pasta for the private label market, i.e., product that is then sold under the name of another firm, often that of a supermarket or other retailer. Barilla is the lone exception to this multi-brand pattern and is the lone nationally-marketed brand.<sup>11</sup> The private label market is a lower-margin, lower-priced market than the branded market, and the private-label market has undergone recent consolidation that has made suppliers' margins tighter.<sup>12</sup>

A consultant for AIPC described private-label pasta sales as accounting for about one-third of U.S. pasta retail sales.<sup>13</sup> U.S. producers and importers<sup>14</sup> were asked what percent of the U.S. dry pasta that they produced was sold under a private label as opposed to a brand. Among U.S. producers, \*\*\* reported that a majority of their 2012 sales were under a private label. However, \*\*\* reported selling mostly or entirely branded product. Eight importers of Italian certain dry pasta that answered the question reported selling all or most of their imports under brands, even if they did not indicate an exact percentage. Four importers stated that all of their imports were for private label sales. Importer \*\*\* described \*\*\* of its imports as \*\*\* even though it also stated that all of its imports were sold as brands. Two importers of Turkish certain dry pasta indicated that they sold their imports under their Turkish brands.

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<sup>10</sup> Hearing transcript, p. 29 (Faucett).

<sup>11</sup> Staff Report to the Commission, Investigations Nos. 701-TA-365-366 and 731-TA-734-735 (Second Review), August 16, 2007 pp. II-1-2.

<sup>12</sup> Dakota Growers also described the private label market as sometimes using reverse-bid auctions for pricing. Hearing transcript, p. 27 (Hasper).

<sup>13</sup> Hearing transcript, p. 35 (George).

<sup>14</sup> Commission questionnaires sometimes asked questionnaire respondents to differentiate their answers between certain dry pasta from Italian producer Lensi (which was nonsubject in 2007 and 2008) and certain dry pasta from all other Italian producers. Answers in this part of the report may reflect this distinction.

Purchasers were also asked what percentage of their 2012 sales to consumers of dry pasta were private label as opposed to branded. Seven purchasers indicated that a majority of their sales were branded, while another five purchasers (\*\*\*) indicated that a majority of their sales were under private labels.

### **Importance of brand**

AIPC stated that brand is important for about 30 percent of consumers, but that most consumers are more price-oriented and make their decision to purchase a particular brand of pasta in about four seconds.<sup>15</sup> However, Turkish respondents described brand as a key part of consumers' decisions, especially in the supermarket retail channel, which they estimated was \*\*\* percent of the U.S. certain dry pasta market.<sup>16</sup>

Purchasers and importers were more likely to describe brand as "very important" than producers. Two U.S. producers (\*\*\*), ten importers, and ten purchasers described branding as "very important" in their sales of (or purchasing decisions regarding) dry pasta. Importers described their branding as a sign of quality or a reminder that the product comes from another country. However, six U.S. producers, seven importers, and two purchasers described branding as only "somewhat" important. \*\*\* described pasta customers as not very loyal to any brand, in general. Two importers and three purchasers described branding as "not important."<sup>17</sup>

A majority of producers, importers and purchasers indicated that brand influences the price of dry pasta. Five U.S. producers generally described brand as having an influence on how much purchasers are willing to pay for dry pasta, although that influence may be small. \*\*\* described consumers' primary motivation as price, and \*\*\* described price as being of minor importance. \*\*\* indicated that brand was important for some consumers in "super-premium" markets, but that in most other markets, it played little role. \*\*\* stated that lower-priced non-branded pasta put price pressure on branded pasta. However, \*\*\* stated that brand helps create a perception of quality among consumers.

Thirteen importers (including \*\*\* stated that brand has an influence on how much purchasers are willing to pay for dry pasta. The importers that described brand as influencing price indicated that final consumers use brand as a proxy for quality, healthy ingredients, and Italian origin.

Thirteen purchasers also indicated that brand influences how much consumers are willing to pay for dry pasta. Two of these added that this influence is only for some consumers and/or is not enough to command a large price premium.

Three U.S. producers, eight importers, and two purchasers indicated that brand does not influence how much purchasers (or consumers) are willing to pay for dry pasta. Purchaser \*\*\* stated that consumers pay more for quality and type of dry pasta, but not for brand.

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<sup>15</sup> Hearing transcript, p. 78 (George) and p. 80 (Fox).

<sup>16</sup> Prehearing brief of Turkish producers and exporters, p. 15.

<sup>17</sup> \*\*\*.

## Brand and quality

Purchasers generally indicated that there are actual physical quality differences between dry pasta from different suppliers, as opposed to most differences being due to brand image. Two purchasers stated that there were not physical differences between brands, but twelve stated that there were, and described numerous differences. \*\*\* stated that Turkish dry pasta had a tendency to become pasty when cooked and not hold together as well as dry pasta from other sources. \*\*\* stated that Italian pasta maintains integrity better when cooked and holds sauce better than U.S. pasta. Other purchasers cited the quality of the durum wheat used, whether the dry pasta is bronze-die cut,<sup>18</sup> and the amount of protein in the pasta. However, \*\*\* added that there is not much variation among U.S.-produced products. \*\*\* described Italian product as the highest quality, U.S. product as the second-highest, and Canadian product as the third-highest. \*\*\*, which indicated that there are actual physical quality differences among dry pasta products, described those differences as “perceived quality differences.”<sup>19</sup>

## CHANNELS OF DISTRIBUTION

Market analysis firm \*\*\* reported that about \*\*\* are to supermarkets, with the rest going to drug stores, supercenters, warehouse clubs, and dollar stores.<sup>20</sup> Data collected in these reviews show similar results to that analysis, as shown in table II-1. U.S. producers and importers were asked to report their shipments to distributors and end users further divided among grocery/retail, food service, and institutional end uses. Both U.S. producers and importers of certain dry pasta from Italy sold most of their product to end users in the grocery segment.<sup>21</sup>

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<sup>18</sup> During manufacturing, dry pasta may be cut into shapes using a teflon die or a bronze die. Bronze dies impart a rough, more “artisanal” appearance to pasta, while teflon dies impart a smooth and translucent appearance. Sauce may adhere to bronze-die-cut pasta better than to teflon-die-cut pasta. Hearing transcript, pp. 18 and 127 (Vermylen). U.S. producers stated that they produce some (perhaps 10 percent of their production) certain dry pasta cut with bronze dies. Hearing transcript, p. 24 (Hasper), p. 37 (George), and p. 127 (Vermylen), and prehearing brief of domestic industry, p. 38.

<sup>19</sup> Additionally, the domestic industry stated that \*\*\* interchanges Italian and Turkish pasta under the same brand name. Domestic industry’s posthearing brief, p. 6 and exhibit 8.

<sup>20</sup> \*\*\*.

<sup>21</sup> A consultant for AIPC stated that he had recently observed Italian pasta competing at low prices in the food service channel. Hearing transcript, p. 36 (George). On the other hand, importer George DeLallo described itself as a specialty distributor that distributes high-quality Italian pasta to specialty stores, a channel different than the larger channel for commodity pasta to large retailers. Hearing transcript, p. 173 (DiPietro). Turkish respondents described themselves as unable to expand their sales to the food service market much due to regulatory restrictions such as Buy America and vitamin enrichment. Posthearing brief of Turkish respondents, answers to questions, pp. 8-9.

**Table II-1**

**Dry Pasta: U.S. producers' and importers' U.S. shipments, by sources and channels of distribution, 2012**

\* \* \* \* \*

Source: Compiled from data submitted in response to Commission questionnaires.

Purchasers were asked whether they competed for sales with the suppliers from which they purchased dry pasta. Ten answered no, but six stated that they did. Among those six, four described possibly competing with their suppliers' products in private label brands, although \*\*\* noted that which firm produced a private label product is typically not public knowledge. Two other distributors cited competition with the same product they buy from the same supplier.

### **GEOGRAPHIC DISTRIBUTION**

U.S. producers and importers reported selling dry pasta or certain dry pasta to all or most regions in the contiguous United States (table II-2). Perhaps reflecting this national distribution, dry pasta was often shipped moderate to long distances. Among U.S. producers, four had at least 75 percent of their sales of dry pasta between 101 and 1,000 miles of their production facility, with another four having between 40 and 60 percent of their sales between 101 and 1,000 miles. Four U.S. producers had over 30 percent of their sales over 1,000 miles from their production facilities. Among importers of subject product from Italy, five sold at least 60 percent within 100 miles of their U.S. point of shipment, four sold at least 53 percent between 101 and 1,000 miles, and one sold 80 percent of its sales over 1,000 miles.<sup>22</sup> Among importers of subject product from Turkey, two sold the majority of their product within 100 miles, and one sold the majority of its product between 101 and 1,000 miles.

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<sup>22</sup> Two additional importers sold all of their subject imports from Italy in roughly equal amounts among two different distance categories.

**Table II-2**

**Dry Pasta: Geographic market areas in the United States served by U.S. producers and importers, by number of responding firms**

<b>Region</b>	<b>U.S. producers (dry pasta)</b>	<b>Importers of subject Italian certain dry pasta</b>	<b>Importers of subject Turkish certain dry pasta</b>	<b>Importers of certain dry pasta from all other sources</b>
Northeast	8	13	2	5
Midwest	8	14	0	5
Southeast	8	13	1	4
Central Southwest	8	13	1	4
Mountain	8	12	1	3
Pacific Coast	8	13	1	4
Other <sup>1</sup>	4	7	1	3

<sup>1</sup> All other U.S. markets, including AK, HI, PR, and VI, among others.

Source: Compiled from data submitted in response to Commission questionnaires.

## **SUPPLY AND DEMAND CONSIDERATIONS**

### **U.S. supply**

#### **Domestic production**

Based on available information, U.S. producers of dry pasta have the ability to respond to changes in demand with moderate-to-large changes in the quantity of shipments of U.S.-produced dry pasta to the U.S. market. The main contributing factors to the moderate degree of responsiveness of supply are the availability of unused capacity and some inventories. However, a lack of alternative markets or alternative production possibilities may restrain responsiveness.

#### ***Industry capacity***

A consultant for AIPC described AIPC as needing to operate its facilities at high capacity utilization in order to operate efficiently.<sup>23</sup> Domestic capacity increased during 2007-2012, but domestic capacity utilization decreased from 2009 to 2012. (Both capacity and shipments rose from 2007 to 2012, but capacity rose more than shipments.) Domestic capacity utilization was under 80 percent in 2012, which suggests that U.S. producers have some capacity to increase production of product in response to an increase in prices.<sup>24</sup> Seven U.S. producers did not

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<sup>23</sup> Hearing transcript, p. 38 (George).

<sup>24</sup> Turkish respondents submitted an analysis of the domestic industry's production data adjusting capacity to 45 weeks per year. Under this analysis, U.S. capacity utilization would be higher, restraining the ability of the U.S. industry to respond as much to an increase in prices. See prehearing brief of

anticipate any change in the availability of U.S.-produced dry pasta in the future. One did anticipate a change, expecting a modest increase in capacity as older production equipment is replaced.

### ***Alternative markets***

U.S. producers' exports increased over 2007 to 2012, but remained a very small share (less than two percent) of total U.S. shipments, indicating that U.S. producers may have a limited ability to shift shipments between the U.S. market and other markets in response to price changes. U.S. producers also stated that it would be difficult to shift their shipments to other markets, citing competition with subsidized exports from other nations, high U.S. production costs, and lack of familiarity with laws and regulations in other markets. No U.S. producers were aware of any barriers to their exports of dry pasta, but some noted that they have limited export experience.<sup>25</sup>

### ***Inventory levels***

U.S. producers' inventories increased slightly during the period of investigation and reached 9.0 percent in 2012. These inventory levels suggest that U.S. producers may have a limited ability to respond to changes in demand with changes in the quantity shipped from inventories.

### ***Production alternatives***

None of the responding U.S. producers stated that they could switch production from dry pasta to other products.

### ***Subject imports from Italy***

Based on available information, producers of certain dry pasta from Italy have the ability to respond to changes in demand with moderate-to-large changes in the quantity of shipments of certain dry pasta to the U.S. market. The main contributing factors to the moderate-to-large degree of responsiveness of supply are the availability of unused capacity, the increase in production capabilities, and the substantial shipments to other export markets, restrained by a lack of production alternatives and low inventories. Additionally, Italian producers stated that shifting product from other markets to the U.S. market would be difficult due to U.S. packaging requirements and other national market differences.

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Turkish respondents, p. 25 and exhibit 11. The domestic industry responded in their posthearing brief, answers to questions, p. 51.

<sup>25</sup> Barilla cited potential exchange rate volatility as one reason it preferred to source its U.S. pasta from U.S. production rather than from imports. Hearing transcript, p. 182 (Tendick).

### ***Industry capacity***

Italian capacity utilization increased from 2007 to 2012, peaking in 2012, and Italian production capacity increased every year. Both the increasing production capacity and capacity utilization rates suggest that Italian producers may have moderate-to-high capacity to increase production of product in response to an increase in prices. Pastifico Felliceti, however, described keeping some extra capacity as a buffer for large and unexpected orders.<sup>26</sup>

### ***Alternative markets***

Italian producers' exports represent a large share of total Italian shipments of certain dry pasta. However, nearly all Italian producers stated that shipments could not easily be switched to the U.S. market from alternative markets due to long-term contracts or currently profitable business relationships. Garofalo described the pasta it sold to some markets as lower quality and sold under a different brand than the pasta it sold in the United States.<sup>27</sup>

### ***Inventory levels***

Italian inventories as a share of total shipments were never above 7.9 percent and were 6.5 percent in 2012.

### ***Production alternatives***

A majority of Italian producers stated that they were not able to shift production on their current equipment. Four responding producers responded that shifts in production could be made, but no plans were in place to do so.

### ***Subject imports from Turkey***

Based on available information, producers of certain dry pasta from Turkey have the ability to respond to changes in demand with moderate-to-large changes in the quantity of shipments of certain dry pasta to the U.S. market. The main contributing factors to the moderate-to-large degree of responsiveness of supply are large capacity increases and substantial export markets, restrained by growing capacity utilization and low inventories.

### ***Industry capacity***

Overall, Turkish production capacity increased during the period of investigation by approximately 85 percent. Turkish capacity utilization also increased from 2007 to 2012, peaking in 2012.

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<sup>26</sup> Hearing transcript, p. 237 (Felicetti).

<sup>27</sup> Hearing transcript, p. 163 (Massarelli).



### ***Alternative markets***

Turkish producers shipped a substantial share of their shipments to 146<sup>28</sup> other countries over 2007 to 2012. However, Turkish producers stated that specific packaging requirements, longstanding business relationships with alternative market customers, and a lack of channels of distribution are barriers to shifting shipments to the U.S. market.<sup>29</sup> Nuh'un Ankara also stated that Turkish exports to the European Union are low and stable, mainly to ethnic Turks in the European Union, and not expected to rise.<sup>30</sup>

### ***Inventory levels***

Turkish inventories as a share of total shipments declined over most of the period of investigation and were 3.8 percent in 2012.

### ***Production alternatives***

All responding Turkish producers reported not being about to shift production from certain dry pasta to other products.

### ***Nonsubject supply***

The primary nonsubject country source of supply is Mexico. Mexican-made pasta is concentrated in smaller “soup-cut” shapes for the Hispanic market in the United States, but is available at the retailers that sell about 40 percent of pasta sold in the United States. The primary Mexican supplier to the United States is La Moderna.<sup>31</sup> Counsel for Turkish producers described Mexican pasta as supplying an “ethnic market” in the United States, and added that this ethnic market is the only U.S. market in which Turkish pasta would compete if the duties were revoked.<sup>32</sup>

### ***New suppliers***

Fifteen purchasers were not aware of any new suppliers of dry pasta since 2007, with one adding that some suppliers had exited the market. Three purchasers were aware of new suppliers, and all three named Barilla’s plant in Iowa. One of those three also noted that Colavita had entered the U.S. market. Eighteen purchasers did not expect additional entrants.

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<sup>28</sup> Hearing transcript, p. 192 (Kulahcioglu).

<sup>29</sup> See also hearing transcript, p. 193 (Kulahcioglu) and p. 200 (Nolan).

<sup>30</sup> Hearing transcript, p. 211 (Hacioglu).

<sup>31</sup> Hearing transcript, p. 135 (Fox).

<sup>32</sup> Hearing transcript, p. 204 (Nolan).

## **Factors Affecting Supply**

Six U.S. producers, 18 importers, and 10 purchasers indicated that there had not been any changes in factors affecting the supply of dry pasta since 2007. However, three U.S. producers did, citing increased transportation costs, increased imports of dry pasta from Mexico, increased employee health care costs, fluctuating wheat costs due to effects from the markets for other grains, and U.S. capacity increases, described as mostly to replace older equipment rather than install new capacity. Additionally, importer \*\*\*. \*\*\* stated that increased labor, energy, and transportation costs had caused prices to increase gradually since 2007. Importer \*\*\* also noted that energy costs had risen and affected the production of certain dry pasta. Two purchasers cited higher wheat prices, and two purchasers cited weather-related raw material availability concerns as factors affecting supply. \*\*\* cited the increasing U.S. market dominance of \*\*\*

Among foreign producers, twelve Italian producers indicated that there had not been any changes in factors affecting the supply of dry pasta since 2007. However, four did, citing increased labor, energy, and transportation costs. Four Turkish producers indicated that there had not been any changes in factors affecting the supply of dry pasta since 2007. However, four did, citing increased demand from Asia and Africa, as well as demand in their own home market, as constraining the ability of Turkish producers to supply the U.S. market, even with some Turkish capacity increases.

## **Changes in the availability of supply**

Nineteen importers did not anticipate any changes in the availability of certain dry pasta from Italian firms (other than Lensi) and Turkey in the U.S. market. Importer \*\*\* did, stating that increased U.S. demand might lead to a small increase in imports from Italy.

Twelve Italian and eight Turkish producers did not anticipate any change in the availability of subject-country certain dry pasta, but Turkish producer \*\*\* stated that if the orders are revoked, availability of Italian and/or Turkish product might increase, but not enough to affect U.S. prices. Two Italian producers also anticipated an increase in the availability of Italy- or Turkey-produced certain dry pasta in the U.S. market in the future. Italian producer \*\*\* stated that it expected to increase U.S. shipments if the orders are revoked, but at the expense of other Italian producers and not U.S. producers.

Six U.S. producers (including two firms that also filed importer questionnaires) and one additional importer indicated that imports of certain dry pasta from Mexico had increased since 2007, while one U.S. producer and 14 importers indicated that there had been no change in the availability of nonsubject certain dry pasta in the U.S. market since 2007. Additionally, importer \*\*\* attributed increased imports of nonsubject imports to increased U.S. demand.

## **Product range, mix, and marketing**

Most U.S. producers and importers did not report that there had been any significant changes in the product range, mix, or marketing of dry pasta or certain dry pasta since 2007, although foreign producers did. Six U.S. producers and 15 importers stated that there had not

been such changes, but three U.S. producers did, describing increased production and consumption of “healthy” pasta. Among U.S. importers indicating changes, \*\*\* described the U.S. market as becoming dominated by several large producers (Barilla, ConAgra, and Ebro). \*\*\* described Barilla as driving retail prices for certain dry pasta down to \$1 per box. It added that there was also some greater consumer awareness of specialty pasta from Italy, which retails at twice the price. Importer \*\*\* echoed these latter comments. \*\*\* cited growth in the “healthy” segment of dry pasta.

Similarly, while six U.S. producers and fourteen importers did not anticipate any changes in the product range, mix, or marketing of dry pasta or certain dry pasta, three producers and seven importers did, citing increased production of whole grain, “healthy,” and gluten-free pastas. Additionally, \*\*\* stated that the market dominance of Barilla, ConAgra, and Ebro would prevent Italian product from gaining shelf space at retail stores. \*\*\* stated that Barilla continues to gain market share even in the shrinking low-price-point market, showing the price competitiveness of that market segment, but that the specialty market is also seeing more competition as well. Importer \*\*\* anticipated continued growth in specialty markets for certain dry pasta.

Foreign producers were asked if the product range, mix, or marketing of certain dry pasta in their home market was different from that of certain dry pasta for export to the United States. Among Italian producers, seven answered that it was not, and ten answered that it was, citing vitamin enrichment for U.S. dry pasta, a wider variety of cuts for Italian dry pasta, and more Italian consumer demand for higher-quality dry pasta. Among Turkish producers, three answered that it was not, and five answered that it was. Four Turkish producers described the primary difference as packaging, but others noted other differences such as the wider variety of product in the U.S. market and the greater prevalence of short cuts of certain dry pasta in the Turkish market than in the U.S. market.

Five Turkish producers and seven Italian producers indicated that they had seen changes in the product range, mix, or marketing of certain dry pasta since 2007. Four Turkish producers cited changes in packaging, including packaging of \*\*\*. Among Italian producers observing changes, \*\*\* described the U.S. dry pasta market as increasingly dominated by several large suppliers. \*\*\* stated that the growth of the high-end market for certain dry pasta has been faster than growth in the general U.S. dry pasta market. Additional Italian producers described adding new products with new shapes or ingredients. Other Italian producers noted management changes within their firm, and another Italian producer receiving a geographical protected indication from the European Union. Three Turkish producers and ten Italian producers had not observed any such changes.

Six Turkish producers and three Italian producers anticipated changes in the range, mix, or marketing of certain dry pasta. Turkish producers cited plans for a wide range of new products, including tortellini, gluten-free pasta, instant meal pasta, organic pasta, and whole wheat pasta. Among Italian producers, \*\*\* planned to \*\*\*. \*\*\* anticipated the continued alleged dominance of the U.S. market by a small number of large suppliers. Fourteen Italian producers and two Turkish producers did not anticipate any changes.

## **U.S. demand**

Based on available information, the overall demand for dry pasta is likely to experience moderate changes in response to changes in price. The main contributing factors are the limited range of substitute products and the variable cost share (much lower in prepared meals than in direct retail sales) of product in most of its end-use products. However, many market participants described a large section of dry pasta consumers as price sensitive.

### **End uses**

Reported end uses for dry pasta include retail sales and prepared meals. Most questionnaire respondents described these end uses as stable. Nine responding U.S. producers, 17 importers, 25 foreign producers, and 6 purchasers reported no changes in end uses since 2007.<sup>33</sup> Similarly, 9 U.S. producers, 16 importers, 24 foreign producers, and 5 purchasers did not anticipate any changes in end uses. Purchaser \*\*\* anticipated more gluten-free and non-allergen pasta production.

Three end-user purchasers described demand for their final products incorporating dry pasta as having increased since 2007. Of those, \*\*\* described increased demand for \*\*\* and added that this increased demand had increased their demand for dry pasta. However, \*\*\* stated that it had been able to meet increased production goals without increasing its demand for dry pasta. \*\*\* described demand for its final products as having fluctuated, but added that this fluctuation had not had any effect on its demand for dry pasta.

### **Cost share**

Dry pasta accounts for a highly variable share of the cost of the end-use products in which it is used. As a product for retail sale, dry pasta may account for all of the wholesale price of the product sold, or (as reported by one U.S. producer) 50 percent of the retail product sold. Dry pasta may also be used in prepared meals in various commercial outlets, where it is a smaller percentage of the cost of the final prepared meal. For example, \*\*\* reported that dry pasta was \*\*\* percent of the cost of its macaroni and cheese, \*\*\* reported that dry pasta was \*\*\* percent of the cost of its macaroni and cheese, and \*\*\* reported that dry pasta was \*\*\* percent of its \*\*\* products.

### **Substitute products**

Substitutes for dry pasta are limited. While there are multiple other products that provide carbohydrates and/or protein, they do not have the same taste and texture. Seven U.S. producers, 14 importers, 21 foreign producers, and 8 purchasers reported that there are no substitutes for dry pasta or certain dry pasta. Two producers, two importers, and two purchasers named fresh or refrigerated pasta as a substitute. One producer, two importers, and three purchasers named rice and/or potatoes as substitutes as well. Importers, purchasers, and

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<sup>33</sup> Two purchasers did report changes in end uses and anticipated changes in end uses, and cited \*\*\*.

foreign producers also named frozen pasta, gluten-free pasta, organic pasta, and egg noodles as substitutes. No U.S. producers, foreign producers, importers, or purchasers indicated that changes in the prices of any substitutes had affected the price for dry pasta or certain dry pasta.

Eight U.S. producers, 24 foreign producers, 19 importers, and 10 purchasers indicated that there had been no changes in the number or types of substitutes for dry pasta since 2007. \*\*\* did, citing increased variety and innovation in rice products. Nine U.S. producers, 25 foreign producers, 19 importers, and 10 purchasers did not anticipate any future changes in substitutes.

### **Apparent consumption**

Apparent U.S. consumption of dry pasta increased slightly during 2007-12, peaking in 2010 but remaining at similar levels (over three billion pounds) in 2012.

### **Business cycles**

A consultant for AIPC described pasta as a staple consumption item that retail grocery chains usually have on advertised promotions to consumers. He added that consumers usually purchase whichever pasta (brand or private label) that is on promotion.<sup>34</sup> New World described the U.S. retail grocery store industry as currently in a situation of overcapacity, leading to “fierce” competition through advertised promotions of products like pasta.<sup>35</sup> It added that consumers tend to buy pasta on promotion, and that sales of a brand when not on promotion are generally low.<sup>36</sup>

Nine U.S. producers and 15 importers indicated that the U.S. dry pasta market is not subject to distinctive business cycles or conditions of competition. However, five importers did describe distinctive conditions. \*\*\* stated that dry pasta demand tends to rise during colder seasons when people are indoors more. Similarly, importer \*\*\* stated that the fourth quarter is the strongest time for dry pasta demand. Importers \*\*\* described the U.S. dry pasta market as dominated by several large U.S. suppliers (Barilla, ConAgra, and Ebro). \*\*\* described the antidumping and countervailing duties on certain dry pasta as a distinctive condition of competition.

Thirteen purchasers indicated that the dry pasta market was not subject to distinctive business cycles or conditions of competition. However, five did, noting both supply and demand factors such as the typical late-August durum wheat harvest, higher demand in the fall, and general macroeconomic conditions. \*\*\* stated that dry pasta demand is not perfectly inelastic, and that consumers would reduce purchases if prices rose. \*\*\* described the U.S. market as changing because large conglomerates have bought out smaller producers.

Two U.S. producers and three U.S. importers stated that there had not been any changes to the business cycles or conditions of competition in the U.S. dry pasta market since 2007. Five importers did, citing increased competition in a mature market, greater seasonal

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<sup>34</sup> Hearing transcript, p. 34 (George).

<sup>35</sup> Hearing transcript, p. 74 (Faucett).

<sup>36</sup> Hearing transcript, p. 78 (Faucett).

demand and higher demand for specialty Italian dry pasta, an increased concentration of U.S. dry pasta suppliers, a diminishing number of Italian suppliers to the traditional U.S. retail market, and more stable semolina prices in recent years after a “dramatic” increase in 2007. Four purchasers also cited changes, with two noting weather-related disruptions of raw material prices and two noting the increased role played by Barilla in the U.S. market.

## Demand trends

According to \*\*\*, U.S. demand for pasta has been declining irregularly since 2001. The popularity of low-carbohydrate diets such as the Atkins diet reduced U.S. pasta demand by almost ten percent from 2001 to 2005. From 2005 to 2008, pasta price increases reduced U.S. pasta consumption further, although consumption may have risen somewhat over 2009 to 2011, albeit not back to 2001 levels.<sup>37</sup> \*\*\* attributed this demand rise to households returning to staples when the economy faltered, \*\*\*.<sup>38</sup> According to \*\*\*, in 2012, U.S. pasta consumption levels may have returned to 2007 levels.<sup>39</sup> \*\*\* forecasts continued slow growth (usually under 2 percent annually) in \*\*\*.<sup>40</sup>

\*\*\* also indicated that, while some segments of the retail market for products containing dry pasta are dominated by one player (e.g., Kraft in the boxed macaroni and cheese segment), other segments may be crowded, and brand loyalty is not always strong. Three in ten consumers believe that private label brands are the same quality as name brands. However, a quarter of consumers are willing to spend more money on a quality or premium product, and health concerns (including a move away from processed foods) are increasingly important to consumers.<sup>41</sup>

In response to Commission questionnaires, most firms reported increased or unchanged U.S. demand for dry pasta since 2007 (table II-3). Among U.S. producers, \*\*\* described demand as increasing from 2007 through 2009 or 2010 due to the recession, and then decreasing thereafter.<sup>42</sup> \*\*\* described demand in 2013 as lower than in 2007, but up over more recent years, as the “low-carb craze” has diminished. \*\*\* cited an increase in population as driving increased demand. Among importers, four described increased U.S. demand for higher quality pasta, although \*\*\* described such demand as restrained by lower-cost U.S.-produced dry pasta and the Atkins’ low-carbohydrate diet “craze.” Turkish producers often expressed little knowledge of the U.S. market, but Italian producers often described increased interest in specialty, artisanal, and healthier pastas among U.S. consumers. Purchasers that described demand trends usually described demand as constant or increasing due to pasta being inexpensive or their own firm’s growing sales.

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<sup>37</sup> \*\*\*.

<sup>38</sup> \*\*\*. The Italian respondents also submitted data on U.S. consumption, showing small annual increases over 2007 to 2012. Posthearing brief of Italian respondents, exhibit 2.

<sup>39</sup> \*\*\*.

<sup>40</sup> \*\*\*.

<sup>41</sup> \*\*\*.

<sup>42</sup> As does \*\*\* above, these firms are describing dry pasta as a product that consumers prefer when their income is lower.

**Table II-3****Dry Pasta: Firms' responses regarding U.S. demand, by number of responding firms**

Item	Increase	Decrease	Fluctuate	No change
<b>Demand in the United States since 2007</b>				
U.S. producers	3	0	2	3
Importers	4	3	3	13
Purchasers	7	1	4	6
Foreign producers	5	2	2	11
<b>Anticipated future demand</b>				
U.S. producers	2	0	1	4
Importers	3	2	3	13
Purchasers	6	0	3	8
Foreign producers	9	2	2	12
<b>Demand for purchasers' final products since 2007</b>				
Purchasers	3	0	1	0

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. producers, foreign producers, importers, and purchasers generally expect demand to increase or remain unchanged over the next two years. Among U.S. producers, \*\*\* expected dry pasta demand to return to “slow,” 1-2 percent growth. \*\*\* described fluctuating demand due to a tradeoff between less carbohydrate consumption and the need to feed a growing population in an efficient manner. Among importers, \*\*\* anticipated that certain dry pasta suppliers will try to appeal to new U.S. immigrants. \*\*\* stated that the number of U.S. consumers interested in specialty pasta has likely already reached its maximum. \*\*\* also expressed that it expects flat consumption of dry pasta. However, \*\*\* anticipated growing overall U.S. dry pasta demand through 2016. Turkish producers expressed little knowledge of future demand, but several Italian producers anticipated increased U.S. demand for artisanal, specialty, and healthy pastas.

### **SUBSTITUTABILITY ISSUES**

The degree of substitution between domestic and imported dry pasta depends upon such factors as relative prices, quality (*e.g.*, grade standards, reliability of supply, defect rates, *et cetera*), and conditions of sale (*e.g.*, price discounts/rebates, lead times between order and delivery dates, payment terms, product services, *et cetera*). Market participants described differences between U.S. and subject-country pasta, although these differences may not always be important to all consumers. Based on available data, staff believes that there is a moderate degree of substitutability between domestically produced dry pasta and certain dry pasta imported from subject sources.

## Knowledge of country sources

Seventeen purchasers indicated they had marketing/pricing knowledge of domestic dry pasta, eleven of Italian certain dry pasta, eight of Italian other dry pasta, one of Turkish certain dry pasta, one of Turkish other dry pasta, four of nonsubject countries' certain dry pasta, and three of nonsubject countries' other dry pasta. Nonsubject countries included Brazil, Canada, and Mexico.

As shown in table II-4, most purchasers reported that they and their customers "sometimes" or "never" make purchasing decisions based on the producer or country of origin. \*\*\* reported basing its decisions "usually" on producer due to issues of availability, price, and service. \*\*\* stated that it based its decisions "sometimes" on producer due to quality concerns. \*\*\* noted that some consumers are loyal to brand, but \*\*\* noted that because dry pasta is heavily promoted, some consumers just purchase what is on sale. Regarding country of origin, several purchasers described some consumers as preferring Italian dry pasta due to its reputation for quality and/or authenticity. \*\*\* indicated that Italian pasta is consistently the highest quality pasta. However, \*\*\* stated that customers buy its brand, and are not concerned about country of origin.

**Table II-4**

### **Purchasing decisions based on producer and country of origin**

<b>Purchaser/Customer Decision</b>	<b>Always</b>	<b>Usually</b>	<b>Sometimes</b>	<b>Never</b>
Purchaser makes decision based on producer	3	5	5	5
Purchaser's customers make decision based on producer	0	5	3	9
Purchaser makes decision based on country	3	2	8	5
Purchaser's customers make decision based on country	1	2	11	3

Source: Compiled from data submitted in response to Commission questionnaires.

## Lead times

Producers and importers reported both sales from inventory and sales produced to order. Four U.S. producers reported that at least 80 percent of their sales of U.S. dry pasta came from inventory, while three U.S. producers reported that at least 75 percent of their sales of dry pasta was produced to order. Another U.S. producer reported that 40 percent of its sales were from inventory and 60 percent were produced to order. U.S. producers' lead times for product from inventory ranged from 7 to 10 days. U.S. producers' lead time for product produced to order ranged from 10 to 30 days.

Among importers of subject product from Italy, seven reported that at least 95 percent of their sales were from inventory, while two reported that at least 75 percent of their sales were produced to order and three reported that at least 62 percent were from the foreign manufacturer's inventory. Lead times for product from inventory were usually 3 to 14 days, while lead times for other shipments ranged from 15 to 90 days. However, 13 Italian producers reported that at least 64 percent (and usually much more) of their sales of certain dry pasta to U.S. customers were produced to order (\*\*\*).



Among importers of product from Turkey, \*\*\* reported 100 percent of its shipments as coming from inventory with lead times of two days. \*\*\* reported 100 percent of its shipments as produced to order with lead times of 45 days.<sup>43</sup> Three Turkish producers indicated that 100 percent of their sales of certain dry pasta to U.S. customers were produced to order.

### Factors affecting purchasing decisions

The most often cited factors that firms consider in their purchasing decisions for dry pasta were quality,<sup>44</sup> price/cost, availability, and consistency, as shown in table II-5.

**Table II-5**

**Dry Pasta: Ranking of factors used in purchasing decisions as reported by U.S. purchasers, by number of reporting firms**

Factor	First	Second	Third	Total
Quality	7	4	2	13
Price/Cost	2	8	5	15
Availability	3	2	3	8
Consistency	3	1	0	4
Capacity	1	0	1	2
Range	0	1	1	2
Delivery	0	0	1	1
Services	0	0	1	1
Consumer demand	0	0	1	1
Supplier history/background	0	0	1	1

Note.-- Other factors listed include innovation and quality control.

Source: Compiled from data submitted in response to Commission questionnaires.

Eight purchasers reported that they “usually” purchase the lowest-priced dry pasta, while six did so “sometimes” and four “never” did so. Importer Rema Foods described restaurants that focus on the sauce as preferring lower-priced pasta (which it stated was usually U.S.-produced), while restaurants that focus on the quality of the pasta as well are more likely to purchase Italian pasta.<sup>45</sup>

Most purchasers did not purchase dry pasta from only one country. Three of those that did cited their firms’ identities as suppliers of Italian products and/or the quality of Italian pasta, \*\*\*. \*\*\* stated that it purchased only U.S. product because it had only qualified a U.S. producer for its factories, and had not found imported product of high enough quality or at a competitive price. \*\*\* stated that it had only purchased U.S. product due to price reasons.

<sup>43</sup> \*\*\*.

<sup>44</sup> Purchasers named texture, flavor, color, cooking time, ease-of-use in industrial processes, ingredients, nutrients, brand, packaging, double-cooking capability, and meeting FDA regulations as characteristics of quality for dry pasta. At the hearing, Rema Foods described pasta quality as depending on cooking time to reach al dente, the ability of the pasta to hold sauce and to withstand “double-cooking” in restaurants, and gluten content. Hearing transcript, pp. 173-174 (Aglietta).

<sup>45</sup> Hearing transcript, p. 177 (Aglietta).

Purchasers were asked if certain grades/types/sizes of dry pasta were available only from a single source. Thirteen purchasers answered no, but two answered yes, with \*\*\* naming bronze-cut pasta as available only from Italy, and \*\*\* naming some oven cuts (e.g., lasagna) as available only from a single source. When asked if they purchased dry pasta from one source although a comparable product was available at a lower price from another source, twelve purchasers reported that if they did so or were to do so, reasons would include availability, packaging, brand, customer demand for Italian product, quality, transportation charges, reliability, and reputation. \*\*\* stated that they would not do so.

Eleven purchasers indicated that they had not changed suppliers since 2007, but seven had, citing individual firms that they had added or dropped. \*\*\* stated that it had switched suppliers based on “product performance.” \*\*\* stated that it had a new bidding process on its corporate brand every year or two, and based its decision on cost, service, quality, and innovation. It elaborated that it discontinued products that did not sell well to consumers. \*\*\* stated that it had dropped \*\*\* as a supplier \*\*\*. It added that \*\*\*.

### Importance of specified purchase factors

Purchasers were asked to rate the importance of 14 factors in their purchasing decisions (table II-6). The factors most likely to be rated as “very important” by responding purchasers were availability, reliability of supply, price, quality meeting industry standards, and delivery time. Other factors named but not in the table include consistency (very important), final delivered cost (very important), flexibility (somewhat important), and innovation (somewhat important).

**Table II-6**  
**Dry Pasta: Importance of purchase factors, as reported by U.S. purchasers, by number of responding firms**

Factor	Very important	Somewhat important	Not important
Availability	18	0	0
Delivery terms	10	7	1
Delivery time	14	3	1
Discounts offered	5	8	5
Extension of credit	2	8	7
Minimum quantity requirements	6	8	4
Packaging	11	7	0
Price	16	2	0
Quality meets industry standards	16	1	1
Quality exceeds industry standards	10	6	2
Product range	7	9	2
Reliability of supply	18	0	0
Technical support/service	6	9	3
U.S. transportation costs	7	8	3

Source: Compiled from data submitted in response to Commission questionnaires.

## Supplier certification

Thirteen responding purchasers require that all of the product they purchase be certified. \*\*\* did not require certification, and \*\*\* required certification for 50 percent of purchases. Those purchasers requiring certification reported an extensive list of factors considered in qualification, including both purchaser and third-party certification of production process and facilities, as well as factors such as quality, price, reliability of supplier, indemnification agreement, and liability insurance. Eleven purchasers reported that the time to qualify a new supplier ranged from 30 to 180 days, with six reporting 30 days and three reporting 180 days, and the remainder some intermediate amount of time. (\*\*\* reported one day and the others did not answer a specific number of days.)

Thirteen purchasers reported that no domestic or foreign supplier had failed in its attempt to qualify product, or had lost its approved status since 2007. Two reported not qualifying domestic suppliers for quality reasons. Two other purchasers reported not qualifying Italian suppliers for reasons of cost, reliability, and \*\*\*. \*\*\* reported not qualifying \*\*\*.<sup>46</sup>

## Changes in purchasing patterns

Purchasers were asked about changes in their purchasing patterns from different sources since 2007 (table II-7). Many reported increased or constant purchases of U.S. and Italian product. Those reporting increased purchases of U.S. product cited their own increased demand or the movement of a supplier from Italy to the United States. \*\*\*. Purchasers reporting increased purchases of product from Italy also cited increased demand, while those reporting decreased purchases of Italian product cited higher Italian prices or their own decreased demand. Those purchasers reporting changes in purchasing patterns for Turkish product cited low or varying prices for Turkish product.

**Table II-7**

**Dry Pasta: Changes in purchase patterns from U.S., subject, and nonsubject countries**

Source of purchases	Did not purchase	Decreased	Increased	Constant	Fluctuated
United States (dry pasta)	2	1	6	6	2
Italy (certain dry pasta produced by Lensi)	13	3	1	1	1
Italy (certain dry pasta produced by all firms other than Lensi)	4	3	7	3	2
Turkey (certain dry pasta)	17	0	1	0	1
All other sources (certain dry pasta)	12	0	2	2	2
All foreign sources (other dry pasta)	13	1	1	2	2

Source: Compiled from data submitted in response to Commission questionnaires.

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<sup>46</sup> See also prehearing brief of Turkish producers and exporters, p. 15.

## **Importance of purchasing domestic product**

Fifteen purchasers reported that purchasing U.S.-produced product was not an important factor in their purchasing decisions. \*\*\* reported that domestic product was required by some of their customers (for 25 percent of their purchases), and \*\*\* reported preferring domestic product due to issues of inventory, availability, and pricing control.

## **Comparisons of domestic products, subject imports, and nonsubject imports**

Purchasers were asked for a country-by-country comparison on 15 factors. A majority of responding purchasers reported that U.S. and Italian product were comparable on most factors. Few purchasers compared U.S. and Turkish product, with firms that did not compare including firms (such as \*\*\*) that expressed concern about Turkish product in response to other questions. The two firms that did answer this question did not indicate familiarity with Turkish pasta in response to another question.<sup>47</sup>

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<sup>47</sup> Staff removed the responses of a third purchaser, \*\*\*, when it clarified its answers in response to a staff inquiry. See \*\*\*. When asked for more information on the quality of Turkish pasta, U.S. producers described U.S. consumers as not distinguishing among certain dry pasta from various countries. Hearing transcript, pp. 114-115 (George, Vermeylen, and Fox).

**Table II-8**

**Dry pasta: Purchasers' comparisons between U.S.-produced and imported product**

Factor	Dry pasta from <u>United States</u> vs. certain dry pasta from <u>Italy (other than</u> <u>Lensi)</u>			Dry pasta from <u>United States</u> vs. certain dry pasta from <u>Turkey</u>			Dry pasta from <u>United States</u> vs. certain dry pasta from <u>Nonsubject</u> <u>countries</u>		
	S	C	I	S	C	I	S	C	I
Availability	4	7	2	0	1	1	0	3	1
Delivery terms	4	7	2	0	1	1	0	3	1
Delivery time	7	5	1	0	1	1	0	3	1
Discounts offered	2	6	2	0	1	1	0	3	1
Extension of credit	1	8	1	0	1	1	0	3	1
Minimum quantity requirements	5	7	1	0	1	1	0	2	2
Packaging	1	10	2	0	1	1	0	3	1
Price <sup>1</sup>	1	9	3	0	1	1	0	3	1
Product consistency	1	11	1	0	1	1	0	3	1
Quality exceeds industry standards	0	12	1	0	1	1	0	3	1
Quality meets industry standards	0	11	2	0	1	1	0	3	1
Product range	0	10	3	0	1	1	0	3	1
Reliability of supply	4	7	2	0	1	1	0	3	1
Technical support/service	2	10	1	0	1	1	0	3	1
U.S. transportation costs <sup>1</sup>	5	7	1	0	1	1	0	3	1

<sup>1</sup> A rating of superior means that price/U.S. transportation costs is generally lower. For example, if a firm reported "U.S. superior," it meant that the U.S. product was generally priced lower than the imported product.

Note.—\*\*\* also listed "innovation" as a point of comparison, and described U.S. and Italian product as comparable.

Note: S=first listed country's product is superior; C=both countries' products are comparable; I=first list country's product is inferior.

Table continued on next page.

**Table II-8—Continued.**

**Dry Pasta: Purchasers' comparisons between U.S.-produced and imported product**

Factor	Dry pasta from <u>United States</u> vs. other dry pasta from <u>Nonsubject countries</u>			Certain dry pasta from <u>Italy (other than Lensi)</u> vs. certain dry pasta from <u>Nonsubject countries</u>			Certain dry pasta from <u>Turkey</u> vs. certain dry pasta from <u>Nonsubject countries</u>		
	S	C	I	S	C	I	S	C	I
Availability	1	3	1	1	2	1	0	1	2
Delivery terms	2	2	1	0	2	2	0	1	2
Delivery time	2	2	1	0	2	2	0	1	2
Discounts offered	1	3	1	0	3	1	0	1	2
Extension of credit	1	3	1	0	3	1	0	1	2
Minimum quantity requirements	1	3	1	0	3	1	0	1	2
Packaging	0	4	1	0	3	1	0	1	2
Price <sup>1</sup>	1	3	1	0	3	1	0	1	2
Product consistency	0	4	1	1	3	0	0	1	2
Quality exceeds industry standards	0	4	1	0	4	0	0	1	2
Quality meets industry standards	0	4	1	1	3	0	0	1	2
Product range	0	4	1	0	3	1	0	1	2
Reliability of supply	0	4	1	0	3	1	0	1	2
Technical support/service	0	4	1	0	3	1	0	1	2
U.S. transportation costs <sup>1</sup>	1	3	1	0	3	1	0	1	2

<sup>1</sup> A rating of superior means that price/U.S. transportation costs is generally lower. For example, if a firm reported "U.S. superior," it meant that the U.S. product was generally priced lower than the imported product.

Note: S=first listed country's product is superior; C=both countries' products are comparable; I=first list country's product is inferior.

Note.—Purchaser \*\*\* also compared U.S. and \*\*\* "pasta" and described them as comparable in all factors except \*\*\*.

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. producers generally described certain dry pasta as a commodity product that competes mostly on price, with consumers often unaware and/or unconcerned about the national origin of the product.<sup>48</sup> U.S. producers noted that U.S., Italian, and Turkish pasta is produced using equipment made by a limited number of manufacturers, with New World characterizing the production process as "essentially the same."<sup>49</sup> However, Italian producers generally described their pasta sold in the U.S. market as a product for consumers with a preference for authentic Italian pasta, and stated that Italian pasta mostly competes only against other Italian pasta in the U.S. market, and not against U.S., Turkish, or Mexican pasta.<sup>50</sup> U.S. producer Barilla described pasta quality differences as stemming from different durum wheat blends, different gluten content in the pasta, and the ash content of the semolina flour

<sup>48</sup> For example, see hearing transcript, p. 27 (Hasper).

<sup>49</sup> Hearing transcript, p. 32 (Faucett) and p. 37 (George).

<sup>50</sup> Hearing transcript, p. 162 (Felicetti), p. 165 (Massarelli), p. 171 (DiPietro).

used. It also stated that while the food service industry generally preferred Italian-produced pasta for quality reasons, it has been able to convince such purchasers that its product quality was equal or better to Italian quality.<sup>51</sup> Counsel for Turkish producers described Turkish pasta as not vitamin-enriched (as he stated that U.S. and Italian pasta are) and available only in long shapes (unlike U.S. and Italian pasta).<sup>52</sup> He also described some Turkish pasta exports to certain countries as not made of durum wheat.<sup>53</sup>

In order to determine whether U.S.-produced dry pasta can generally be used in the same applications as imports of certain dry pasta from Italy and Turkey, U.S. producers, importers, and purchasers were asked whether the products can “always,” “frequently,” “sometimes,” or “never” be used interchangeably. As shown in table II-9, purchasers and importers were less likely than U.S. producers to report that U.S., Italian, and Turkish product were “always” able to be used interchangeably.

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<sup>51</sup> Hearing transcript, pp. 184-185. (Tendick).

<sup>52</sup> Hearing transcript, p. 204 (Nolan).

<sup>53</sup> Hearing transcript, p. 217 (Nolan).

Table II-9

**Dry Pasta: Perceived interchangeability between dry pasta produced in the United States and in other countries, by country pairs**

Country pair	Number of U.S. producers reporting				Number of U.S. importers <sup>1</sup> reporting				Number of purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
<b>U.S. vs. subject countries:</b> U.S. (dry pasta) vs. Italy (certain dry pasta from producers other than Lensi)	7	0	1	0	2	1	6	3	4	4	5	1
U.S. (dry pasta) vs. Turkey (certain dry pasta)	6	0	0	0	3	0	0	3	1	0	3	0
<b>Subject countries comparisons:</b> Italy (certain dry pasta from producers other than Lensi) vs. Turkey (certain dry pasta)	6	0	0	0	2	0	3	5	1	0	2	2
<b>Nonsubject countries and products comparisons:</b> U.S. (dry pasta) vs. other certain dry pasta from all other sources	6	0	0	0	4	1	3	0	2	0	2	0
U.S. (dry pasta) vs. other dry pasta from all sources	6	1	0	0	5	2	2	0	1	0	3	0
Italy (certain dry pasta from producers other than Lensi) vs. other certain dry pasta from all other sources	6	0	0	0	2	1	1	2	2	0	2	1
Italy (certain dry pasta from producers other than Lensi) vs. other dry pasta from all sources	6	0	0	0	2	1	1	2	1	0	2	2
Turkey (certain dry pasta) vs. other certain dry pasta from all other sources	6	0	0	0	3	0	1	3	1	1	1	1
Turkey (certain dry pasta) vs. other dry pasta from all sources	6	0	0	0	4	0	1	2	1	1	1	2
Other certain dry pasta from all other sources vs. other dry pasta from all sources	6	0	0	0	5	1	1	0	1	1	3	0

<sup>1</sup> \*\*\*.

Note.—A=Always, F=Frequently, S=Sometimes, N=Never.

Source: Compiled from data submitted in response to Commission questionnaires.

In further comments, U.S. producer \*\*\* noted that U.S. and Italian certain dry pasta is perceived as higher quality than pastas from other countries. Six importers described U.S. and Italian dry pasta as limited in interchangeability due to the bronze dies and slower drying used in some Italian dry pasta production, consumer perceptions that Italian dry pasta and/or Italian durum wheat is higher quality than U.S. pasta and/or durum wheat.<sup>54</sup> Additionally, importer

<sup>54</sup> On the other hand, a consultant for AIPC stated that an increasing share of Italian pasta is made with North American durum wheat (the same as used in U.S.-produced pasta). Hearing transcript, p. 37 (George). Italian producer Garofalo stated that it invested heavily to obtain only “the best” semolina



\*\*\* stated that “sophisticated” consumers may look for bronze-die cut or organic dry pasta, or have an “origin bias.” Importer \*\*\* also cited unique raw materials from (unspecified) different countries as limiting interchangeability. Importers \*\*\* described Italian certain dry pasta as not interchangeable because of its perceived higher quality. \*\*\* stated that it found Turkish product \*\*\* than that from other countries. Purchaser \*\*\* noted that U.S. producers cannot produce bronze-die cut dry pasta while Italian producers cannot always vitamin-enrich dry pasta (or have higher costs to do so).

As can be seen from table II-10, most purchasers reported that domestically produced and Italian product “always” or “usually” met minimum quality specifications. However, two responding purchasers reported that the Turkish product “usually” or “sometimes” met minimum quality specifications.

**Table II-10**

**Dry Pasta: Ability to meet minimum quality specifications, by source and number of reporting firms<sup>1</sup>**

Source	Always	Usually	Sometimes	Rarely or never
United States	10	4	1	0
Italy (certain dry pasta, other than from Lensi)	9	4	1	0
Turkey (certain dry pasta)	0	1	1	0

<sup>1</sup> Purchasers were asked how often domestically produced or imported dry pasta meets minimum quality specifications for their own or their customers’ uses.

Note.—In addition, two purchasers described Canadian dry pasta as “always” meeting minimum quality specifications, one purchaser described Mexican dry pasta as “always” doing so, and one purchaser described Mexican dry pasta as “usually” doing so.

Source: Compiled from data submitted in response to Commission questionnaires.

In addition, producers, importers, and purchasers were asked to assess how often differences other than price were significant in sales of dry pasta from the United States, subject, or nonsubject countries. As seen in table II-11, and similar to the results from table II-9, U.S. producers were more likely than importers to report that differences other than price are never significant in sales of U.S., Italian, or Turkish product.

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wheat, which it sources from Arizona. Hearing transcript, p. 163 (Massarelli). U.S. producer Barilla stated that it has its own patented wheat grown in North America. Hearing transcript, p. 180 (Tendick).

Table II-11

**Dry Pasta: Significance of differences other than price between dry pasta produced in the United States and in other countries, by country pair**

Country pair	Number of U.S. producers reporting				Number of U.S. importers <sup>1</sup> reporting				Number of purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
<b>U.S. vs. subject countries:</b> U.S. (dry pasta) vs. Italy (certain dry pasta from producers other than Lensi)	1	1	1	5	6	1	3	4	5	1	5	2
U.S. (dry pasta) vs. Turkey (certain dry pasta)	1	0	0	5	2	0	1	3	0	1	1	1
<b>Subject countries comparisons:</b> Italy (certain dry pasta from producers other than Lensi) vs. Turkey (certain dry pasta)	1	0	0	5	4	0	1	4	1	1	1	1
<b>Nonsubject countries and products comparisons:</b> U.S. (dry pasta) vs. other certain dry pasta from all other sources	1	0	0	5	1	1	3	3	0	0	3	1
U.S. (dry pasta) vs. other dry pasta from all sources	1	0	0	5	1	1	2	4	0	1	3	1
Italy (certain dry pasta from producers other than Lensi) vs. other certain dry pasta from all other sources	1	0	0	5	2	1	1	4	1	0	2	1
Italy (certain dry pasta from producers other than Lensi) vs. other dry pasta from all sources	1	0	0	5	1	1	1	4	1	1	2	1
Turkey (certain dry pasta) vs. other certain dry pasta from all other sources	1	0	0	5	2	0	0	3	0	0	1	1
Turkey (certain dry pasta) vs. other dry pasta from all sources	1	0	0	5	2	0	0	4	0	0	1	1
Other certain dry pasta from all other sources vs. other dry pasta from all sources	1	0	0	5	1	0	1	4	0	1	2	1

<sup>1</sup> \*\*\*.

Note.--A = Always, F = Frequently, S = Sometimes, N = Never.

Source: Compiled from data submitted in response to Commission questionnaires.

In further comments, U.S. producer \*\*\* stated that Italian pasta may be marketed as higher quality in some markets. Five importers reiterated their statements that Italian dry pasta is higher quality and is perceived as higher quality than U.S. dry pasta due to different production methods. Importers \*\*\* also reiterated their view that some consumers prefer Italian dry pasta due to bronze die cutting or taste. Purchaser \*\*\* also noted that Italian producers offer bronze-cut certain dry pasta while U.S. producers do not, and purchaser \*\*\* reiterated its quality concerns with Turkish certain dry pasta.

## **ELASTICITY ESTIMATES**

This section discusses elasticity estimates; parties were encouraged to comment on these estimates in their prehearing or posthearing briefs.

### **U.S. supply elasticity**

The domestic supply elasticity<sup>55</sup> for dry pasta measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of dry pasta. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced dry pasta. Analysis of these factors earlier indicates that the U.S. industry is likely to be able to increase or decrease shipments to the U.S. market; an estimate in the range of 3 to 5 is suggested.

### **U.S. demand elasticity**

The U.S. demand elasticity for dry pasta measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of dry pasta. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the dry pasta in the production of any downstream products. Based on the available information, the aggregate demand for dry pasta is likely to be moderately inelastic; a range of -0.5 to -1.0 is suggested.

### **Substitution elasticity**

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.<sup>56</sup> Product differentiation, in turn, depends upon such factors as quality and conditions of sale. Based on available information, the elasticity of substitution between U.S.-produced dry pasta and imported certain dry pasta is likely to be in the range of 2 to 4.

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<sup>55</sup> A supply function is not defined in the case of a non-competitive market.

<sup>56</sup> The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.



## PART III: CONDITION OF THE U.S. INDUSTRY

### OVERVIEW

The information in this section of the report was compiled from responses to the Commission's questionnaires. Eight firms, which accounted for 79.2 percent of total shipment value of U.S. production of dry pasta in 2011, supplied information on their operations in these reviews.<sup>1 2</sup>

The domestic pasta industry has experienced substantial reorganization over the period of review. American Italian Pasta (AIPC), based in Kansas City, is the largest U.S. producer of pasta, with \*\*\* percent of reported domestic production in 2012. AIPC was acquired by Ralcorp Holdings, in 2010 for an estimated \$1.2 billion. Ralcorp produces Post brand cereals among other brands and products. Ralston itself was acquired by St. Louis based ConAgra Foods in early 2013. The acquisition will reportedly make ConAgra the largest U.S. manufacturer of private-label foods.<sup>3</sup>

Barilla America, Inc. was the second-largest pasta producer in the United States in 2012, with \*\*\* percent of reported production. Barilla was founded in Parma, Italy. Barilla opened a plant and a durum wheat mill in Ames IA in 1999, and a second production plant in Avon, NY in 2007. In 2009, Barilla opened what was reportedly Europe's largest in-house durum wheat mill in Parma, Italy.<sup>4</sup> Barilla has 43 production operations around the world, 30 of them outside Italy. Eighty percent of the semolina used by Barilla world-wide is produced in company-owned mills, with much of the durum wheat grown in Canada and the United States.<sup>5</sup>

Dakota Growers Pasta Company is headquartered in Carrington, ND and is the third-largest pasta producer in the United States, with \*\*\* percent of reported U.S. production in 2012. In 2010, Viterra Inc., a Canadian firm, purchased Dakota Growers for a reported \$240

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<sup>1</sup> U.S. Census Bureau, *Annual Survey of Manufactures, Value of Product Shipments: 2011 and 2010*, November 2012, table 1, product class code 311823, dry pasta manufacturing.

<sup>2</sup> Three additional U.S. producers, \*\*\*, provided partial questionnaire responses, and were thus excluded from the data, except for \*\*\*. In addition, \*\*\*, which accounted for \*\*\* percent of reported U.S. production in 2006, failed to provide a questionnaire response, despite repeated attempts made by staff. See staff email correspondence with \*\*\*, EDIS Doc. No. 514715.

<sup>3</sup> ConAgra Foods press release, "ConAgra Foods Completes Acquisition of Ralcorp," January 29, 2013, <http://www.conagrafoods.com/news-room/news-ConAgra-Foods-Completes-Acquisition-of-Ralcorp-1779060>.

<sup>4</sup> Company website, "The Barilla Group," [http://www.uniss.it/documenti/agraria/Session\\_3.3-BARILLA\\_Applied\\_Research\\_in\\_Durum\\_Wheat\\_for\\_Semolina\\_Pasta.pdf](http://www.uniss.it/documenti/agraria/Session_3.3-BARILLA_Applied_Research_in_Durum_Wheat_for_Semolina_Pasta.pdf), undated, accessed May 22, 2013, p. 8.

<sup>5</sup> Lyddon, Chris, World-Grain.com, "Tackling New Challenges," reporting on a presentation by Emilio Ferrari, purchasing director for Barilla to the International Grains Council annual conference in June 2012, <http://www.world-grain.com/News/News%20Home/Features/2012/9/Tackling%20new%20challenges.aspx?cck=1>. However, 90 percent of wheat used is grown locally to the producing mill. "The Barilla Group," p. 16.

million. Viterra is one of the largest grain handlers in Canada and has operations in North America, Australia, and New Zealand. Viterra was itself purchased by Glencore International PLC, a producer and marketer of a broad range of agricultural and other commodities, headquartered in Switzerland. The proposed purchase was announced in March 2012, but not finalized until December 2012.

New World Pasta is the fourth-largest domestic producer and accounted for \*\*\* percent of reported U.S. production in 2012. New World was formed in 1999, from the Hershey Pasta Group. In 2001, New World combined with the pasta division of Borden Foods. In 2006, the Ebro Puleva Group, headquartered in Spain, purchased New World in a transaction valued at \$362.5 million. New World Pasta reports that it is the leader in pasta sales in North America.<sup>6</sup> Ebro Puleva reports that it is the world's largest marketer of rice and the second-largest pasta manufacturer.<sup>7</sup>

Over the period of review, pasta producers have been affected by significant fluctuations in the price of durum wheat, the primary raw ingredient in pasta. Beginning in mid-2007, a broad increase in prices for food- and feed-grains led to a substantial increase in durum wheat prices, and the weighted average farm-gate price for U.S. durum wheat in marketing year (MY) 2007/08 was more than double the price in the previous year.<sup>8</sup> Prices remained at historically high levels through mid-year 2009. Untimely rain in 2011 delayed planting of durum wheat and caused the area planted in durum wheat in MY 2011/12 to decline nearly 50 percent from the previous year. Average U.S. prices for durum wheat in MY 2011/12 were more than 60 percent above the average for MY 2010/11.<sup>9</sup>

Over the past 5 years, despite an increase in average unit value after 2007, U.S. apparent consumption of certain pasta increased. U.S. pasta sales have reportedly fared better than many other food industries, as consumers look for value for their food dollars.<sup>10</sup> In the current period of review, U.S. apparent consumption of certain pasta increased 6.7 percent in quantity 2007–12, and declined 2.4 percent between first quarter 2012 and first quarter 2013.

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<sup>6</sup> Company website, "About New World Pasta," [http://www.newworldpasta.com/pasta\\_corp\\_about.cfm?brandId=99](http://www.newworldpasta.com/pasta_corp_about.cfm?brandId=99).

<sup>7</sup> Company website, "Who We Are," <http://www.ebrofoods.es/en/the-company/who-we-are/>.

<sup>8</sup> USDA, ERS, "Table 1--Wheat: Planted Acreage, Harvested Acreage, Production, Yield, and Farm Price," <http://www.ers.usda.gov/data-products/wheat-data.aspx>. The marketing year for wheat is June 1 to May 31.

<sup>9</sup> USDA, ERS, "Table 1--Wheat: Planted Acreage, Harvested Acreage, Production, Yield, and Farm Price," <http://www.ers.usda.gov/data-products/wheat-data.aspx>.

<sup>10</sup> NBCNews.com, "Forget the Carbs, Pasta Fares Well with Recession," January 12, 2009.

**Table III-1**  
**Dry pasta: Important industry events, 2007-present**

Period	Firm	Reported Change
September 2007	Dakota Growers Pasta Co.	DNA Dreamfields Company, LLC becomes a wholly owned subsidiary
2009	Barilla	Opens Europe's largest durum wheat mill in Parma, Italy
June 2009	Barilla America	Avon NY facility reaches full production capacity (opened in October 2007)
2010	American Italian Pasta (AIPC)	Acquired by Ralcorp Holdings
May 2010	Dakota Growers Pasta Co.	Acquired by Viterra, Inc. (Canada)
August 2010	AIPC	Launches line of gluten-free pasta
May 2011	Pastificio Rana (Italy)	Announces opening of its first U.S. production facility in Illinois
December 2011	New World Pasta	Acquires <i>No Yolks</i> and <i>Wacky Mac</i> brands
March 2012	Viterra Inc. (parent of Dakota Growers)	Purchase by Glencore International announced
July 2012	Noodles by Leonardo (North Dakota)	Announces closure (first plant closed in March, final closure by September)
December 2012	Viterra Inc. (parent of Dakota Growers)	Purchase by Glencore International finalized
January 2013	Ralcorp (parent of AIPC)	Acquired by Con Agra Foods. Agreement reached November 26, 2012, finalized January 29, 2013
May 2013	Cando Pasta	Announces re-opening of former Noodles by Leonardo plant in Cando, ND

Source: Company websites and press articles.

### Changes experienced by the industry

Domestic producers were asked to indicate whether their firm had experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns because of strikes or equipment failure; curtailment of production because of shortages of materials or other reasons, including revision of labor agreements; or any other change in the character of their operations or organization relating to the production of dry pasta since 2007. Seven of the nine domestic producers that provided responses in these reviews indicated that they had experienced such changes; their responses are presented in table III-2.

**Table III-2**  
**Dry pasta: Changes in the character of U.S. operations since January 1, 2007**

\* \* \* \* \*

### Anticipated changes in operations

The Commission asked domestic producers to report anticipated changes in the character of their operations relating to the production of dry pasta. Two of nine U.S. producers \*\*\* reported that they anticipated changes in the character of their operations relating to the production of dry pasta. \*\*\* plans to add capacity, while \*\*\* has projected to increase its capacity by \*\*\* pounds to \*\*\* pounds total capacity in 2013 and 2014.

### U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION<sup>11</sup>

Table III-3 presents U.S. producers' production, capacity, and capacity utilization. U.S. capacity allocated to dry pasta increased by 15.1 percent between 2007 and 2012. Production also increased by 6.4 percent during the same period, while the capacity utilization rate declined from 83.1 percent in 2007 to 76.8 percent in 2012. Production increased gradually between 2007 and 2010 then gradually declined from 2010-12. Production declined by 3.0 percent during 2011-12, the majority of which can be attributed to \*\*\*. All U.S. producers \*\*\* reported an increase in capacity in 2012 compared to 2007. Four of the nine U.S. producers reported lower production over the same period. \*\*\*. Capacity was higher in January-March 2013 than in January-March 2012, while production was slightly lower during the same period. The increased capacity in interim 2013 can be attributed to \*\*\*.

**Table III-3**

**Dry pasta: U.S. producers' production, capacity, and capacity utilization, 2007-12, January-March 2012, and January-March 2013**

Item	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
Capacity <sup>1</sup>	2,806,561	2,877,370	2,944,373	3,108,463	3,169,131	3,231,406	807,953	818,364
Production	2,331,898	2,429,015	2,532,865	2,562,900	2,557,485	2,481,352	644,696	641,068
Capacity utilization (percent) <sup>1</sup>	83.1	84.4	86.0	82.4	80.7	76.8	79.8	78.3

<sup>1</sup> \*\*\*. Respondents argue that \*\*\*. Turkish respondents' posthearing brief, pp. 2-3. Counsel for the domestic industry asserts that \*\*\*. Domestic interested parties' posthearing brief, July 22, 2013, exh. 1, p. 50.

Note.--\*\*\*. As described by the company, \*\*\*. Email from \*\*\* , June 5, 2013.

Source: Compiled from data submitted in response to Commission questionnaires.

<sup>11</sup> \*\*\* reported toll production agreements with \*\*\*. In addition to \*\*\*, \*\*\*reported toll production agreements with \*\*\*.



### **Constraints on capacity**

Eight of the nine responding U.S. producers reported constraints in the manufacturing process. U.S. dry pasta producers reported similar production constraints. General production constraints arise from equipment capacity, product mix, drying time, and market demand. According to \*\*\*, significantly increasing capacity requires major equipment purchases and installations. All responding U.S. producers reported that they are unable to shift production between dry pasta and other products.

### **U.S. PRODUCERS' U.S. SHIPMENTS AND EXPORTS**

Table III-4 presents U.S. producers' U.S. shipments, export shipments, and total shipments. U.S. producers' commercial shipments increased by 5.6 percent, by quantity, from 2007 to 2012. U.S. producers' commercial shipments were lower in January-March 2013 than in January-March 2012. \*\*\* internally consumes all of its dry pasta production for downstream products. Only \*\*\* reported transfers to related firms. Six of eight U.S. producers reported exporting dry pasta, which accounted for 1.2 percent of the quantity of U.S. producers' shipments of dry pasta between January 2007 and March 2013.<sup>12</sup>

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<sup>12</sup> U.S. producers of dry pasta reported exporting to Canada and Mexico as well as Australia, the Caribbean, Central America, and Israel.

**Table III-4**

**Dry pasta: U.S. producers' U.S. shipments, exports shipments, and total shipments, 2007-12, January-March 2012, and January-March 2013**

Item	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
	<b>Quantity (1,000 pounds)</b>							
Commercial shipments	2,263,505	2,346,820	2,432,875	2,498,832	2,440,975	2,391,035	612,684	602,995
Internal consumption	***	***	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***	***	***
U.S. shipments	2,315,072	2,409,232	2,483,719	2,553,366	2,495,697	2,445,574	626,328	615,536
Export shipments	18,699	18,822	31,311	29,178	34,957	39,444	9,774	11,717
Total shipments	2,333,771	2,428,054	2,515,030	2,582,544	2,530,654	2,485,018	636,102	627,253
	<b>Value (1,000 dollars)</b>							
Commercial shipments	1,199,194	1,782,418	1,741,333	1,664,184	1,765,660	1,807,061	475,452	443,768
Internal consumption	***	***	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***	***	***
U.S. shipments	1,224,168	1,813,346	1,766,135	1,690,498	1,792,514	1,834,249	482,243	449,935
Export shipments	9,992	15,229	22,470	20,375	28,849	34,812	8,500	9,471
Total shipments	1,234,160	1,828,575	1,788,605	1,710,873	1,821,363	1,869,061	490,743	459,406
	<b>Unit value (dollars per pound)</b>							
Commercial shipments	0.53	0.76	0.72	0.67	0.72	0.76	0.78	0.74
Internal consumption	***	***	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***	***	***
U.S. shipments	0.53	0.75	0.71	0.66	0.72	0.75	0.77	0.73
Export shipments	0.53	0.81	0.72	0.70	0.83	0.88	0.87	0.81
Total shipments	0.53	0.75	0.71	0.66	0.72	0.75	0.77	0.73
	<b>Share of quantity (percent)</b>							
Commercial shipments	97.0	96.7	96.7	96.8	96.5	96.2	96.3	96.1
Internal consumption	***	***	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***	***	***
U.S. shipments	99.2	99.2	98.8	98.9	98.6	98.4	98.5	98.1
Export shipments	0.8	0.8	1.2	1.1	1.4	1.6	1.5	1.9
Total shipments	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Compiled from data submitted in response to Commission questionnaires.

### U.S. PRODUCERS' INVENTORIES

Table III-5 presents U.S. producers' end-of-period inventories and the ratio of these inventories to U.S. producers' production, U.S. shipments, and total shipments over the period examined. Inventories increased from 2007-09, then fluctuated for the rest of the period. Inventories increased by 11.1 percent between 2007 and 2012, and peaked in 2011 from their lowest point in 2010. As a ratio of total shipments, inventories were relatively steady during the same period, and were higher in 2012 than in 2007. Inventories were slightly higher in interim 2013 when compared with interim 2012.

**Table III-5****Dry pasta: U.S. producers' inventories, 2007-12, January-March 2012, and January-March 2013**

Item	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
Inventories (1,000 pounds)	201,644	202,606	220,442	200,800	227,628	223,961	236,222	237,784
Ratio to production (percent)	8.6	8.3	8.7	7.8	8.9	9.0	9.2	9.3
Ratio to U.S. shipments (percent)	8.7	8.4	8.9	7.9	9.1	9.2	9.4	9.7
Ratio to total shipments (percent)	8.6	8.3	8.8	7.8	9.0	9.0	9.3	9.5

Source: Compiled from data submitted in response to Commission questionnaires.

### U.S. PRODUCERS' IMPORTS AND PURCHASES

During the period for which data were collected, three U.S. producers, AIPC, Barilla, and New World, directly imported certain dry pasta from Italy. Both AIPC and Barilla reported importing subject merchandise to supplement their U.S. production. AIPC imports from Italy primarily to supplement its U.S. production with specialty pasta shapes, or limited production runs with special packing configurations or formulations, that do not make economic sense to produce domestically.<sup>13</sup> Similarly, Barilla "may import test quantities of new product developed in the group's research facilities in Italy that may or may not be subject dried pasta" or it may import an unusual shape pasta due to low volumes demanded.<sup>14</sup> AIPC directly imports from its wholly owned Italian subsidiary, Lensi, and imported \*\*\* pounds of certain dry pasta during 2007-12, which was equivalent to approximately \*\*\* percent of its U.S. production during the same period. Barilla directly imports from its Italian parent company Barilla (Italy) and imported \*\*\* pounds during 2007-12, which was equivalent to \*\*\* percent of its U.S. production during the same period. New World imported \*\*\* pounds of certain dry pasta from Italy during 2007-12, which was equivalent to \*\*\* percent of its U.S. production during the same period. New World reported \*\*\*.

\*\*\* also reported purchases of pasta specifically to supplement production of certain pasta shapes for which the firms cannot easily produce and/or the demand is not high enough to warrant investing in the proper equipment. \*\*\* was the only producer that purchased imports of certain dry pasta from Italy during the review period \*\*\*. \*\*\* both reported purchasing product from U.S. producers. Both firms reported purchasing product from \*\*\*.

<sup>13</sup> Domestic interested parties' posthearing brief, exh. 4.

<sup>14</sup> Italian respondents' posthearing brief, July 22, 2013, exh. 1.

## U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-6 shows U.S. producers' employment-related data during the period examined. The number of production-related workers ("PRWs") employed by the U.S. dry pasta industry increased between 2007 and 2012 by \*\*\* workers, or \*\*\* percent. Total hours worked similarly increased by \*\*\* percent, and slightly increased during interim 2013 relative to interim 2012. All U.S. producers reported increases in PRWs except for \*\*\*.

**Table III-6**

**Dry pasta: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2007-12, January-March 2012, and January-March 2013**

Item	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
PRWs ( <i>number</i> )	2,034	2,044	2,119	2,103	2,156	2,153	2,188	2,159
Total hours worked ( <i>1,000 hours</i> )	4,593	4,599	4,786	4,808	4,919	4,855	1,224	1,232
Hours worked per PRW ( <i>hours</i> )	2,258	2,250	2,259	2,286	2,282	2,255	559	571
Wages paid ( <i>\$1,000</i> )	91,140	96,683	104,000	106,333	110,213	107,984	27,442	27,470
Hourly wages ( <i>dollars</i> )	19.84	21.02	21.73	22.12	22.41	22.24	22.42	22.30
Productivity ( <i>pounds per hour</i> )	508	528	529	533	520	511	527	520
Unit labor costs ( <i>per pound</i> )	0.04	0.04	0.04	0.04	0.04	0.04	0.04	0.04

*Source:* Compiled from data submitted in response to Commission questionnaires.

## FINANCIAL EXPERIENCE OF U.S. PRODUCERS

### Background

Seven U.S. producers reported their financial results on dry pasta operations.<sup>15</sup> During the period examined, as noted previously, large-scale changes in operations were limited to Barilla, which opened a second plant in 2007. Changes in ownership at AIPC and Dakota Growers, which took place during the period examined, reportedly did not have a direct impact on the operations of these companies.<sup>16</sup> New World Pasta reported that the majority of its restructuring, which included the closure of several manufacturing plants, was completed prior to its acquisition by Ebro Foods in 2006 and therefore did not affect its reported operations during the review period.<sup>17</sup>

### Operations on Dry Pasta

Table III-7 presents U.S. producers' overall financial results on dry pasta and table III-8 presents selected company-specific financial data.<sup>18</sup> Table III-9 presents a variance analysis of the industry's financial results.<sup>19</sup>

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<sup>15</sup> The scale of reported operations varies by company. AIPC, the largest U.S. producer accounted for \*\*\* percent of the industry's total sales volume, while the remaining U.S. producers ranged from \*\*\* to \*\*\* of total sales volume.

With the exception of Barilla, which reported its financial results based on international financial reporting standards (IFRS), U.S. producers reported their financial results based on U.S. generally accepted accounting principles (GAAP). The majority of U.S. producers reported their financial results for calendar-year periods with the exceptions being AIPC, which reported on a FY-basis ending September 30, and Dakota Growers, which reported on a FY-basis ending July 31 (FY 2007 through FY 2009) and on a FY-basis ending October 31 (FY 2010 through FY 2012).

<sup>16</sup> AIPC, however, confirmed that the \*\*\*. May 23, 2013 e-mail with attachments from AIPC to USITC auditor. Dakota Growers, which was also effectively acquired twice during the period examined (first, when it was acquired by a subsidiary of Viterra in 2010 and again in late 2012 when Viterra was acquired by Glencore), reported that its \*\*\*. May 23, 2013 e-mail with attachment from Dakota Growers to USITC auditor. As indicted in footnote 35, however, \*\*\*.

<sup>17</sup> May 29, 2013 e-mail with attachment from New World Pasta to USITC auditor.

<sup>18</sup> Because the majority of revenue reflects U.S. commercial sales, relevant tables in this section present revenue as a single line item. As indicated previously and based on the limited trade data reported in its U.S. producer questionnaire, \*\*\*. USITC auditor prehearing notes (third review). \*\*\*. May 28, 2013 e-mail with attachments from Barilla to USITC auditor.

<sup>19</sup> The Commission's variance analysis is calculated in three parts: sales variance, cost of goods sold (COGS) variance, and sales, general and administrative (SG&A) expenses variance. Each part consists of a price variance (in the case of the sales variance) or a cost variance (in the case of the COGS and SG&A variances) and a volume (quantity) variance. The sales or cost variance is calculated as the change in unit price/cost times the new volume, while the volume variance is calculated as the change in volume

(continued...)

Table III-7

Dry pasta: Results of operations, 2007-12, January-March 2012, and January-March 2013

Item	Calendar and Fiscal year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
<b>Quantity (1,000 pounds)</b>								
Total net sales quantity	2,285,993	2,359,642	2,503,046	2,542,561	2,493,341	2,460,510	624,247	615,991
<b>Value (\$1,000)</b>								
Total net sales value	1,185,293	1,691,345	1,808,035	1,684,710	1,770,503	1,877,747	484,934	453,888
Cost of goods sold:								
Raw materials	577,253	990,914	910,338	691,901	792,173	953,678	265,032	215,052
Direct labor	68,409	74,602	79,444	81,284	84,787	84,377	21,209	21,390
Other factory costs	230,041	231,061	259,126	268,287	267,600	270,344	71,465	66,144
Total cost of goods sold	875,703	1,296,577	1,248,908	1,041,472	1,144,560	1,308,399	357,706	302,586
Gross profit	309,590	394,768	559,127	643,238	625,943	569,348	127,228	151,302
Total SG&A expenses	216,031	273,348	272,412	270,705	297,801	297,895	75,908	84,589
Operating income	93,559	121,420	286,715	372,533	328,142	271,453	51,320	66,713
Interest expense	31,280	29,644	18,043	15,260	50,936	48,108	(654)	16,586
Other expenses	3,595	5,472	8,431	5,303	5,037	8,279	1,451	888
Other income items	9,342	5,146	5,710	7,182	7,330	5,028	1,118	807
Net income	68,026	91,450	265,951	359,152	279,499	220,094	51,641	50,046
Depreciation/amortization	59,439	60,964	62,557	66,360	87,028	89,938	24,944	25,503
Estimated cash flow	127,465	152,414	328,508	425,512	366,527	310,032	76,585	75,549
<b>Ratio to net sales (percent)</b>								
Raw materials	48.7	58.6	50.3	41.1	44.7	50.8	54.7	47.4
Direct labor	5.8	4.4	4.4	4.8	4.8	4.5	4.4	4.7
Other factory costs	19.4	13.7	14.3	15.9	15.1	14.4	14.7	14.6
Cost of goods sold	73.9	76.7	69.1	61.8	64.6	69.7	73.8	66.7
Gross profit	26.1	23.3	30.9	38.2	35.4	30.3	26.2	33.3
SG&A expenses	18.2	16.2	15.1	16.1	16.8	15.9	15.7	18.6
Operating income	7.9	7.2	15.9	22.1	18.5	14.5	10.6	14.7
Net income	5.7	5.4	14.7	21.3	15.8	11.7	10.6	11.0
<b>Ratio to cost of goods sold (percent)</b>								
Raw materials	65.9	76.4	72.9	66.4	69.2	72.9	74.1	71.1
Direct labor	7.8	5.8	6.4	7.8	7.4	6.4	5.9	7.1
Other factory costs	26.3	17.8	20.7	25.8	23.4	20.7	20.0	21.9

Table continued on next page.

*(...continued)*

times the old unit price/cost. Summarized at the bottom of table III-9, the price variance is from sales, the cost/expense variance is the sum of those items from COGS and SG&A, respectively, and the net volume variance is the sum of the price, COGS, and SG&A volume variances.

All things being equal, a stable overall product mix generally enhances the utility of the Commission's variance analysis. As noted in the text below, most U.S. producers indicated that changes in average sales value reflect changes in raw material costs, as opposed to changes in product mix.

**Table III-7--Continued**

**Dry pasta: Results of operations, 2007-12, January-March 2012, and January-March 2013**

Item	Calendar and Fiscal year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
	Unit values ( <i>dollars per pound</i> )							
Total net sales	0.52	0.72	0.72	0.66	0.71	0.76	0.78	0.74
Cost of goods sold:								
Raw materials	0.25	0.42	0.36	0.27	0.32	0.39	0.42	0.35
Direct labor	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03
Other factory costs	0.10	0.10	0.10	0.11	0.11	0.11	0.11	0.11
Total cost of goods sold	0.38	0.55	0.50	0.41	0.46	0.53	0.57	0.49
Gross profit	0.14	0.17	0.22	0.25	0.25	0.23	0.20	0.25
SG&A expenses	0.09	0.12	0.11	0.11	0.12	0.12	0.12	0.14
Operating income	0.04	0.05	0.11	0.15	0.13	0.11	0.08	0.11
	Number of firms reporting							
Operating losses	0	0	0	0	0	0	0	0
Data	7	7	7	7	7	7	7	7

Source: Compiled from data submitted in response to Commission questionnaires.

**Table III-8**

**Dry pasta: Overall results of operations, by firms, 2007-12, January-March 2012, and January-March 2013**

\* \* \* \* \*

## Revenue

The U.S. industry's total sales volume increased during the first part of the period, peaked in 2010, and then declined. While over half of the U.S. producers in any given period shared the same directional trend in sales volume, uniformity was more apparent between 2008-09 when \*\*\* reported increases in sales volume, and between 2011-12 when \*\*\* reported declines in sales volume (see table III-8).<sup>20</sup>

\*\*\* generally reported increasing sales volume throughout the first part of the full-year period, followed by a mix of volume increases and decreases between 2010-12.<sup>21</sup> In contrast with the overall pattern of sales volume, \*\*\*. As indicated above and with respect to the

<sup>20</sup> \*\*\*. May 23, 2013 e-mail with attachment from Dakota Growers to USITC auditor. \*\*\*. Ibid.

\*\*\*. May 28, 2013 e-mail with attachments from Barilla to USITC auditor.

\*\*\*. May 16, 2013 e-mail with attachments from Gilster-Mary Lee to USITC auditor.

<sup>21</sup> \*\*\*. May 23, 2013 e-mail with attachment from A. Zerega's Sons to USITC auditor. \*\*\*. May 23, 2013 e-mail with attachment from Philadelphia to USITC auditor.

Table III-9

Dry pasta: Variance analysis of financial results, 2007-2012, January-March 2012, and January-March 2013

Item	Calendar and Fiscal year						Jan.-Mar.
	2007-12	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Total net sales:	Value (\$1,000)						
Price variance	601,967	467,865	13,901	(151,868)	118,406	130,557	(24,632)
Volume variance	90,487	38,187	102,789	28,543	(32,613)	(23,313)	(6,414)
Total net sales variance	692,454	506,052	116,690	(123,325)	85,793	107,244	(31,046)
Cost of sales:							
Raw materials:							
Cost variance	(332,356)	(395,063)	140,797	232,808	(113,666)	(171,936)	46,475
Volume variance	(44,069)	(18,598)	(60,221)	(14,371)	13,394	10,431	3,505
Net raw material variance	(376,425)	(413,661)	80,576	218,437	(100,272)	(161,505)	49,980
Direct labor:							
Cost variance	(10,746)	(3,989)	(308)	(586)	(5,077)	(706)	(462)
Volume variance	(5,222)	(2,204)	(4,534)	(1,254)	1,574	1,116	281
Net direct labor variance	(15,968)	(6,193)	(4,842)	(1,840)	(3,503)	410	(181)
Other factory costs:							
Cost variance	(22,741)	6,391	(14,023)	(5,070)	(4,507)	(6,268)	4,376
Volume variance	(17,562)	(7,411)	(14,042)	(4,091)	5,194	3,524	945
Net other factory cost variance	(40,303)	(1,020)	(28,065)	(9,161)	687	(2,744)	5,321
Net cost of sales:							
Cost variance	(365,843)	(392,661)	126,467	227,152	(123,249)	(178,910)	50,389
Volume variance	(66,853)	(28,213)	(78,798)	(19,716)	20,161	15,071	4,731
Total net cost of sales variance	(432,696)	(420,874)	47,669	207,436	(103,088)	(163,839)	55,120
Gross profit variance	259,758	85,178	164,359	84,111	(17,295)	(56,595)	24,074
SG&A expenses:							
Expense variance	(65,372)	(50,357)	17,548	6,008	(32,336)	(4,015)	(9,685)
Volume variance	(16,492)	(6,960)	(16,612)	(4,301)	5,240	3,921	1,004
Total SG&A variance	(81,864)	(57,317)	936	1,707	(27,096)	(94)	(8,681)
Operating income variance	177,894	27,861	165,295	85,818	(44,391)	(56,689)	15,393
Summarized as:							
Price variance	601,967	467,865	13,901	(151,868)	118,406	130,557	(24,632)
Net cost/expense variance	(431,215)	(443,018)	144,015	233,160	(155,586)	(182,925)	40,704
Net volume variance	7,142	3,014	7,379	4,526	(7,212)	(4,321)	(679)

Source: Compiled from data submitted in response to Commission questionnaires.



period examined, the operations of AIPC and New World Pasta were generally not impacted by acquisition-related restructuring.<sup>22</sup>

As shown in table III-8, company-specific average sales values reflect a relatively wide range with \*\*\* average sales value throughout most of the period, while \*\*\* average sales value.<sup>23</sup> In general, the directional trend of company-specific average sales values was more uniform than the trend in sales volume; e.g., between 2007-08, all U.S. producers reported relatively large percentage increases in average sales value, which in turn corresponded with increases in average raw material costs. Subsequent changes in company-specific average sales value (both positive and negative) generally, but not uniformly, matched the directional trend of raw material costs. For the most part, U.S. producers confirmed that period-to-period changes in average sales value reflect changes in durum wheat prices, as opposed to changes in product mix.<sup>24</sup> With some exceptions, U.S. producers also indicated that sales revenue does not generally include a base price adjustment to pass through changes in primary raw material costs.<sup>25</sup>

### **Cost of goods sold and gross profit**

Raw material cost is the largest component of COGS: ranging from a low of 65.9 percent of total COGS in 2007 to a high of 76.4 percent in 2008 (see table III-7). Company-specific raw material cost primarily reflects durum wheat, purchased and further processed, and/or direct

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<sup>22</sup> \*\*\*. May 23, 2013 e-mail with attachments from AIPC to USITC auditor.

\*\*\*. May 23, 2013 e-mail with attachments from AIPC to USITC auditor.

<sup>23</sup> \*\*\*. May 28, 2013 e-mail with attachments from Barilla to USITC auditor. \*\*\*.

In response to a hearing question from Commissioner Pearson, domestic interested parties stated in their posthearing brief that the range of company-specific average sales values reported in table III-8 generally reflects the following: “{d}ifferences in the channels of distribution on which they {the U.S. producers} focus, differing emphases on branded versus private label pasta, and the extent to which they market their own product versus using distributors or co-packing for other producers.” Domestic interested parties’ posthearing brief, Exhibit 1, p. 18.

<sup>24</sup> May 23, 2013 e-mail with attachment from A. Zerega's Sons to USITC auditor. May 23, 2013 e-mail with attachments from AIPC to USITC auditor. May 23, 2013 e-mail with attachment from Dakota Growers to USITC auditor. May 16, 2013 e-mail with attachments from Gilster-Mary Lee to USITC auditor. May 29, 2013 e-mail with attachment from New World Pasta to USITC auditor. May 23, 2013 e-mail with attachment from Philadelphia to USITC auditor.

\*\*\*. May 28, 2013 e-mail with attachments from Barilla to USITC auditor.

<sup>25</sup> \*\*\*. May 23, 2013 e-mail with attachment from A. Zerega's Sons to USITC auditor. \*\*\*. May 23, 2013 e-mail with attachment from Dakota Growers to USITC auditor.

purchases of semolina and durum flour. While durum wheat is the primary wheat variety used, other types of wheat are also reportedly used in pasta production; e.g., \*\*\* spring wheat and spring flour, respectively, as raw materials. Additional items reported in raw material cost include eggs, other ingredients, and packaging materials.<sup>26</sup>

On an average per pound basis, as shown in table III-7, raw material cost followed the same basic trend as durum wheat prices (see figure V-1 in Part V) which, as noted previously, rose sharply throughout 2007, peaked in early 2008, declined between 2008-10, and then increased between 2010-11 and 2011-12.<sup>27</sup> On a company-specific basis, \*\*\* average raw material cost, while \*\*\* average raw material cost. This difference, at least in part, appears to reflect the form in which the underlying raw material is purchased: \*\*\*,<sup>28</sup> \*\*\*.<sup>29</sup>

Company-specific raw material costs also appear to reflect differences in the underlying mode of purchase. To the extent specified, U.S. producers indicated that purchases of the primary raw material include those made on the open market at a flat cash price, procurement through competitive bidding from approved suppliers, and long-term contracts entered into throughout the year.<sup>30</sup> In terms of mitigating raw material volatility, several U.S. producers noted that durum wheat is not a board-traded commodity with a futures market. Additionally, cross-hedging durum wheat with a wheat type that has an active futures market (e.g., hard red winter wheat) is reportedly not used due to limited correlation.

Other factory costs make up the second largest share of COGS, ranging from a low of 17.8 percent in 2008 to a high of 26.3 percent in 2007, followed by direct labor, ranging from a low of 5.8 percent in 2008 to a high of 7.8 percent in 2007 and 2010 (see table III-7).<sup>31</sup> Table III-8 indicates that, with some exceptions, larger-volume producers reported lower average direct labor costs and higher average other factory costs, respectively, compared to the smaller-volume producers. In addition to variations in factors such as level of automation and

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<sup>26</sup> The classification of specific costs, such as packaging, is presumed to vary to some extent by company.

<sup>27</sup> Higher wheat prices, which peaked in early 2008, were generally attributed to the combination of increased demand from Asia and Latin America and reduced supply due to poor weather conditions in a number of major wheat producing countries. *Volatility in wheat continues, as price soars and then falls 8% over two days*, Future & Options Intelligence, February 15, 2008, p. 5. The subsequent increase in raw material cost in 2011 is also consistent with reduced durum production and higher prices due to weather-related conditions in Europe and North America. *Drum roll for durum price rises*, Food Manufacture, August 2011, p. 21.

<sup>28</sup> May 23, 2013 e-mail with attachment from Philadelphia to USITC auditor.

<sup>29</sup> May 28, 2013 e-mail with attachments from Barilla to USITC auditor.

\*\*\*. May 23, 2013 e-mail with attachments from AIPC to USITC auditor. \*\*\*. May 23, 2013 e-mail with attachment from Dakota Growers to USITC auditor.

<sup>30</sup> May 29, 2013 e-mail with attachment from New World Pasta to USITC auditor. May 16, 2013 e-mail with attachments from Gilster-Mary Lee to USITC auditor. May 28, 2013 e-mail with attachments from Barilla to USITC auditor.

<sup>31</sup> Table III-7 shows that there was relatively little period-to-period change in either average other factory costs or average direct labor. As such, changes in their respective share of COGS can be attributed primarily to changes in raw material cost.

length/volume of production runs, some of the observed differences also likely reflect how company-specific specific costs were classified.<sup>32</sup>

On an absolute basis and as percent of sales, the industry's gross profit reached its highest level in 2010, the same year that annual sales volume peaked. Gross profit margin declined somewhat during the rest of the full-year period, but then increased in interim 2013 compared to interim 2012. While not uniform, the majority of U.S. producers shared the same period-to-period directional trend in gross profit. In addition to company-specific factors such as cost efficiency gains, U.S. producers generally attributed the notable increase in profit margins in the middle of the period, as well as the subsequent decline, to changes in durum wheat prices and corresponding sales value.<sup>33</sup>

### **SG&A expense and operating income or (loss)**

The industry's total SG&A expenses increased irregularly during the full-year period. While this pattern is consistent, at least in part, with increased sales volume (i.e., which peaked in 2010 and then declined but remained at an elevated level compared to the beginning of the period), the company-specific pattern of SG&A expenses, in some instances, also reflects the impact of non-recurring items.<sup>34 35 36</sup>

Overall SG&A expense ratios (total SG&A expenses divided by total revenue) declined to their lowest level in 2009, when total revenue peaked, and then moved within a relatively narrow range throughout the rest of the annual period. In interim 2013, the industry's overall SG&A expense ratio reached its highest level which, in general, reflects the combination of higher absolute SG&A expenses and lower overall revenue, as compared to interim 2012. The limited variability of SG&A expenses ratios indicates that period-to-period changes in the industry's operating results, in large part, were determined at the gross profit level.

### **Capital Expenditures, Research and Development Expenses, Assets, and Return on Assets**

Data on company-specific capital expenditures, research and development (R&D) expenses, total assets, and return on assets (ROA) are presented in table III-10.

As shown in table III-10 and \*\*\* U.S. producers reported capital expenditures during the period examined. Consistent with its overall share of total sales volume, AIPC accounted for

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<sup>32</sup> \*\*\*. May 28, 2013 e-mail with attachments from Barilla to USITC auditor. \*\*\*. May 29, 2013 e-mail with attachment from New World Pasta to USITC auditor.

\*\*\*. May 23, 2013 e-mail with attachment from A. Zerega's Sons to USITC auditor.

<sup>33</sup> \*\*\*. May 23, 2013 e-mail with attachment from Dakota Growers to USITC auditor.

\*\*\*. May 23, 2013 e-mail with attachments from AIPC to USITC auditor.

\*\*\*. May 28, 2013 e-mail with attachments from Barilla to USITC auditor

<sup>34</sup> \*\*\*. May 23, 2013 e-mail with attachments from AIPC to USITC auditor.

<sup>35</sup> \*\*\*.

<sup>36</sup> \*\*\*.

\*\*\* company-specific share of reported capital expenditures (\*\* of the period total). AIPC's capital expenditures \*\*\*.<sup>37</sup>

Barilla, accounting for the \*\*\* company-specific share of total capital expenditures (\*\* of the period total), reported \*\*\*.<sup>38</sup>

#### Table III-10

**Dry pasta: Capital expenditures, research and development expenses, total assets, and return on assets, 2007-2012, January-March 2012, and January-March 2013**

\* \* \* \* \*

\*\*\* also reported relatively large period-to-period increases in capital expenditures, which primarily reflect manufacturing expansions.<sup>39</sup>

R&D expenses were reported \*\*\* U.S. producers during the period examined \*\*\*.<sup>40</sup>

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<sup>37</sup> AIPC U.S. Producer questionnaire, II-2. May 23, 2013 e-mail with attachments from AIPC to USITC auditor. \*\*\*.

<sup>38</sup> May 28, 2013 e-mail with attachments from Barilla to USITC auditor.

<sup>39</sup> \*\*\*. May 23, 2013 e-mail with attachment from Dakota Growers to USITC auditor.

\*\*\*. May 29, 2013 e-mail with attachment from New World Pasta to USITC auditor.

\*\*\*. May 23, 2013 e-mail with attachment from Philadelphia to USITC auditor.

<sup>40</sup> May 28, 2013 e-mail with attachments from Barilla to USITC auditor

## PART IV: U.S. IMPORTS AND THE FOREIGN INDUSTRIES

### U.S. IMPORTS

#### Overview

The Commission issued questionnaires to 78 firms believed to have imported certain dry pasta between January 2007 and March 2013, as well as to all U.S. producers of dry pasta. Twenty-two firms provided usable questionnaire responses.<sup>1</sup> Based on adjusted Customs statistics and official Commerce statistics for dry pasta, importers' questionnaire data accounted for \*\*\* percent of total U.S. imports and \*\*\* percent of total subject imports in 2012 (by quantity). Firms responding to the Commission's questionnaire accounted for the following shares of individual subject country's subject imports (as a share of adjusted Customs statistics, by quantity) during the period examined.

- \*\*\* percent of the subject imports from Italy during 2012;
- \*\*\* percent of the subject imports from Turkey during 2012; and
- \*\*\* percent of nonsubject imports from Italy, Turkey, and all other sources during 2012

In light of the data coverage by the Commission's questionnaires, import data in this report are based on adjusted Customs statistics for all dry pasta imports from Italy and Turkey, and official import statistics for all dry pasta imports from nonsubject sources.<sup>2</sup>

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<sup>1</sup> Nine firms, including four U.S. producers, reported that they had not imported certain dry pasta from any country at any time since January 1, 2007. One U.S. importer, \*\*\*, provided a partial questionnaire response.

<sup>2</sup> Adjusted Customs statistics were used for "certain dry pasta" imports from Italy and Turkey (subject) and "other dry pasta" imports from Italy and Turkey (nonsubject); and official Commerce statistics were used for "all dry pasta" imports from all other sources. Customs statistics were adjusted to account for all dutiable imports and exclude nearly all nonsubject product (e.g., certain dry pasta imports from Italian firm Lensi in 2007-08, non-egg bulk pasta, organic pasta from Italy, and gluten-free pasta from Italy). During the period of review, four Italian firms received a zero cash deposit rate as a result of Commerce's administrative reviews—Atar (prior to February 14, 2007), De Cecco (effective June 29 2010), and Fabianelli and Zara (effective June 18, 2012). (See discussion in the *Administrative Reviews* section, Part I of this report). Staff classified all imports subsequent to their zero cash deposit rate as "Italy, subject," the vast majority of which originated from \*\*\*. As a result, subject imports from Italy may be slightly overstated, as the data do not distinguish between what is excluded product and what is subject merchandise with no AD/CVD duties for these four firms. Staff believes this overstatement to be minimal, as the vast majority of \*\*\*'s imports were dutied prior to its zero cash deposit rate. Official Commerce and Customs statistics used in this report for all dry pasta include HTS subheadings 1902.19.20 (non-egg pasta) and 1902.11.20 (egg pasta).

### **Imports from subject and nonsubject countries**

Table IV-1 presents information on U.S. imports of dry pasta from Italy and Turkey and all other sources over the period examined. Imports of certain dry pasta from the subject countries decreased by \*\*\* percent between 2007 and 2012, and were lower in January-March 2013 than in January-March 2012. This decrease is due to decreased subject imports from Italy, which accounted for the vast majority of total subject imports. Subject imports from Turkey nearly doubled, but had virtually no share of total U.S. imports, by quantity, during the period for which data were collected.

Nonsubject imports increased by \*\*\* percent during 2007-12 and accounted for the vast majority of total U.S. imports during the period examined. The leading sources of nonsubject imports during the period of review were Italy, Mexico, China, and Canada. Subject unit values increased overall during 2007-12, and were higher in January-March 2013 than in January-March 2012.

Table IV-1

Dry pasta: U.S. imports by source, 2007-12, January-March 2012, and January-March 2013

Item	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
	<b>Quantity (1,000 pounds)</b>							
Italy (subject)	***	***	***	***	***	***	***	***
Turkey (subject)	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***
Italy (other nonsubject)	***	***	***	***	***	***	***	***
Turkey (nonsubject)	***	***	***	***	***	***	***	***
Mexico	79,119	110,061	101,782	99,608	111,983	113,801	26,609	24,152
China	54,963	70,741	66,601	68,111	75,353	77,133	19,533	16,833
Canada	55,486	38,764	33,570	42,998	45,098	48,947	12,720	13,964
Thailand	20,847	22,451	21,509	26,464	23,770	28,757	6,977	6,216
Korea	8,721	10,353	8,855	12,238	13,373	17,054	3,933	5,021
Taiwan	7,177	7,720	6,974	7,725	8,544	9,232	2,361	2,150
Japan	11,808	12,994	11,888	9,853	8,055	7,773	2,021	2,052
Vietnam	1,507	2,060	2,332	2,604	3,303	4,818	996	1,320
All other sources	34,151	31,854	33,985	33,240	40,487	46,531	12,036	12,188
Subtotal, nonsubject	***	***	***	***	***	***	***	***
Total U.S. imports	602,125	539,723	544,419	571,835	618,097	665,765	161,493	153,195
	<b>Value (1,000 dollars)</b>							
Italy (subject)	***	***	***	***	***	***	***	***
Turkey (subject)	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***
Italy (other nonsubject)	***	***	***	***	***	***	***	***
Turkey (nonsubject)	***	***	***	***	***	***	***	***
Mexico	26,225	44,358	37,668	35,899	43,636	45,333	10,914	9,973
China	25,418	37,323	34,900	36,690	47,010	53,396	12,984	12,355
Canada	37,369	35,954	30,161	40,342	47,295	48,916	12,297	14,670
Thailand	12,571	16,633	15,122	19,086	18,715	24,639	5,690	5,381
Korea	6,887	8,634	6,767	9,309	10,331	13,152	2,981	3,894
Taiwan	5,630	7,334	7,082	7,851	9,973	11,138	2,765	2,746
Japan	12,090	14,742	15,319	13,934	13,125	12,323	3,200	2,915
Vietnam	1,053	1,798	1,919	2,120	2,857	4,062	886	1,082
All other sources	22,297	26,387	25,946	26,282	35,139	37,977	9,411	10,617
Subtotal, nonsubject	***	***	***	***	***	***	***	***
Total U.S. imports	338,009	384,999	359,342	377,891	432,097	478,921	114,302	116,140

Table continued on next page.

Table IV-1--Continued

Dry pasta: U.S. imports by source, 2007-12, January-March 2012, and January-March 2013

Item	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
	Unit value ( <i>dollars per pound</i> )							
Italy (subject)	***	***	***	***	***	***	***	***
Turkey (subject)	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***
Italy (other nonsubject)	***	***	***	***	***	***	***	***
Turkey (nonsubject)	***	***	***	***	***	***	***	***
Mexico	0.33	0.40	0.37	0.36	0.39	0.40	0.41	0.41
China	0.46	0.53	0.52	0.54	0.62	0.69	0.66	0.73
Canada	0.67	0.93	0.90	0.94	1.05	1.00	0.97	1.05
Thailand	0.60	0.74	0.70	0.72	0.79	0.86	0.82	0.87
Korea	0.79	0.83	0.76	0.76	0.77	0.77	0.76	0.78
Taiwan	0.78	0.95	1.02	1.02	1.17	1.21	1.17	1.28
Japan	1.02	1.13	1.29	1.41	1.63	1.59	1.58	1.42
Vietnam	0.70	0.87	0.82	0.81	0.86	0.84	0.89	0.82
All other sources	0.65	0.83	0.76	0.79	0.87	0.82	0.78	0.87
Subtotal, nonsubject	***	***	***	***	***	***	***	***
Total U.S. imports	0.56	0.71	0.66	0.66	0.70	0.72	0.71	0.76
	Share of quantity ( <i>percent</i> )							
Italy (subject)	***	***	***	***	***	***	***	***
Turkey (subject)	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***
Italy (other nonsubject)	***	***	***	***	***	***	***	***
Turkey (nonsubject)	***	***	***	***	***	***	***	***
Mexico	13.1	20.4	18.7	17.4	18.1	17.1	16.5	15.8
China	9.1	13.1	12.2	11.9	12.2	11.6	12.1	11.0
Canada	9.2	7.2	6.2	7.5	7.3	7.4	7.9	9.1
Thailand	3.5	4.2	4.0	4.6	3.8	4.3	4.3	4.1
Korea	1.4	1.9	1.6	2.1	2.2	2.6	2.4	3.3
Taiwan	1.2	1.4	1.3	1.4	1.4	1.4	1.5	1.4
Japan	2.0	2.4	2.2	1.7	1.3	1.2	1.3	1.3
Vietnam	0.3	0.4	0.4	0.5	0.5	0.7	0.6	0.9
All other sources	5.7	5.9	6.2	5.8	6.6	7.0	7.5	8.0
Subtotal, nonsubject	***	***	***	***	***	***	***	***
Total U.S. imports	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Table continued on next page.



**Table IV-1--Continued**

**Dry pasta: U.S. imports by source, 2007-12, January-March 2012, and January-March 2013**

Item	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
	Share of value (percent)							
Italy (subject)	***	***	***	***	***	***	***	***
Turkey (subject)	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***
Italy (other nonsubject)	***	***	***	***	***	***	***	***
Turkey (nonsubject)	***	***	***	***	***	***	***	***
Mexico	7.8	11.5	10.5	9.5	10.1	9.5	9.5	8.6
China	7.5	9.7	9.7	9.7	10.9	11.1	11.4	10.6
Canada	11.1	9.3	8.4	10.7	10.9	10.2	10.8	12.6
Thailand	3.7	4.3	4.2	5.1	4.3	5.1	5.0	4.6
Korea	2.0	2.2	1.9	2.5	2.4	2.7	2.6	3.4
Taiwan	1.7	1.9	2.0	2.1	2.3	2.3	2.4	2.4
Japan	3.6	3.8	4.3	3.7	3.0	2.6	2.8	2.5
Vietnam	0.3	0.5	0.5	0.6	0.7	0.8	0.8	0.9
All other sources	6.6	6.9	7.2	7.0	8.1	7.9	8.2	9.1
Subtotal, nonsubject	***	***	***	***	***	***	***	***
Total U.S. imports	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Note.--Certain dry pasta imports from Lensi were excluded from Commerce's countervailing and antidumping duty orders in 2007 and 2008 and are presented within "Italy (nonsubject)" for those years. The antidumping duty order with respect to Lensi was reinstated effective January 2009.

Note.--Customs statistics were adjusted to account for all dutiable imports and exclude nearly all nonsubject product (e.g., certain dry pasta imports from Italian firm Lensi in 2007-08, non-egg bulk pasta, gluten-free pasta from Italy, and organic pasta from Italy). During the period of review, four Italian firms received a zero cash deposit rate as a result of Commerce's administrative reviews—Atar (prior to February 14, 2007), De Cecco (effective June 29 2010), and Fabianelli and Zara (effective June 18, 2012). (See discussion in the *Administrative Reviews* section, Part I of this report). Staff classified all imports subsequent to their zero cash deposit rate as "Italy, subject," the vast majority of which originated from \*\*\*. As a result, subject imports from Italy may be slightly overstated, as the data do not distinguish between what is excluded product and what is subject merchandise with no AD/CVD duties for these four firms. Staff believes this overstatement to be minimal, as the vast majority of \*\*\* imports were dutied prior to its zero cash deposit rate.

Source: Compiled from adjusted Customs statistics for "certain dry pasta" imports from Italy and Turkey (subject) and "other dry pasta" imports from Italy and Turkey (nonsubject); and from official Commerce statistics, HTS subheadings 1902.19.20 (non-egg pasta) and 1902.11.20 (egg pasta) for "all dry pasta" imports from all other sources.

Table IV-2 presents the ratio of imports to U.S. production, by quantity. Certain dry pasta imports from Italy and Turkey as a ratio of U.S. production decreased by \*\*\* percentage points during 2007-12 and was \*\*\* percent in 2012. Nonsubject dry pasta imports as a ratio of U.S. production increased by \*\*\* percentage points during 2007-12, and was \*\*\* percent in 2012. The ratio of both subject and nonsubject imports was lower in interim 2013 than in interim 2012. Total U.S. imports as a ratio of U.S. production ranged from 21.5 percent in 2009 to 26.8 percent in 2012.

**Table IV-2**

**Dry pasta: Ratio of import quantity to U.S. production, 2007-12, January-March 2012, and January-March 2013**

Item	Calendar year						January-September	
	2007	2008	2009	2010	2011	2012	2012	2013
	<b>Quantity (1,000 pounds)</b>							
U.S. production	2,331,898	2,429,015	2,532,865	2,562,900	2,557,485	2,481,352	644,696	641,068
	<b>Ratio of import quantity to U.S. production (percent)</b>							
Italy (subject)	***	***	***	***	***	***	***	***
Turkey (subject)	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***
Italy (other nonsubject)	***	***	***	***	***	***	***	***
Turkey (nonsubject)	***	***	***	***	***	***	***	***
Mexico	3.4	4.5	4.0	3.9	4.4	4.6	4.1	3.8
China	2.4	2.9	2.6	2.7	2.9	3.1	3.0	2.6
Canada	2.4	1.6	1.3	1.7	1.8	2.0	2.0	2.2
Thailand	0.9	0.9	0.8	1.0	0.9	1.2	1.1	1.0
Korea	0.4	0.4	0.3	0.5	0.5	0.7	0.6	0.8
Taiwan	0.3	0.3	0.3	0.3	0.3	0.4	0.4	0.3
Japan	0.5	0.5	0.5	0.4	0.3	0.3	0.3	0.3
Vietnam	0.1	0.1	0.1	0.1	0.1	0.2	0.2	0.2
All other dry pasta	1.5	1.3	1.3	1.3	1.6	1.9	1.9	1.9
Subtotal, nonsubject	***	***	***	***	***	***	***	***
Total U.S. imports	25.8	22.2	21.5	22.3	24.2	26.8	25.0	23.9

Source: Compiled from data submitted in response to Commission questionnaires, adjusted Customs statistics, and official Commerce statistics.

### **U.S. IMPORTERS' IMPORTS SUBSEQUENT TO MARCH 31, 2013**

The Commission requested importers to indicate whether they had imported or arranged for the importation of certain dry pasta from Italy and Turkey for delivery after March 31, 2013. Fifteen of 22 firms reported such imports. Below is a tabulation of individual firms' responses.

\* \* \* \* \*

## **U.S. IMPORTERS' INVENTORIES**

Table IV-3 presents data for inventories of U.S. imports of certain dry pasta from Italy and Turkey and all other sources held in the United States. Thirteen importers reported inventories of certain dry pasta from subject sources. Ending inventories of subject imports increased from \*\*\* percent of reported subject imports in 2007 to \*\*\* percent of reported subject imports in 2012. Importers' ending inventories were higher in January-March 2013 than in January-March 2012, but were lower as a share of imports. Seven U.S. importers reported inventories from nonsubject sources, which decreased from \*\*\* percent of U.S. imports in 2007 to \*\*\* percent in 2012. Importers' ending inventories of nonsubject imports were stable in January-March 2013 when compared with January-March 2012.

Table IV-3

**Certain dry pasta: U.S. importers' end-of-period inventories of imports, by source, 2007-12, January-March 2012, and January-March 2013**

Item	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
Certain dry pasta imports from Italy:								
Inventories (1,000 <i>pounds</i> )	***	***	***	***	***	***	***	***
Ratio to U.S. imports (percent)	***	***	***	***	***	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***	***	***	***	***	***
Certain dry pasta imports from Turkey:								
Inventories (1,000 <i>pounds</i> )	***	***	***	***	***	***	***	***
Ratio to U.S. imports (percent)	***	***	***	***	***	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***	***	***	***	***	***
Subtotal, certain dry pasta imports from subject sources:								
Inventories (1,000 <i>pounds</i> )	***	***	***	***	***	***	***	***
Ratio to U.S. imports (percent)	***	***	***	***	***	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***	***	***	***	***	***
All dry pasta imports from all other sources:								
Inventories (1,000 <i>pounds</i> )	***	***	***	***	***	***	***	***
Ratio to U.S. imports (percent)	***	***	***	***	***	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***	***	***	***	***	***
Total reported dry pasta imports:								
Inventories (1,000 <i>pounds</i> )	16,910	10,555	10,303	12,289	15,143	12,367	8,262	8,900
Ratio to U.S. imports (percent)	16.5	14.9	14.2	18.5	20.7	14.2	9.0	9.3
Ratio to U.S. shipments of imports (percent)	16.6	16.2	16.9	21.3	23.5	15.8	9.9	11.6

<sup>1</sup> \*\*\*.

Note.—Inventory data are not available for reported imports of nonsubject bulk, gluten-free, and organic pasta. Therefore, such imports are not presented.

Source: Compiled from data submitted in response to Commission questionnaires.

### CUMULATION CONSIDERATIONS

In assessing whether imports should be cumulated, the Commission determines whether U.S. imports from the subject countries compete with each other and with the domestic like product and has generally considered four factors: (1) fungibility, (2) presence of

sales or offers to sell in the same geographical markets, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Channels of distribution and fungibility (interchangeability) are discussed in Part II of this report. Additional information concerning geographical markets and simultaneous presence in the market is presented below.

### **Presence in the market**

As presented in table IV-4, imports from Italy and Turkey were present in almost every month of the period for which data were collected.

**Table IV-4**

**Non-egg pasta: U.S. imports, monthly entries into the United States, by sources, 2007-12, January-March 2012, and January-March 2013**

<b>Source</b>	<b>Calendar year</b>						<b>January-March</b>	
	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2012</b>	<b>2013</b>
Italy	12	12	12	12	12	12	3	3
Turkey	12	10	12	12	11	12	3	3
All Other	12	12	12	12	12	12	3	3

Source: Compiled from official Commerce statistics for HTS subheading 1902.19.20.

### **Geographical markets**

Dry pasta is produced throughout the United States, and dry pasta is shipped nationwide. Information summarizing national and regional markets and the shipment of dry non-egg pasta is presented in Part II. As illustrated in table IV-5, of the dry non-egg pasta imported into the United States from Italy and Turkey, the top ten Customs districts accounted for nearly all entries, and imports occurred in all regions, with the exception of the Pacific Northwest. The top Customs district for both Italy and Turkey was New York, NY.

**Table IV-5**

**Non-egg pasta: U.S. imports from subject countries, by Customs districts, January 2007-March 2013**

<b>Italy</b>		<b>Turkey</b>	
<b>Customs District</b>	<b>Quantity (1,000 pounds)</b>	<b>Customs district</b>	<b>Quantity (1,000 pounds)</b>
New York, NY	824,500	New York, NY	16,737
Los Angeles, CA	287,196	Savannah, GA	1,400
San Francisco, CA	112,401	Miami, FL	737
Chicago, IL	90,050	Los Angeles, CA	572
Miami, FL	88,115	Norfolk, VA	489
Boston, MA	46,688	San Juan, PR	438
Savannah, GA	44,639	Chicago, IL	404
Norfolk, VA	43,147	New Orleans, LA	171
Houston-Galveston, TX	37,082	Tampa, FL	126
Tampa, FL	23,541	San Francisco, CA	109
Top 10 districts	1,597,357	Top 10 districts	21,182
All others	59,867	All others	54
Total	1,657,224	Total	21,237

Source: Compiled from official Commerce statistics for HTS subheading 1902.19.20.

### **SUBJECT COUNTRY PRODUCERS**

Both Italy and Turkey have dozens of firms producing certain dry pasta, but in each country, a few producers supply a large portion of the total supply. Neither country's producers face much domestic-market competition from overseas suppliers.

### **THE INDUSTRY IN ITALY**

#### **Overview**

Italy is the global leader in pasta production and accounted for more than two-thirds the value of EU pasta production in 2011.<sup>3</sup> Pasta production in 2012 was estimated at 7.3 billion pounds or 24.6 percent of global production.<sup>4</sup> Italy also has the highest per capita consumption of pasta at 61.7 pounds per year, more than double that of Venezuela, with the second-highest

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<sup>3</sup> Eurostat, *Statistics on the Production of Manufactured Goods Sold Volume*, annual 2011.

<sup>4</sup> Union of Organizations of Manufacturers of Pasta Products of the EU, "Estimate of World Pasta Production," <http://www.pasta-unafpa.org/ingstatistics5.htm>. Data on global production and consumption of pasta includes products that are outside the scope of these orders.

per capita consumption at 27.7 pounds.<sup>5</sup> Italy has consistently been the leading pasta exporter in world markets, accounting for more than half the value of global pasta exports. Italy's main export destinations for pasta are Germany, France, the United Kingdom, and the United States. Between 2007 and 2012, Italy's exports of pasta increased 5 percent by volume, but its share of global pasta export value declined from 64 percent to 54 percent, as global exports grew at a faster rate.<sup>6</sup>

The Italian pasta industry is highly fragmented, with some 4,460 producers in 2010 (the latest data available; includes products that are outside the scope of these orders). There has been some consolidation in the number of pasta producers, down from 4,807 in 2008.<sup>7</sup> The International Pasta Association reports that in 2011, there were 139 pasta producers in Italy with capacity of over 1 metric ton per day.<sup>8</sup>

Durum wheat is the leading cereal grain produced in Italy, and about 70 percent of such durum wheat is used in Italian pasta production. About 70 percent of Italy's durum wheat production is in the south of the country. Imports in marketing year (MY) 2010/11 accounted for about one-third of Italy's durum wheat supply, with over half of imports from North America. Durum wheat acreage increased in MY 2011/12, and durum wheat production was forecast to increase.<sup>9</sup> Barilla, Italy's largest producer of pasta, reports that it uses over 1.4 million metric tons (3 billion pounds) of durum wheat semolina per year, more than 70 percent from Italy, and sources the balance mainly from North America.<sup>10</sup>

By Italian law, the production of pasta from soft wheat flour or cereal product other than durum wheat is forbidden. Pasta produced in another country and sold in Italy and containing more than 3 percent soft wheat flour must be sold as "durum wheat semolina and soft wheat flour pasta" or "soft wheat and durum wheat semolina pasta," or "soft wheat flour pasta," depending on the share of soft wheat flour used in production. In contrast, the FDA standard of identity defines pasta (macaroni products) as the class of food each of which is prepared by drying formed units of dough made from semolina, durum flour, farina, flour, or any combination of two or more of these, with water and with or without one or more of the optional ingredients specified in paragraphs (a) (1) to (6), inclusive, of this section."<sup>11</sup>

Private label sales of pasta in Italy account for an estimated \*\*\* percent of total pasta sales by value, according to data from \*\*\*.<sup>12</sup> In comparison, private label sales account for over one-third of U.S. pasta sales.<sup>13</sup>

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<sup>5</sup> Unione Industriale Pastai Italiani, "Consumption and Production of Pasta in the World," <http://www.pasta.go.it/statistics.htm>.

<sup>6</sup> Global Trade Atlas database, accessed May 30, 2013.

<sup>7</sup> Eurostat, *Annual Detailed Enterprise Statistics for Industry, Manufacture of Macaroni, Noodles, Couscous and Similar Farinaceous Products*, <http://appsso.eurostat.ec.europa.eu/nui/setupDownloads.do>.

<sup>8</sup> International Pasta Organization, "The World Pasta Industry in 2011," October 2012.

<sup>9</sup> USDA, FAS, *Italian Grain and Feed Report*, GAIN Report Number IT1212, May 10, 2012.

<sup>10</sup> Barilla (Italy) company website.

<sup>11</sup> Code of Federal Regulations Title 21, § 139.110 "Macaroni Products."

<sup>12</sup> Domestic Industry pre-hearing brief, exhibit 10. \*\*\*.

### Operations on certain dry pasta

At the time of the original investigations, usable questionnaire responses were received from 23 producers in Italy, accounting for over half of total pasta production in Italy in 1994 and the majority of U.S. imports of pasta from Italy during 1992-94. During the full second reviews, five firms provided useable questionnaire responses, representing approximately 5.5 percent of the total production of all dry pasta in Italy between 2001 and 2006. In these current reviews, the Commission mailed questionnaires to 129 firms believed to produce certain dry pasta in Italy. Questionnaire responses were received from 18 Italian producers/exporters of the subject merchandise, representing 36.8 percent of total production of all dry pasta in Italy in 2011.<sup>14 15</sup>

Table IV-6 presents data on individual firms' 2012 shares of reported production and capacity.

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(...continued)

<sup>13</sup> Hearing transcript, July 11, 2013, page 35, Walt George, Consultant, American Italian Pasta Company.

<sup>14</sup> Union of Organizations of Manufacturers of Pasta Products of the EU, "Estimate of World Pasta Production," <http://www.pasta-unafpa.org/ingstatistics5.htm>. The Commission collected information relating to foreign producers' operations of certain dry pasta. The coverage figure presented includes nonsubject merchandise. UNAFPA estimates that Italy produced approximately 3,316,728 metric tons (7,312,058,549 pounds) in 2011.

<sup>15</sup> \*\*\* provided selected trade data only. In addition, \*\*\* declined to provide a foreign producers' questionnaire response, as it is "\*\*\*\*." Email from \*\*\*, May 10, 2013.



Table IV-6

**Certain dry pasta: Producers in Italy, reported production, share of production, capacity, and share of capacity for 2012**

<b>Firm</b>	<b>Production (1,000 pounds)</b>	<b>Share of reported production in Italy (percent)</b>	<b>Capacity (1,000 pounds)</b>	<b>Share of reported capacity in Italy (percent)</b>
Barilla G&R Fratelli Spa	***	***	***	***
Dalla Costa Alimentare S.R.L.	***	***	***	***
F. Divella S.P.A.	***	***	***	***
La Favorita Live S.R.L.	***	***	***	***
La Molisana Spa	***	***	***	***
Liguori Pastificio Dal 1820 S.P.A.	***	***	***	***
Martelli F.Lli Dino, Mario & C. Snc	***	***	***	***
Pasta Berruto S.P.A.	***	***	***	***
Pasta Lensi S.R.L.	***	***	***	***
Pasta Zara S.P.A.	***	***	***	***
Pastificio Artigiano Cav. Giuseppe Cocco Snc	***	***	***	***
Pastificio Felicetti Srl	***	***	***	***
Pastificio Lucio Garofalo S.P.A.	***	***	***	***
Pastificio Pirro Srl	***	***	***	***
Pastifico Di Martino Gaetano & F.Lli S.P.A.	***	***	***	***
Rummo Spa	***	***	***	***
Rustichella D'Abruzzo Spa	***	***	***	***
Tamma Industrie Alimentari Di Capitanata Srl	***	***	***	***
Total	2,811,909	100.0	3,258,839	100.0

Source: Compiled from data submitted in response to Commission questionnaires.

Italian producers were asked to indicate whether their firms had experienced any plant openings, closings, relocations, expansions, consolidations, prolonged shutdowns or curtailments, revised labor agreements, or any other change in the character of their operations relating to the production of certain dry pasta since 2007. Twelve of 17 firms reported changes in their operations, while seven of the twelve firms reported expansions in capacity. The companies' responses are presented in the tabulation below. In addition, \*\*\* reported inventories in the United States.

Nine of 17 firms reported producing other products using the same equipment and machinery. Alternative products include egg, organic, bulk, \*\*\*, and fresh pasta. However, the vast majority of reported production is dedicated to subject merchandise. Fourteen of 17 firms reported constraints on production. The constraints on certain dry pasta production include machinery and structural constraints, availability of raw materials, product mix, and, in some instances, the time-consuming process of a static drying system in artisanal pasta production.

\* \* \* \* \*

Table IV-7 presents Italian producers' production capacity, production, shipments, and inventories.

**Table IV-7**

**Certain dry pasta: Italian producers' capacity, production, shipments, and inventories, 2007-12, January-March 2012, and January-March 2013**

Items	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
	<b>Quantity (1,000 pounds)</b>							
Capacity	2,900,809	2,906,855	2,966,146	3,045,606	3,168,946	3,258,839	815,882	816,913
Production	2,407,508	2,518,753	2,565,410	2,617,092	2,692,220	2,811,909	715,140	748,157
End-of-period inventories	194,706	186,593	172,926	155,303	166,738	182,602	197,391	184,632
Shipments:								
Internal consumption/transfers	***	***	***	***	***	***	***	***
Home market	1,202,478	1,263,763	1,341,814	1,414,729	1,416,939	1,479,974	360,466	384,454
Exports to:								
United States	63,635	37,342	37,633	34,420	44,560	45,029	10,331	11,953
EU	852,245	904,475	913,648	869,100	911,895	969,641	244,344	272,731
Asia	***	***	***	***	***	***	***	***
All other markets	192,451	213,943	176,442	188,801	192,312	224,056	52,207	59,829
Total exports	***	***	***	***	***	***	***	***
Total shipments	2,449,237	2,525,170	2,580,156	2,631,970	2,678,095	2,827,463	691,285	756,973
	<b>Value (1,000 dollars)</b>							
Shipments:								
Commercial home market shipments	688,817	1,003,396	939,162	878,318	915,429	924,359	232,934	233,089
Exports to:								
United States	32,702	22,607	22,033	21,870	26,251	28,025	6,300	7,337
EU	399,122	631,411	510,054	408,678	478,132	513,518	140,428	161,772
Asia	***	***	***	***	***	***	***	***
All other markets	89,531	131,180	95,639	98,049	106,042	125,519	28,957	33,163
Total exports	***	***	***	***	***	***	***	***
Total shipments	1,261,735	1,856,832	1,630,736	1,511,841	1,588,916	1,653,633	422,234	451,223

Table continued on next page.

**Table IV-7--Continued**

**Certain dry pasta: Italian producers' capacity, production, shipments, and inventories, 2007-12, January-March 2012, and January-March 2013**

Item	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
	<i>Average unit values (dollars per pound)</i>							
Shipments:								
Commercial home market shipments	0.57	0.79	0.70	0.62	0.65	0.62	0.65	0.61
Exports to:								
United States	0.51	0.61	0.59	0.64	0.59	0.62	0.61	0.61
EU	0.47	0.70	0.56	0.47	0.52	0.53	0.57	0.59
Asia	***	***	***	***	***	***	***	***
All other markets	0.47	0.61	0.54	0.52	0.55	0.56	0.55	0.55
Total exports	***	***	***	***	***	***	***	***
Total shipments	0.52	0.74	0.63	0.57	0.59	0.58	0.61	0.60
	<i>Ratio and shares (percent)</i>							
Capacity utilization	83.0	86.6	86.5	85.9	85.0	86.3	87.7	91.6
Inventories to production	8.1	7.4	6.7	5.9	6.2	6.5	27.6	24.7
Inventories to total shipments	7.9	7.4	6.7	5.9	6.2	6.5	28.6	24.4
Share of total quantity of:								
Internal consumption	***	***	***	***	***	***	***	***
Commercial home market shipments	49.1	50.0	52.0	53.8	52.9	52.3	52.1	50.8
Exports to:								
United States	2.6	1.5	1.5	1.3	1.7	1.6	1.5	1.6
EU	34.8	35.8	35.4	33.0	34.1	34.3	35.3	36.0
Asia	***	***	***	***	***	***	***	***
All other markets	7.9	8.5	6.8	7.2	7.2	7.9	7.6	7.9
Total exports	***	***	***	***	***	***	***	***

*Source:* Compiled from data submitted in response to Commission questionnaires.

Multiple Italian producers described the Italian market for dry pasta as substantially different from other international markets due to the high per capita pasta consumption in Italy. Italian producer \*\*\* linked this consumption to the existence of approximately 100 pasta producers (mostly small) in Italy. Italian producer \*\*\* described the Italian dry pasta market as divided into three segments: a less-expensive private-label segment, a medium-price segment dominated by Barilla (Italy), and a high-price segment led by DeCecco but also including Rummo and La Molisana. \*\*\* described the Italian market similarly, stating that Barilla (Italy) had an overall 33 percent share of the market, and adding Garofalo's products and some Barilla (Italy) products (along with product of some other firms) to the high-price segment. At least six Italian producers described themselves as producing mainly for their region or for other small markets

within Italy. However, \*\*\* stated that it sold mostly to the European Union. \*\*\* described the Italian pasta market as featuring “fierce” price competition due to capacity being much larger than Italian consumption.

Fifteen Italian producers indicated that they did not face competition from imports of certain dry pasta in their home markets. Italian producer \*\*\* described certain dry pasta as a typical Italian product and added that foreign suppliers typically do not succeed in the Italian market. Nine Italian producers indicated that the certain dry pasta that they produced and sold in their home market was interchangeable with the certain dry pasta that they produced and sold to export markets, but eight indicated that it was not. Those eight described differences in packaging, labeling, and vitamin enrichment, which \*\*\* stated required different production, storage, and labeling. \*\*\* noted that they sold more high-protein pasta to countries outside the United States, and that such pasta was regarded by some customers as a different product.

Table IV-8 presents data on Italy’s dry non-egg pasta exports to the United States and its top five export destinations. Italy’s largest export markets are other European countries, but the United States was Italy’s fourth-largest export market in every year over the period. Italy’s global exports increased slightly in quantity 2007–12, and average unit value increased 22 percent. Italy’s exports of non-egg pasta to the United States in 2012 were 11 percent lower in quantity but 12 percent higher in value than comparable exports in 2007.

**Table IV-8**  
**Certain pasta: Italy’s exports of non-egg pasta, HS 1902.19**

Source	2007	2008	2009	2010	2011	2012
<b>Quantity (1,000 pounds)</b>						
Germany	698,764	652,268	676,438	666,453	653,779	675,836
France	441,108	444,507	488,461	499,116	535,443	525,161
United Kingdom	397,762	413,261	430,977	446,110	452,340	459,417
United States	314,668	216,600	240,643	241,982	273,025	279,310
Japan	157,946	179,253	176,090	175,728	184,432	191,906
Netherlands	91,375	87,409	90,775	87,248	81,999	86,809
Other	1,247,891	1,186,193	1,124,975	1,238,594	1,271,666	1,307,149
World	3,349,514	3,179,491	3,228,359	3,355,231	3,452,684	3,525,588
<b>Value (1,000 dollars)</b>						
Germany	275,353	436,984	363,525	311,656	340,557	338,342
France	182,681	291,847	246,446	215,823	266,495	256,913
United Kingdom	175,868	280,029	219,876	204,679	231,837	234,544
United States	167,977	169,582	161,523	154,511	179,232	187,461
Japan	82,484	139,821	117,775	102,879	116,531	116,579
Netherlands	42,990	64,876	52,975	45,013	46,790	45,544
Other	555,730	815,484	647,937	635,665	721,282	720,206
World	1,483,082	2,198,622	1,810,057	1,670,226	1,902,725	1,899,590

Source: Global Trade Atlas database, accessed May 22, 2013.

## THE INDUSTRY IN TURKEY

### Overview

Turkey was the fourth-largest producer of pasta in 2012, and accounted for about 6.3 percent of global pasta production.<sup>16</sup> Turkey is not a major consumer of pasta, with per capita consumption of about 13.2 pounds. According to data from the Turkish Statistical Institute, the number of producers of uncooked, non-egg pasta increased from 9 in 2007 to 15 in 2011 (the latest data available) and the volume of production increased from 533.8 million pounds to 889.1 million pounds.<sup>17</sup> In 2009, the annual production capacity of the Turkish pasta industry was estimated at 1 million metric tons (approximately 2.2 billion pounds).<sup>18</sup> Most of Turkey's pasta (and biscuit) production is in the Anatolia region of the country, which is also home to much of Turkey's high quality wheat production.<sup>19</sup>

### Operations on certain dry pasta

At the time of the original investigations, two producers in Turkey provided the Commission with useable questionnaire responses, and accounted for \*\*\* of certain dry pasta production in Turkey in 1994. In the second reviews, only one firm provided data on its operations in response to Commission questionnaires, representing only \*\*\* percent of overall production in Turkey. In these current reviews, the Commission mailed questionnaires to 47 firms believed to produce certain dry pasta in Turkey. Questionnaire responses were received from eight Turkish producers/exporters of the subject merchandise, representing 58.0 percent of total production of all dry pasta in Turkey in 2011.<sup>20 21</sup> Table IV-9 presents data on individual firms' 2012 shares of reported production and capacity.

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<sup>16</sup> Union of Organizations of Manufacturers of Pasta Products of the EU, "Estimate of World Pasta Production," <http://www.pasta-unafpa.org/ingstatistics5.htm>. Data on global production and consumption of pasta include products that are outside the scope of these orders.

<sup>17</sup> Turkish Statistical Institute, Annual Industrial Products Statistics, [http://www.turkstat.gov.tr/VeriBilgi.do?alt\\_id=30](http://www.turkstat.gov.tr/VeriBilgi.do?alt_id=30).

<sup>18</sup> Kahyaoglu Aytac, Gamze, "Pasta" Export Promotion Center of Turkey, 2010.

<sup>19</sup> Turkish Agriculture And Food Industry, "Turkish Pasta Exports," 2013, 3; Republic of Turkey, Ministry of Economy, "Pasta," 2013, 3.

<sup>20</sup> Union of Organizations of Manufacturers of Pasta Products of the EU, "Estimate of World Pasta Production," <http://www.pasta-unafpa.org/ingstatistics5.htm>. The Commission collected information relating to foreign producers' operations of certain dry pasta. The coverage figure presented includes nonsubject merchandise.

<sup>21</sup> \*\*\*.

Table IV-9

**Certain dry pasta: Producers in Turkey, reported production, share of production, capacity, and share of capacity for 2012**

<b>Firm</b>	<b>Production (1,000 pounds)</b>	<b>Share of reported production in Turkey (percent)</b>	<b>Capacity (1,000 pounds)</b>	<b>Share of reported capacity in Turkey (percent)</b>
Bessan Makarna Gıda San ve Tic. A.S.	***	***	***	***
Durum Gıda Sanayi ve Ticaret A. Ş.	***	***	***	***
Goymen Tarım Ürünleri San ve Tic. A.S.	***	***	***	***
Kom Gıda Kombassan Gıda A.Ş.	***	***	***	***
Mutlu Makarnacılık Sanayi ve Ticaret A.S.	***	***	***	***
Nuh'un Ankara Makarnası Sanayi ve Ticaret A.S.	***	***	***	***
Oba Makarnacılık Sanayi ve Ticaret A.S.	***	***	***	***
Selva Gıda Sanayii A.S.	***	***	***	***
<b>Total</b>	<b>1,355,513</b>	<b>100.0</b>	<b>1,610,215</b>	<b>100.0</b>

Source: Compiled from data submitted in response to Commission questionnaires.

Turkish producers were asked to indicate whether their firms had experienced any plant openings, closings, relocations, expansions, consolidations, prolonged shutdowns or curtailments, revised labor agreements, or any other change in the character of their operations relating to the production of certain dry pasta since 2007. Seven of eight firms reported changes in their operations. \*\*\* opened its pasta production plant in 2007; prior to 2007, the company subcontracted its pasta production. The remaining six of the seven firms which reported changes in their operations reported expansions in production capacity and other technological upgrades. The company responses are also presented in the tabulation below.

\* \* \* \* \*

No firm reported producing other products using the same equipment and machinery. However, \*\*\* plans to produce gluten-free (corn) pasta in 2013, \*\*\*. In addition, \*\*\* plans to produce egg, organic, and colored pasta with vegetable additives using the same machinery and equipment between 2013 and 2016. All eight firms reported constraints on production. The constraints on certain dry pasta production reported by Turkish firms are the ability to produce semolina, cutting/drying time, and the packaging lines. Turkish firms also emphasize product mix as a constraint on production, as short pasta requires less drying time than long pasta. Several firms reported that “the drying speed is reduced by half when those shapes that require the use of a punch are produced...therefore the production capacity is reduced by half.” \*\*\*

also reported that its short cut lines are dedicated to the domestic market, while long cut lines are reserved for exports. The company reported that “spaghetti is the most popular type of pasta all around the world and it is also more efficient to store and ship therefore we are more competitive for the exports of spaghetti.”

Table IV-10 presents Turkish producers’ production capacity, production, shipments, and inventories.

**Table IV-10**

**Certain dry pasta: Turkey’s capacity, production, shipments, and inventories, 2007-12, January-March 2012 and January-March 2013**

Items	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
	<b>Quantity (1,000 pounds)</b>							
Capacity	874,611	1,012,656	1,056,432	1,189,694	1,375,996	1,633,498	402,551	475,751
Production	615,809	710,709	769,803	885,299	1,089,587	1,355,513	335,546	420,830
End-of-period inventories	60,740	46,772	50,722	43,052	39,597	50,879	43,903	58,865
Shipments:								
Internal consumption/transfers	***	***	***	***	***	***	***	***
Home market	413,749	455,288	420,840	436,806	435,587	496,679	133,085	148,554
Exports to:								
United States	***	***	***	***	***	***	***	***
EU	***	***	***	***	***	***	***	***
Asia	42,295	41,979	51,010	52,967	87,128	131,709	24,369	35,335
All other markets	136,998	216,853	278,001	381,685	546,645	667,945	165,617	218,433
Total exports	***	***	***	***	***	***	***	***
Total shipments	605,954	727,632	765,852	892,967	1,093,044	1,344,228	331,240	412,845
	<b>Value (1,000 dollars)</b>							
Shipments:								
Commercial home market shipments	165,080	216,856	172,974	179,031	176,222	197,661	51,561	52,995
Exports to:								
United States	***	***	***	***	***	***	***	***
EU	***	***	***	***	***	***	***	***
Asia	11,958	15,788	16,602	16,229	29,880	46,144	8,723	12,926
All other markets	43,923	79,735	88,256	113,542	177,460	219,177	55,226	75,412
Total exports	***	***	***	***	***	***	***	***
Total shipments	225,050	318,933	283,774	315,888	392,151	481,925	118,620	145,325

Table continued on next page.

Table IV-10--*Continued*

Certain dry pasta: Turkey's capacity, production, shipments, and inventories, 2007-12, January-March 2012 and January-March 2013

Item	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
	<b>Average unit values (dollars per pound)</b>							
Shipments:								
Commercial home market shipments	0.40	0.48	0.41	0.41	0.40	0.40	0.39	0.36
Exports to:								
United States	***	***	***	***	***	***	***	***
EU	***	***	***	***	***	***	***	***
Asia	0.28	0.38	0.33	0.31	0.34	0.35	0.36	0.37
All other markets	0.32	0.37	0.32	0.30	0.32	0.33	0.33	0.35
Total exports	***	***	***	***	***	***	***	***
Total shipments	0.37	0.44	0.37	0.35	0.36	0.36	0.36	0.35
	<b>Ratio and shares (percent)</b>							
Capacity utilization	70.4	70.2	72.9	74.4	79.2	83.0	83.4	88.5
Inventories to production	9.9	6.6	6.6	4.9	3.6	3.8	13.1	14.0
Inventories to total shipments	10.0	6.4	6.6	4.8	3.6	3.8	13.3	14.3
Share of total quantity of:								
Internal consumption	***	***	***	***	***	***	***	***
Commercial home market shipments	68.3	62.6	55.0	48.9	39.9	36.9	40.2	36.0
Exports to:								
United States	***	***	***	***	***	***	***	***
EU	***	***	***	***	***	***	***	***
Asia	7.0	5.8	6.7	5.9	8.0	9.8	7.4	8.6
All other markets	22.6	29.8	36.3	42.7	50.0	49.7	50.0	52.9
Total exports	***	***	***	***	***	***	***	***

<sup>1</sup> Less than 0.05 percent.

Note.—\*\*\* reported production that exceeded capacity. Staff adjusted capacity to equal production for these firms. \*\*\*.

Source: Compiled from data submitted in response to Commission questionnaires.



Turkish producer \*\*\* described the Turkish dry pasta market as consisting of 22 producers and 100 brands, with six producers supplying 70 percent of Turkish consumption. It added that approximately 20 percent of the Turkish market is served by private label dry pasta. Similarly, \*\*\* all indicated that the top four or five brands dominate the Turkish market. However, \*\*\* stated that despite \*\*\*, it had been able to become the \*\*\* Turkish supplier of dry pasta. It added that competition among Turkish dry pasta producers takes place (1) between the top four or five brands at a national level, and (2) among the other brands for private label and catering demand. It continued that not much competition occurs between these two segments.

Eight Turkish producers indicated that they did not face competition from imports of certain dry pasta in their home markets. Turkish producer \*\*\* described imports into Turkey as “minimal” and mostly higher-end products such as whole wheat pasta. Three Turkish producers indicated that the certain dry pasta that they produced and sold in their home market was interchangeable with the certain dry pasta that they produced and sold to export markets, but six indicated that it was not. The firms cited differences in packaging, label requirements, and minor differences in spaghetti diameter between product sold to Africa and that sold to Asia.

Turkey exports non-egg pasta to a large number of countries; mostly to countries in Africa and Asia.<sup>22</sup> Over the period of review Turkey exported dry non-egg pasta to over 150 countries.<sup>23</sup> The United States accounted for a small share of Turkey’s exports in every year of the period. Turkey’s global exports of non-egg pasta increased 194 percent in quantity and 243 percent in value between 2007 and 2012, while Turkey’s exports of non-egg pasta to the United States declined 44 percent in quantity and 33 percent in value over the period. Table IV-11 presents information on Turkish exports of non-egg pasta under HS 1902.19.

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<sup>22</sup> As of 2012, Turkey has exported certain dry pasta to 146 countries. Hearing transcript, Mr. Nolan, p. 199.

<sup>23</sup> GTIS, Global Trade Atlas database, accessed July 17, 2013.

**Table IV-11****Certain pasta: Turkey's exports of non-egg pasta, HS 1902.19**

	2007	2008	2009	2010	2011	2012
	<b>Quantity (1,000 pounds)</b>					
Angola	8,327	14,722	19,716	38,180	100,599	140,900
Benin	11,464	24,410	21,076	43,671	61,099	84,082
Togo	19,793	22,035	37,712	51,213	82,301	65,909
Niger	18,786	19,712	14,967	24,996	38,940	49,844
Japan	5,101	14,650	22,778	27,112	31,233	41,725
United States	5,644	633	3,265	5,101	2,712	3,137
Other	257,526	228,882	291,059	354,413	431,123	575,975
World	326,641	325,043	410,573	544,683	748,009	961,573
	<b>Value (1,000 dollars)</b>					
Angola	2,291	6,814	5,584	10,193	31,196	43,604
Benin	3,300	11,579	6,002	11,652	19,137	25,362
Togo	5,390	9,665	11,124	13,503	24,974	19,856
Niger	5,264	9,845	4,613	7,197	12,611	16,525
Japan	1,497	7,880	8,456	9,175	11,640	16,169
United States	1,549	320	1,069	1,507	905	977
Other	70,937	105,948	92,963	99,355	139,361	187,187
World	90,227	152,052	129,811	152,581	239,824	309,680

Source: Global Trade Atlas database, accessed May 22, 2013.

### THE SUBJECT INDUSTRIES COMBINED

Table IV-12 presents aggregate data for the reporting producers of certain dry pasta from Italy and Turkey.

Table IV-12

Certain dry pasta: Italy and Turkey's capacity, production, inventories, and shipments, 2007-12, January-March 2012, January-March 2013

Items	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
<b>Quantity (1,000 pounds)</b>								
Capacity	3,775,420	3,919,511	4,022,578	4,235,300	4,544,942	4,892,337	1,218,433	1,292,664
Production	3,023,317	3,229,462	3,335,213	3,502,391	3,781,807	4,167,422	1,050,686	1,168,987
End-of-period inventories	255,446	233,365	223,648	198,355	206,335	233,481	241,294	243,497
Shipments:								
Internal consumption/transfers	***	***	***	***	***	***	***	***
Home market	1,616,227	1,719,051	1,762,654	1,851,535	1,852,526	1,976,653	493,551	533,008
Exports to:								
United States	***	***	***	***	***	***	***	***
EU	***	***	***	***	***	***	***	***
Asia	***	***	***	***	***	***	***	***
All other markets	329,449	430,796	454,443	570,486	738,957	892,001	217,824	278,262
Total exports	***	***	***	***	***	***	***	***
Total shipments	3,055,191	3,252,802	3,346,008	3,524,937	3,771,139	4,171,691	1,022,525	1,169,818
<b>Value (1,000 dollars)</b>								
Shipments:								
Commercial home market shipments	853,897	1,220,252	1,112,136	1,057,349	1,091,651	1,122,020	284,495	286,084
Exports to:								
United States	***	***	***	***	***	***	***	***
EU	***	***	***	***	***	***	***	***
Asia	***	***	***	***	***	***	***	***
All other markets	133,454	210,915	183,895	211,591	283,502	344,696	84,183	108,575
Total exports	***	***	***	***	***	***	***	***
Total shipments	1,486,785	2,175,765	1,914,510	1,827,729	1,981,067	2,135,558	540,854	596,548

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Table IV-12--*Continued*

Certain dry pasta: Italy and Turkey's capacity, production, inventories, and shipments, 2007-12, January-March 2012, January-March 2013

Item	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
	<b>Average unit values (<i>dollars per pound</i>)</b>							
Shipments:								
Commercial home market shipments	0.53	0.71	0.63	0.57	0.59	0.57	0.58	0.54
Exports to:								
United States	***	***	***	***	***	***	***	***
EU	***	***	***	***	***	***	***	***
Asia	***	***	***	***	***	***	***	***
All other markets	0.41	0.49	0.40	0.37	0.38	0.39	0.39	0.39
Total exports	***	***	***	***	***	***	***	***
Total shipments	0.49	0.67	0.57	0.52	0.53	0.51	0.53	0.51
	<b>Ratio and shares (<i>percent</i>)</b>							
Capacity utilization	80.1	82.4	82.9	82.7	83.2	85.2	86.2	90.4
Inventories to production	8.4	7.2	6.7	5.7	5.5	5.6	23.0	20.8
Inventories to total shipments	8.4	7.2	6.7	5.6	5.5	5.6	23.6	20.8
Share of total quantity of:								
Internal consumption	***	***	***	***	***	***	***	***
Commercial home market shipments	52.9	52.8	52.7	52.5	49.1	47.4	48.3	45.6
Exports to:								
United States	***	***	***	***	***	***	***	***
EU	***	***	***	***	***	***	***	***
Asia	***	***	***	***	***	***	***	***
All other markets	10.8	13.2	13.6	16.2	19.6	21.4	21.3	23.8
Total exports	***	***	***	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

## TARIFF AND NON-TARIFF BARRIERS TO TRADE

Foreign producers/exporters of the subject merchandise were asked if their exports of certain dry pasta were subject to tariff or non-tariff barriers to trade in any countries other than the United States. Responding Turkish firms reported as a trade barrier the 20,000 metric ton/year quota the EU has had in place since 2007. After exceeding the quota, Turkish firms must pay a duty of 240 euro per metric ton.<sup>24</sup>

### European Union<sup>25</sup>

Since 1962, the EU has operated a subsidy program which provides restitution payments to EU pasta exporters based on the durum wheat content of their exported pasta products. The restitution payment rate is based on a levy that the EU imposes on imported durum wheat in order to bring the price of durum wheat up to the (typically higher) price level within the EU. In 1987, the United States and the European Community ("EC", now the EU) agreed to a settlement (the U.S.-EU Pasta Agreement) which addressed an U.S.-EC dispute over the EC's restitutions (refunds) on pasta products. The settlement arose following a GATT panel ruling siding with the United States in its complaint against the EC's policy of subsidizing pasta exports. The settlement featured two complementary actions which changed the nature of the EC's program with regard to exports to the United States. First, the export refund for pasta exported from the EC to the U.S. was reduced. Second, the EC agreed to allow the importation of durum wheat from any non-EC country free of any levy under a system described in the settlement as Inward Processing Relief ("IPR"), making durum wheat available for EC producers at world market prices. As a result of this settlement, EC pasta producers would not receive a restitution payment when exporting to the United States pasta products containing durum wheat imported under IPR. In essence, a restitution payment was no longer necessary because no levy had been paid upon importation in the first place. A restitution payment remained available for pasta exports to the United States that contained EC durum wheat or durum wheat imported without the IPR. The restitution rate was reduced (the first action of the settlement), originally by 27.5 percent and later by approximately 35 percent, from the normal level available for exports to all other countries. Pasta imported under this program is classified as being subject to the U.S.-EU reduced export refund. The intended result of the two actions was for 50 percent of exports to the United States to take place under the IPR, and the remaining 50 percent would contain EC durum wheat or durum wheat imported without IPR (for which the exporter could receive reduced restitution payment).

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<sup>24</sup> Except for one year, Turkey has not exceeded this annual quota. Hearing transcript, Mr. Kulacioglu, pp. 191-192; and Mr. Nolan, p. 199.

<sup>25</sup> Unless otherwise noted, the following discussion is excerpted from *Certain Pasta from Italy and Turkey*, Inv. Nos. 701-TA-365-366 and 731-TA-734-735 (Second Review), USITC Publication 3947, September 2007, pp. IV-22-IV-24.

Table IV-13 presents U.S. imports of dry pasta from Italy by HTS subheadings and statistical reporting numbers. Imports of dry pasta into the United States subject to the IPR are reported under HTS item 1902.19.2010. Imports subject to the EU reduced export refund are reported under HTS item 1902.19.2020. The table presents the quantity of imports from Italy imported under the aforementioned HTS items, and their respective shares of imports of dry non-egg pasta recorded under HTS subheading 1902.19.20.

**Table IV-13**

**Dry non-egg pasta: U.S. imports from Italy, by HTS provision, 2007-12, January-March 2012, and January-March 2013**

Items	Calendar year						January-March	
	2007	2008	2009	2010	2011	2012	2012	2013
	<b>Quantity (1,000 pounds)</b>							
Dry non-egg pasta <sup>1</sup>	314,616	221,130	240,015	249,805	272,628	293,402	70,498	65,627
Subject to Inward Processing Regime <sup>2</sup>	1,527	1,475	456	9,628	1,692	1,045	281	21
Subject to U.S.-EU pasta agreement <sup>3</sup>	46,181	37,415	38,326	27,242	13,344	18,297	4,321	4,739
	<b>Shares of dry non-egg pasta (percent)</b>							
Subject to Inward Processing Regime	0.5	0.7	0.2	3.9	0.6	0.4	0.4	0.0
Subject to U.S.-EU pasta agreement	14.7	16.9	16.0	10.9	4.9	6.2	6.1	7.2

<sup>1</sup> HTS 1902.19.20

<sup>2</sup> HTS 1902.19.2010

<sup>3</sup> HTS 1902.19.2020

Source: Official Commerce statistics.

## GLOBAL MARKET

Data on world exports of non-egg pasta are presented in table IV-14. HS heading 1902 includes non-egg pasta, including dry non-egg pasta and fresh non-egg pasta. Trade in non-egg pasta in 2012 totaled approximately 3 million mt (6.6 billion pounds), or over 20 percent of estimated global production of all pasta. This product category includes products outside the scope of these orders, including non-egg pasta in packages of greater than 5 pounds 4 ounces and products that are not exclusively pasta; for instance, pasta packaged with sauce preparations. However, this heading does not include pasta that is stuffed or prepared. The leading non-egg pasta exporting countries are Italy, Turkey, and the United States, accounting for 52.0 percent, 14.2 percent, and 3.3 percent of global exports in 2012 (by quantity), respectively.

**Table IV-14****Certain Pasta: Global Trade in Non-Egg Pasta, HS 1902.19**

Source	2007	2008	2009	2010	2011	2012
<b>Quantity (1,000 pounds)</b>						
Italy	3,349,514	3,179,491	3,228,359	3,355,231	3,452,684	3,525,588
Turkey	326,641	325,043	410,573	544,683	748,009	961,573
United States	145,602	162,981	178,100	188,782	211,198	225,398
Canada	76,855	57,126	53,641	84,818	90,994	95,319
Thailand	120,913	114,572	113,207	126,343	129,841	130,417
Egypt	646	49,705	69,483	92,969	154,518	132,921
Other	3,391,830	1,337,121	1,381,783	1,473,294	1,657,005	1,713,788
World	7,412,001	5,226,040	5,435,147	5,866,117	6,444,251	6,785,002
<b>Value (1,000 dollars)</b>						
Italy	1,483,082	2,198,622	1,810,057	1,670,226	1,902,725	1,899,590
Turkey	90,227	152,052	129,811	152,581	239,824	309,680
United States	74,479	102,000	118,855	112,961	127,587	146,627
Canada	55,303	54,819	48,840	95,189	113,115	114,369
Thailand	77,468	91,572	93,105	96,123	105,679	111,407
Egypt	158	18,241	27,963	33,903	87,482	44,023
Other	546,647	805,557	725,926	763,429	898,175	905,558
World	2,327,366	3,422,863	2,954,557	2,924,412	3,474,588	3,531,254

Source: Global Trade Atlas database, accessed May 22, 2013.

### Consumption

Global production of pasta was estimated at 13.5 million metric tons in 2012 (29.7 billion pounds). The three largest producing countries are Italy, the United States, and Brazil.<sup>26</sup> Annual per capita consumption is highest in Italy, estimated at 28 kg per year. Annual per capita consumption is estimated at 9 kg in the United States and 5.6 kg in Turkey.<sup>27</sup>

U.S. producers, importers, purchasers, and foreign producers were asked about demand for dry pasta outside of the United States. Their answers are summarized in table IV-15. Most U.S. producers and importers did not have information on demand outside of the United States. In its prehearing brief, the domestic industry submitted data from \*\*\* describing Italian demand as falling \*\*\* percent between 2009 and 2012 and Turkish demand as relatively flat

<sup>26</sup> Union of Organizations of Manufacturers of Pasta Products of the EU, "Estimate of World Pasta Production," <http://www.pasta-unafpa.org/ingstatistics5.htm>. Data on global production and consumption of pasta includes products that are outside the scope of these orders.

<sup>27</sup> Unione Industriale Pastai Italiani, "Consumption and Production of Pasta in the World," <http://www.pasta.go.it/statistics.htm>. Data on global production and consumption of pasta includes products that are outside the scope of these orders.

over 2007 to 2012.<sup>28</sup> However, Turkish respondents submitted data from the Turkish Pasta Producers' Association showing Turkish pasta consumption rising approximately 16 percent over 2007 to 2012.<sup>29</sup>

Among those importers that did respond, \*\*\* described Italian consumers as willing to pay more for higher-quality pasta. \*\*\* anticipated increased demand for specialty Italian pasta in the BRIC nations (Brazil, Russia, India, and China). A consultant for AIPC, noting AIPC's experiences with its subsidiary Lensi, stated that, as in the United States, pasta is a staple (albeit a much more popular one) in Italy, and demand for pasta has risen as economic conditions in Italy have stagnated or worsened.<sup>30</sup>

Among foreign producers, Italian producers were more likely to describe Italian demand as stable or saturated, but several Italian producers did describe increased Italian demand for specialty (e.g., bronze-die-cast) and healthy (e.g., whole grain) dry pasta products. One Italian producer described decreased home market demand as Italian consumer habits have shifted toward only one family meal (dinner) at home. While some Italian producers described their home market as saturated, others anticipated increased demand for specialty and healthy products, and for products in new packaging. Italian respondents indicated that the premium segment of the Italian pasta market had expanded from 31 percent in 2009 to 35 percent in 2012.<sup>31</sup>

Seven Turkish producers described increased demand in their home market because consumers have begun to perceive of pasta as a healthy food due to government and industry promotional campaigns. Seven Turkish producers also anticipated higher demand in their home market, due to continued private and government efforts to promote healthier eating and/or pasta consumption, and to the increased popularity of pasta with younger Turkish consumers.

Foreign producers were also likely to describe increased demand in markets outside the United States and outside their own home markets. They also anticipated increasing demand in these markets. Turkish producer \*\*\* described world pasta demand as increasing as pasta becomes more popular in Asia and is seen as a practical food in Africa. It also stated that many African nations have a positive image of Turkey, an image that it expected would help with sales there. Turkish producer \*\*\* indicated that demand for dry pasta was increasing as the price of other staples, such as rice, was increasing. Similarly, Turkish producer \*\*\* described pasta's increased popularity as coming from its ease of storage and greater nutritional content relative to other staples. Italian producers also described increased demand in the rest of the world, citing new markets in Africa (a large market for non-specialty pasta), Asia (where there is an increased interest in pasta as opposed to traditional noodles), and the rest of the world (due to increased interest in "Mediterranean" diets and specialty pastas). For these reasons as well as the increased wealth of China and India and anticipated Northern European interest in

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<sup>28</sup> Prehearing brief of domestic industry, pp. 21 and 27.

<sup>29</sup> Posthearing brief of Turkish respondents, p. 7, and prehearing brief of Turkish respondents, exhibit 7.

<sup>30</sup> Hearing transcript, p. 84 (George).

<sup>31</sup> Posthearing brief of Italian respondents, responses to questions, p. 38.



specialty and healthier pastas, Italian producers also generally anticipated increased world demand. At the hearing, Pastificio Felicetti forecast that future demand growth for Italian pasta would be strongest in Eastern Europe, China, and India.<sup>32</sup>

**Table IV-15**

**Dry Pasta: Firms' responses regarding demand outside the United States, by number of responding firms**

Item	Increase	Decrease	Fluctuate	No change
<b>Demand outside the United States since 2007</b>				
U.S. producers	0	0	0	3
Importers	3	1	0	9
Purchasers	3	0	3	2
Foreign producers- home market	12	2	3	7
Foreign producers- other markets	21	0	1	3
<b>Anticipated future demand</b>				
U.S. producers	0	0	0	2
Importers	2	0	1	9
Purchasers	3	0	3	3
Foreign producers- home market	12	2	1	9
Foreign producers- other markets	19	1	1	4

Source: Compiled from data submitted in response to Commission questionnaires.

### Prices

Most U.S. producers and importers indicated that they did not have enough information to compare the market prices of dry pasta in the U.S. and non-U.S. markets. Some producers and importers compared U.S. and imported prices within the U.S. market. Among comments received, U.S. producer \*\*\* stated that prices were very competitive within \*\*\*. Importer \*\*\* described U.S. and imported dry pasta prices as competitive in recent years, but stated that there were quality differences (without specifying which product was higher quality). Importer \*\*\* described its brand as commanding a price premium in Italy while its prices in the United States are lower. It continued that overall Italian dry pasta prices are somewhat lower than European dry pasta prices, but still about 30 percent higher than U.S. dry pasta prices. However, \*\*\* stated that its U.S. prices are substantially higher than private label U.S. dry pasta prices at several retailers, including domestic and imported product at Safeway and Whole Foods.

Six Italian producers described Italian dry pasta prices as similar to other countries' dry pasta prices but for transportation, customs, and other logistics costs. \*\*\* stated that prices in Canada, South America, and Asia are about 11 percent higher than in Italy, but did not explain why. \*\*\* stated that prices in Italy are lower than in the United States. \*\*\* stated that its

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<sup>32</sup> Hearing transcript, p. 161 (Felicetti).

specialty dry pasta is targeted at high-end consumers (willing to pay higher prices) in multiple countries, but \*\*\* indicated that it cannot compare U.S. and European prices because it sells specialty dry pasta in the United States and private label product in Europe.

Among Turkish producers, six described Asian (usually meaning Japanese and Korean) dry pasta prices as the highest prices in the world. Two Turkish producers described their export prices as the same as their home market prices, except for increased transportation costs to foreign markets. However, one Turkish producer stated that its export prices were higher than its home market prices, and another stated that some European prices were higher than Turkish home market prices.

## PART V: PRICING DATA

### FACTORS AFFECTING PRICES

#### Raw material costs

The primary raw material used in the production of dry pasta is durum wheat semolina.<sup>1</sup> Durum wheat is used primarily in pasta production, and there are no futures markets that allow hedging of durum wheat.<sup>2</sup> As figure V-1 shows, prices of durum wheat increased by approximately 70 percent during the period January 2007-March 2013. Durum wheat prices started at \$4.71 per bushel in January 2007, peaked in March 2008 at \$15.40 per bushel, and decreased to \$8.05 per bushel in March 2013.<sup>3</sup> Durum wheat prices are affected by weather patterns and by the availability of cropland devoted to durum wheat, as opposed to corn for ethanol or other types of wheat.<sup>4</sup> See part III for more information on trends in durum wheat prices.

Eight U.S. producers and seven non-U.S. producing importers<sup>5</sup> described changes in the price of durum wheat flour since 2007 as affecting their selling prices for dry pasta and/or their profitability on sales of dry pasta. Dakota Growers stated that some of its contracts allow price increases due to raw material price increases, but that others do not.<sup>6</sup>

Several U.S. producers and importers described durum wheat prices as volatile over 2007-2012, with overall prices higher now than in 2007, and as driving increases in their selling prices for dry pasta. One U.S. producer stated that raw material prices had also affected volumes of dry pasta sold. However, three importers described little to no effects from changes in raw material costs.

Two U.S. producers did not anticipate changes in their raw material costs in the foreseeable future, but seven did, citing an anticipation of volatile wheat prices. These U.S. producers described wheat prices as depending on crop conditions, wheat exports, and alternative crops, and indicated that forecasting wheat prices was difficult. At the hearing, the domestic industry stated that 2013 U.S. plantings of durum wheat were down 27.6 percent

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<sup>1</sup> Staff Report to the Commission, Investigations Nos. 701-TA-365-366 and 731-TA-734-735 (Second Review), August 16, 2007.

<sup>2</sup> Hearing transcript, p. 58 (George).

<sup>3</sup> Staff also examined durum wheat prices from *Milling & Baking News*. These prices followed the same basic trend as the durum wheat prices in figure V-1, but were generally higher, reflecting higher prices f.o.b. Minneapolis.

<sup>4</sup> Hearing transcript, p. 25 (Hasper), and prehearing brief of domestic industry, p. 44.

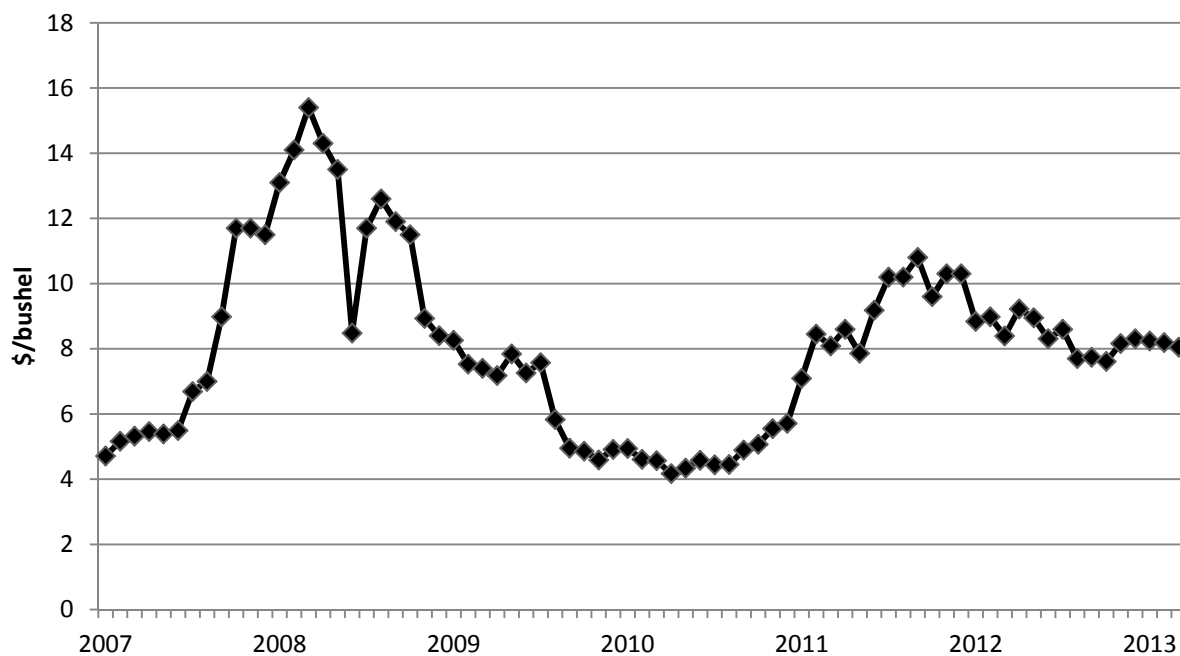
<sup>5</sup> Commission questionnaires sometimes asked questionnaire respondents to differentiate their answers between certain dry pasta from Italian producer Lensi (which was nonsubject in 2007 and 2008) and certain dry pasta from all other Italian producers. Answers in this part of the report may reflect this distinction.

<sup>6</sup> Hearing transcript, p. 26 (Hasper).

from the previous year, and anticipated that this reduction would increase raw material costs.<sup>7</sup> The domestic industry also anticipated further price rises as they forecast continued replacement of U.S. wheat plantings by U.S. corn plantings.<sup>8</sup>

Italian and Turkish producers also described durum wheat prices as volatile and rising over 2007 until 2013. Overall estimated price rises ranged from 20 percent to 250 percent. Seven Italian and three Turkish producers described increasing their certain dry pasta prices due to (or in one case, correlated with) increasing durum wheat prices. However, one of these Italian producers (\*\*\*) noted that it had also absorbed some of the increased costs, and another Italian producer (\*\*\*) stated that raw material prices have little effect on its specialty pasta prices. Italian producer \*\*\* added that when durum wheat prices fell after 2008, its pasta prices did as well. Another Italian producer (\*\*\*) estimated durum wheat costs as 60 percent of its costs, and one Turkish producer (\*\*\*) estimated 70 percent for its share of total costs. Multiple foreign producers described wheat prices as determined by the weather, and thus difficult to forecast with accuracy. However, Italian producer \*\*\* expected increased or constant raw material costs over the next year.

**Figure V-1**  
**Dry pasta: National average monthly prices received by farmers for durum wheat in dollars per bushel, January 2007-March 2013**



Source: *Wheat Yearbook* at <http://www.ers.usda.gov/data-products/wheat-data.aspx#25170>, Economic Research Service, USDA.

<sup>7</sup> Hearing transcript, p. 50 (Rosenthal).

<sup>8</sup> Prehearing brief of domestic industry, p. 74, fn 42.

## U.S. inland transportation costs

Both dry pasta suppliers and purchasers may arrange U.S. inland transportation costs. Six U.S. producers and ten importers reported that they typically arrange transportation to their customers, while two U.S. producers and seven importers reported that their purchasers arrange transportation. Seven importers shipped subject product from their point of importation, while eight shipped it from a storage facility. U.S. producers reported that their U.S. inland transportation costs ranged from 5 to 15 percent<sup>9</sup> of the total delivered cost of dry pasta while importers generally reported costs of 1 to 15 percent.

## Exchange rates

The domestic industry was asked whether exchange rates would have an effect on subject imports.<sup>10</sup> The domestic industry described Italian imports of dry pasta as able to continue regardless of currency movements.<sup>11</sup> Barilla described exchange rate risk as a reason why it produces in the United States.<sup>12</sup> Real and nominal exchange rates for the Euro (for Italy) and the Turkish Lira are summarized in appendix E.

## PRICING PRACTICES

### Pricing methods

U.S. producers and importers reported using a variety of pricing methods, including transaction-by-transaction negotiations, contracts, and set price lists, as shown in table V-1. Six producers reported using more than one pricing method, while \*\*\* reported internal consumption of all of \*\*\*. \*\*\* described its pricing method as varying by customer.

**Table V-1**

**Dry Pasta: U.S. producers and importers reported price setting methods, by number of responding firms<sup>1</sup>**

Method	U.S. producers	Importers
Transaction-by-transaction	5	5
Contract	7	8
Set price list	6	9
Other <sup>2</sup>	0	4

<sup>1</sup> The sum of responses down will not add up to the total number of responding firms as each firm was instructed to check all applicable price setting methods employed.

<sup>2</sup> By "other," importers meant retail sales and methods that depended on margins or quantities sold.

Source: Compiled from data submitted in response to Commission questionnaires.

<sup>9</sup> This range excludes several responses that likely indicate that the question was not understood.

<sup>10</sup> Hearing transcript, p. 146 (Pearson).

<sup>11</sup> Posthearing brief of domestic industry, responses to questions, p. 37.

<sup>12</sup> Hearing transcript, p. 182 (Tendick).

### Tier and line pricing

Dry pasta may be sold using “tier pricing,” in which products are grouped into tiers and each tier receives a similar price, or “line pricing,” in which prices and discounts are the same for all product forms. The groupings for tiers are often based on whether the product is more common (such as spaghetti and elbow macaroni) or less common (such as lasagna).<sup>13</sup> Producers and importers were asked whether prices for different shapes/forms of dry pasta are determined differently, and whether their firms used tier or line pricing. Among producers, most did not clearly indicate “tier” or “line” pricing, but did indicate that there was at least some variation in their pricing based on pasta produced.<sup>14</sup> Among importers, eight (including \*\*\*) indicated using line or otherwise uniform pricing, while seven (including \*\*\*) reported tier pricing or different pricing based on different cuts or shapes.

Eight purchasers reported that their suppliers use tier pricing or some similar per-item pricing. \*\*\* reported that most imports use line pricing. \*\*\* reported that their suppliers use line pricing, although \*\*\* added that there was some tier pricing for specific cuts. Three purchasers reported that their suppliers use both line and tier pricing.

Purchasers were also asked whether they used line or tier pricing in their sales of dry pasta. Eight (including \*\*\*) reported using line pricing. Eleven purchasers (including some of the same purchasers that reported using line pricing) reported using tier pricing. Eight purchasers reported that their own pricing practice for selling dry pasta reflects the pricing practice (i.e., line or tier) used by their suppliers. Another six purchasers stated that it did not, instead using another way of reflecting their own costs and/or competitors’ prices.

Four U.S. producers and four importers reported that dry pasta price variation might be based on the cuts (e.g., long or short noodles, common shapes versus less-common ones) or the ingredients (e.g., whole grain, multi-grain, semolina, egg, vegetables). Three of these producers and three of these importers indicated that cost structure or production difficulty determined which products were in which tier. Importer \*\*\* stated that another distinction is whether the pasta is made with Teflon-die or bronze-die (for specialty semolina) extrusion. (See Part II for more discussion of bronze-die cut dry pasta.)

Two producers indicated that they use line pricing for specific customers, while one producer stated that it uses line pricing for products falling under specific brands, but does not differentiate by customer. Eight importers reported using the same prices for all customers, although not all these importers reported using all line pricing in answers to previous questions.

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<sup>13</sup> *Source:* Staff Report to the Commission, Investigations Nos. 701-TA-365-366 and 731-TA-734-735 (Second Review), August 16, 2007.

<sup>14</sup> Two producers stated that they used tier pricing predominantly, while two stated that they used line pricing predominantly. However, even most of these producers, as well as another four producers, described pricing processes that included elements of both tier and line pricing.

## Contracts

U.S. producers reported selling the majority of their 2012 product in the spot market, although importers reported that a majority of product from Italy and Turkey was sold under short-term contracts, as shown in table V-2. Foreign producers, however, reported different market emphases than importers did, with Italian producers relying more on long-term contracts and Turkish producers using more spot sales, as can be seen in table V-3.

**Table V-2**

**Dry Pasta: U.S. producers' and importers' shares of U.S. commercial shipments by type of sale, 2012**

Type of sale	U.S. producers	U.S. importers of product from Italy (other than Lensi)	U.S. importers of product from Turkey	U.S. importers of subject product
Long-term contracts	5.6	11.1	0	11.0
Short-term contracts	33.9	60.3	84.0	60.5
Spot sales	60.5	28.6	16.0	28.5
Total	100.0	100.0	100.0	100.0

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires.

**Table V-3**

**Dry Pasta: Italian and Turkish producers' shares of U.S. commercial shipments by type of sale, 2012**

Type of sale	Italian producers	Turkish producers	All subject producers
Long-term contracts	58.0	0.0	55.9
Short-term contracts	40.7	7.3	39.5
Spot sales	1.3	92.7	4.6
Total	100.0	100.0	100.0

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires.

Some U.S. producers and importers reported contracts that allowed price renegotiation, and contracts were more likely to fix price rather than price and quantity.<sup>15</sup> Producers' short-term contracts ranged from 90 to 365 days, and three producers reported some long-term two-year contracts that did allow price renegotiation. Four producers' short-term contracts allowed price renegotiation, while four others' such contracts did not. Four producers' short-term contracts fixed price, while two others' such contracts fixed quantity, and one's such contracts fixed both. Five producers' short-term contracts did not have a meet-or-release provision, while two producers' such contracts did.

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<sup>15</sup> Dakota Growers described some of its contracts as offering price protection to purchasers with no minimum volume guarantee to the producer. Hearing transcript, p. 26 (Hasper).

Importers of product from Italy (other than Lensi) had short-term contracts ranging from 90 to 365 days, and one such importer reported long-term contracts of 450 days.<sup>16</sup> Three importers of subject Italian product allowed price renegotiation on short-term contracts, while four did not. One importer of subject Italian product allowed price renegotiation on long-term contracts, while two did not. Five importers of subject Italian product had short-term contracts that fixed price, while two had long-term contracts that fixed price. (One had short-term contracts that fixed quantity, and two had short-term contracts that fixed price and quantity.) Most importers of subject Italian product did not report having meet-or-release provisions.

Importers of product from Turkey had short-term contracts of 365 days that did not allow price renegotiation, fixed price and quantity, and did not have a meet-or-release provision.<sup>17</sup>

Nine foreign producers<sup>18</sup> described their typical short-term contracts (90-365 days) with U.S. customers. Eight reported that such contracts did not allow price renegotiation and fixed price, (\*\*\*) and seven stated that there was no meet-or-release provision. Five foreign producers described their long-term contracts with U.S. customers. Three stated that these contracts allowed price renegotiation, four stated that the contracts fixed price, and three stated that there was no meet-or-release provision.

### **Negotiations**

Sixteen purchasers indicated that purchases of dry pasta usually involve negotiations between supplier and purchaser, while only two did not. Those sixteen purchasers described negotiations as being based on a wide range of factors, including price, quality, consistency, timing, packaging, and durum wheat prices. \*\*\* added that while it has been working with the same suppliers for many years, it will entertain new suppliers' offers every few years. Two purchasers stated that competitors' prices are not quoted during negotiations; no other purchasers addressed this issue.

Thirteen purchasers stated that they did not vary their purchases from a given supplier based on the price offered for a given time period. Five did report doing so. \*\*\* described pricing as consistent lately, but added that it can vary due to exchange rate fluctuations. \*\*\* described varying its prices due to quality, cost, availability, and service. \*\*\* added that its suppliers may vary prices for seasonal promotions, e.g., lower prices on tri-color prices during summertime.

Four purchasers reported that they purchase product daily, eleven purchase weekly, and two purchase monthly. \*\*\* explained that it contracts quarterly or annually, and then purchases weekly. Eighteen responding purchasers reported that they did not expect their purchasing patterns to change in the next two years. Most purchasers contact one to four suppliers before making a purchase.

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<sup>16</sup> \*\*\* had contracts of \*\*\* days.

<sup>17</sup> \*\*\*.

<sup>18</sup> One of these firms was Turkish; the rest were Italian. \*\*\*.



## Slotting fees

Product placement and shelf space are also important factors in the sales of dry pastas. For some products that they carry, retail grocery stores will charge the manufacturer (or perhaps the distributor) a slotting fee, i.e., a fee in exchange for shelf space or general representation.

New World described slotting fees as a way that grocery stores charge a vetting fee for new items,<sup>19</sup> giving suppliers time (usually between nine months and a year) to prove the viability of an item.<sup>20</sup> Dakota Growers described slotting fees as reflecting the number of new items times the amount of each item.<sup>21</sup> New World added that private label products do not require slotting fees.<sup>22</sup> A consultant for AIPC described “value” retail stores as also generally not charging slotting fees.<sup>23</sup> Dakota Growers as well as importer George DeLallo stated that retailers that do not charge slotting fees are nonetheless aware that other purchasers do charge such fees, and may demand price concessions in exchange for not charging such fees.<sup>24</sup> Barilla characterized slotting fees as a large portion of its budget, and an expense that needs to be paid again every time a new product is introduced.<sup>25</sup>

The domestic industry characterized slotting fees as negotiable, and not a barrier to entry.<sup>26</sup> However, Italian respondents described slotting fees as allowing U.S. pasta producers, which Italian respondents described as well-financed and/or part of large conglomerates, to effectively block subject Italian competitors, which Italian respondents described as less-well-financed, from the U.S. retail market.<sup>27</sup>

In questionnaires, five U.S. producers and five importers (including \*\*\*) reported paying fees for shelf placement (“slotting fees”) since January 1, 2007. However, three U.S. producers and 16 importers reported that they had not done so.

Among producers and importers paying slotting fees, three U.S. producers reported that they generally paid slotting fees as lump sums, while one U.S. producer reported paying as a discount from invoice, and another U.S. producer reported paying slotting fees both as a lump sum and as a discount from invoice. The two importers \*\*\* stated that slotting fees are paid as lump sums. Three U.S. producers reported paying slotting fees when new products are introduced while two other U.S. producers and one importer stated that they paid slotting fees annually or semi-annually. Another importer reported paying slotting fees when it obtained a new customer’s authorization.

U.S. producers and one importer (\*\*\*) also indicated that slotting fees may be paid for individual products, for multiple products combined, or for a line of pasta products. Four U.S.

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<sup>19</sup> Hearing transcript, p. 74 (Faucett).

<sup>20</sup> Hearing transcript, p. 107 (Faucett).

<sup>21</sup> Hearing transcript, p. 107 (Hasper).

<sup>22</sup> Hearing transcript, p. 75 (Faucett).

<sup>23</sup> Hearing transcript, pp. 105 and 108 (George).

<sup>24</sup> Hearing transcript, p. 105 (Hasper) and p. 247 (DiPietro).

<sup>25</sup> Hearing transcript, p. 246 (Tendick).

<sup>26</sup> Domestic industry’s posthearing brief, responses to questions, p. 10.

<sup>27</sup> Prehearing brief of Italian respondents, p. 19.

producers stated that slotting fees are the same for all types and shapes of pasta, while one U.S. producer stated that slotting fees are specific to each pasta product. Importer \*\*\* stated that slotting fees could be paid for one type of dry pasta or multiple types. However, another importer (\*\*\* indicated that it only sold pasta and thus only paid slotting fees on that product.<sup>28</sup>

Two U.S. producers stated that their customers determine the slotting fees, while three others elaborated that sales potential and number of items help determine slotting fees. Two U.S. producers described brand as playing a role in slotting fees, while another stated that brand does not play a role in determining slotting fees. Among importers, two named factors determining slotting fees such as number of stores in which product is placed, category of product placement, shelf placement, and number of stock-keeping units (SKUs, or distinct products) placed.

Three U.S. producers described slotting fees as negotiable in general. Another U.S. producer stated that while retailers have a list for slotting fees, some negotiation is possible. Still another U.S. producer described slotting fees as non-negotiable. Importer \*\*\* stated that negotiating ability varies by retailer, and that retailers with more stores allow less room for negotiation. However, importer \*\*\* indicated that dry pasta suppliers have somewhat more negotiating ability with retailers than other product suppliers do, because dry pasta suppliers can offer many SKUs.

Three U.S. producers and one importer (\*\*\*) indicated that they had chosen not to sell to a particular customer due to the customer's slotting fees. \*\*\* explained that it had done so when the return on investment from paying the slotting fee was too low. Three U.S. producers and eighteen importers had never chosen not to sell due to slotting fees.

U.S. producers were more likely than importers to state that suppliers that sell a broad range of products can obtain shelving at retailers through cross-promotion of products. Three U.S. producers and five importers (\*\*\*) answered that they could, while two U.S. producers and ten importers answered that they could not. Among U.S. producers answering yes, \*\*\* stated that suppliers can avoid slotting fees by offering lower prices and promotions. \*\*\* described selling a range of products to obtain as many slots as possible but not universal. Among importers answering yes, \*\*\* described cross-promotion as reducing the burden on retailers, and \*\*\* stated that it only negotiates cross-promotions after it \*\*\*.

Purchasers rarely reported slotting fees, but those that did described them in similar ways to producers and importers. Fourteen purchasers (including grocery retailers \*\*\*) reported not charging slotting fees. Four retailers (\*\*\*) reported that they did charge slotting fees, often describing the fees as lump sum payments to cover the cost of warehousing or initial set-up of a product. \*\*\* stated that it sets slotting fees, \*\*\* stated that it sets fees but then negotiates, and \*\*\* stated that it negotiates these fees.<sup>29</sup> These four U.S. purchasers reported charging slotting fees as \*\*\*. They also described these fees as determined by the number of stores covered, the individual product concerned, the quantity of product purchased, shelf

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<sup>28</sup> Purchasers that charge slotting fees did not provide specific answers to this question. Additionally, while \*\*\* reported its slotting fees as \*\*\*.

<sup>29</sup> \*\*\* indicated that it "occasionally" sets slotting fees.

placement, and/or brand names, but not on whether the supplier has a larger range of products.<sup>30</sup> One purchaser reported negotiating slotting fees on a per-store basis (though with no differences based on store location), but three reported negotiating for the entire chain.

The four purchasers that did report using slotting fees did not report that a lack of slotting fee payment influenced the position in which they placed the supplier's product in their stores. However, \*\*\* stated that when slotting fee payment is not timely, then the product is not placed on the shelf. No purchaser reported refusing to carry a particular dry pasta product because the supplier refused to pay slotting fees.

Purchasers were also asked how the total range of products, both pasta and non-pasta, offered by a supplier affect the selection of the products that will be placed on the store shelves. Six purchasers answered that it does not. Several other purchasers offered other factors that do affect the selection, naming consumer demand, sales, convenience to the purchaser, promotional support, and price. Seven purchasers stated that a supplier of a large volume of a wide range of products does not have an advantage in obtaining shelf space, but four stated that it might or did. One of those four, \*\*\* added that ultimately it looks more at whether individual products "make business sense."

### **Sales terms and discounts**

U.S. producers and importers of subject product used both delivered and f.o.b. pricing, although U.S. producers were somewhat more likely to report offering discounts. Six U.S. producers reported pricing dry pasta on a delivered basis, while four reported doing so on an f.o.b. basis. Among importers of Italian certain dry pasta, eight priced their product on a delivered basis, eight did so on an f.o.b. basis, and one reported both. Among importers of Turkish certain dry pasta, one priced on a delivered basis and two did so on an f.o.b. basis.

U.S. producers reported sales terms of net 30 days, with five offering 2/10 terms and three not doing so. Eight importers of Italian product reported sales terms of net 30 days, with an additional such importer offering 2/10 net 30 days. Two importers of Italian product offered net 60 days, and another three such importers offered periods of 15 days or fewer. Among importers of Turkish product, three offered terms of net 30 to net 45 days.

Four U.S. producers and four U.S. importers reported offering quantity or annual total volume discounts, while three U.S. producers and 14 importers reported offering no discounts. Among producers offering quantity discounts, one also reported offering promotional discounts, and another reported offering customer-specific discounts. Four importers reported using promotional discounts, sometimes with a seasonal basis.

### **Price Lists**

\*\*\* submitted its 2013 price list with \*\*\*. On the list, most cuts of pasta sold \*\*\* with \*\*\*. Additionally, the price list shows \*\*\*.

\*\*\* also submitted a recent price list for its imports. Like \*\*\* list, its list showed higher prices for particular shapes and cuts of pasta, or for pastas with special features.

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<sup>30</sup> \*\*\* indicated that its slotting fees were \*\*\*.

## Price leadership

Purchasers were asked to list any price leaders in the dry pasta market since 2007. Seven purchasers named Barilla. \*\*\* described Barilla as launching an effective promotional campaign implying that it was an Italy-based producer after it opened its U.S. production facilities. It described competing with Barilla as difficult for smaller firms. \*\*\* described Barilla as leading by providing a high-quality and consistent product, but \*\*\*. \*\*\* also described supermarket private label brands as putting pressure on dry pasta prices. \*\*\* described purchaser WalMart as leading prices by driving prices lower.<sup>31</sup> Dakota Growers was named as a price leader by two purchasers, and AIPC, A. Zerega, New World, and Sam Mills were named by one purchaser each. \*\*\* stated that if one supplier offers a lower price, \*\*\* expects other suppliers to do the same.

## PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of the following products shipped to unrelated U.S. customers during January 2007 through March 2013. Data were requested for sales to retail grocery stores and sales to distributors.

**Product 1.**-- Brand-name dry non-egg spaghetti (in 1 lb. pkg)

**Product 2.**-- Brand name dry non-egg penne rigate (in 1 lb. pkg)

**Product 3.**-- Brand-name dry non-egg angel hair pasta (in 1 lb. pkg)

**Product 4.**-- Private-label dry non-egg spaghetti (in 1 lb. pkg)

These pricing products and channels of distribution mostly match those used in the previous reviews and in the original investigations. However, at request of the domestic industry, product 2 was changed from “rigatoni” to “penne rigate” to reflect the recent growth in popularity of penne rigate relative to rigatoni.<sup>32</sup>

Six U.S. producers<sup>33</sup> and seven importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.<sup>34</sup> Pricing data reported by these firms accounted for approximately 10.6 percent of U.S. producers’ shipments of product, 19.6 percent of 2012 U.S. shipments of subject imports from Italy, and 28.5 percent of 2012 U.S. shipments of subject imports from Turkey. Certain dry pasta imports from Lenzi were excluded from Commerce’s orders in 2007 and 2008; importers’ data for these years are presented separately from other pricing data for Italy.

Price data for products 1-4 are presented in tables V-4 to V-11 and figure V-2. Prices are generally substantially higher than similar prices for corresponding products in the last reviews, with the exception of product 3 from Italy. (Prices for product 2 cannot be compared to any product from the last reviews.) However, there are also sometimes substantial differences in

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<sup>31</sup> \*\*\*.

<sup>32</sup> See Domestic Industry’s Comments on the Draft Questionnaires, March 25, 2013, p. 4.

<sup>33</sup> \*\*\*.

<sup>34</sup> \*\*\*.

volumes between products in these reviews and those in the last reviews, suggesting that differences in firms reporting data may account for part of the differences in price as well.<sup>35</sup>

In their prehearing brief, Italian respondents submitted an analysis of the pricing data. The analysis noted that, for products 1 through 4 sold to retail grocery stores, the prices reported by individual U.S. producers varied substantially, and that sometimes higher-priced U.S. producers were selling product in larger volumes than lower-priced U.S. producers.<sup>36</sup> U.S. producers attributed the price variation among U.S. producers to \*\*\*.<sup>37</sup>

### Retail prices

U.S. producers and Italian producers provided data on retail prices of pasta from Nielsen Scantrack, which provides data on “every single scan” at grocery stores.<sup>38</sup> Italian respondents described the data they submitted as showing that Italian producer DeCecco’s retail prices were always higher than U.S. producers’ retail prices, and that Barilla’s prices were on average higher than other U.S. producers’ prices. The domestic industry submitted Nielsen data that they characterized as showing low prices on retail sales of Italian imports \*\*\*.<sup>39</sup>

**Table V-4**

**Certain dry pasta: Weighted-average f.o.b. prices and quantities of domestic and imported product 1<sup>1</sup>, sold to retail grocery stores, and margins of underselling/(overselling), by quarters, January 2007-March 2013**

\* \* \* \* \*

**Table V-5**

**Certain dry pasta: Weighted-average f.o.b. prices and quantities of domestic and imported product 2<sup>1</sup>, sold to retail grocery stores, and margins of underselling/(overselling), by quarters, January 2007-March 2013**

\* \* \* \* \*

**Table V-6**

**Certain dry pasta: Weighted-average f.o.b. prices and quantities of domestic and imported product 3<sup>1</sup>, sold to retail grocery stores, and margins of underselling/(overselling), by quarters, January 2007-March 2013**

\* \* \* \* \*

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<sup>35</sup> See Staff Report to the Commission, Investigations Nos. 701-TA-365-366 and 731-TA-734-735 (Second Review), August 16, 2007.

<sup>36</sup> See prehearing brief of Italian respondents, pp. 27-33, and posthearing brief of Italian respondents, responses to questions, pp. 8-16.

<sup>37</sup> Domestic industry’s posthearing brief, p. 46.

<sup>38</sup> Hearing transcript, p. 254 (Tendick), posthearing brief of Italian respondents, responses to questions, pp. 16-17 and exhibits 4-5.

<sup>39</sup> Domestic industry’s posthearing brief, exhibit 8.

**Table V-7**

**Certain dry pasta: Weighted-average f.o.b. prices and quantities of domestic and imported product 4<sup>1</sup>, sold to retail grocery stores, and margins of underselling/(overselling), by quarters, January 2007-March 2013**

\* \* \* \* \*

**Table V-8**

**Certain dry pasta: Weighted-average f.o.b. prices and quantities of domestic and imported product 1<sup>1</sup>, sold to distributors, and margins of underselling/(overselling), by quarters, January 2007-March 2013**

\* \* \* \* \*

**Table V-9**

**Certain dry pasta: Weighted-average f.o.b. prices and quantities of domestic and imported product 2<sup>1</sup>, sold to distributors, and margins of underselling/(overselling), by quarters, January 2007-March 2013**

\* \* \* \* \*

**Table V-10**

**Certain dry pasta: Weighted-average f.o.b. prices and quantities of domestic and imported product 3<sup>1</sup>, sold to distributors, and margins of underselling/(overselling), by quarters, January 2007-March 2013**

\* \* \* \* \*

**Table V-11**

**Certain dry pasta: Weighted-average f.o.b. prices and quantities of domestic and imported product 4<sup>1</sup>, sold to distributors, and margins of underselling/(overselling), by quarters, January 2007-March 2013**

\* \* \* \* \*

**Figure V-2**

**Certain dry pasta: Weighted-average prices and quantities of domestic and imported product, by quarters, January 2007-March 2013**

\* \* \* \* \*

### **Price trends**

Prices increased during January 2007-March 2013. Tables V-12 and V-13 summarize the price trends, by channel, by country and by product. As shown in the tables, both domestic and imported prices generally rose over the period, with Turkish prices often rising the most, albeit sometimes on low volumes.

**Table V-12**

**Dry Pasta: Summary of weighted-average f.o.b. prices for products 1-4 from the United States, Italy (Lensi and other companies), and Turkey, sold to retail grocery stores**

\* \* \* \* \*

**Table V-13**

**Dry Pasta: Summary of weighted-average f.o.b. prices for products 1-4 from the United States, Italy (Lensi and other companies), and Turkey, sold to distributors**

\* \* \* \* \*

Purchasers were asked whether there had been a change in the price of dry pasta since 2007. Six purchasers responded that prices of U.S., Italian, and/or Turkish dry pasta prices had changed by the same amount. Five purchasers described U.S. and Italian dry prices as changing by different amounts, with two of those purchasers describing U.S. prices as now relatively higher, and four describing U.S. prices as now relatively lower. One purchaser described U.S. prices as having changed relative to Turkish prices, with U.S. prices now relatively higher. Another purchaser stated that there had been no change in price.

#### **Price comparisons**

As shown in table V-14, prices for certain dry pasta imported from Italy (excluding Lensi) were above those for U.S.-produced product in somewhat more instances than they were below those for U.S.-produced product. Prices for certain dry pasta imported from Turkey were almost always below those for U.S.-produced product.<sup>40</sup> Italian respondents stated that instances of Italian underselling in Commission pricing data might be due to Italian sales needing to go through more distribution or due to exchange rate issues.<sup>41</sup>

Tables V-15 and V-16 summarize pricing margins from the second reviews and the original investigations, respectively. The first reviews were expedited.

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<sup>40</sup> Prices for product 4 from Italy (excluding Lensi) are \*\*\*. Volumes for product 1 from Turkey \*\*\*. Volumes for product 2 from the United States show \*\*\*.

<sup>41</sup> Hearing transcript, pp. 249-250 (Heffner and Massarelli).

**Table V-14**

**Dry Pasta: Instances of underselling/overselling and the range and average of margins, by country, January 2007-March 2013**

Source	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
Italy—Lensi	2	***	***	8	-38.7 to -78.6	-57.5
Italy—Other than Lensi	77	0.7 to 44.0	19.2	113	-0.1 to -861.0	-52.1
Turkey	66	15.3 to 65.6	39.2	2	***	***
Total-- subject	143	0.7 to 65.6	28.4	115	-0.1 to -861.0	-51.3

Source: Compiled from data submitted in response to Commission questionnaires.

**Table V-15**

**Dry Pasta: Instances of underselling/overselling and the range and average of margins, by country, January 2001-March 2007 (Second Review)**

Source	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
Italy (excluding Lensi)—Retail	39	0.1 to 23.0	8.6	52	-0.5 to -187.4	-40.9
Italy (excluding Lensi)—Distributor	0	--	--	75	-12.6 to -117.3	-58.5
Turkey—Retail	37	2.9 to 64.4	48.7	0	--	--
Turkey—Distributor	6	38.1 to 50.2	43.7	0	--	--

Source: Staff Report to the Commission, Investigations Nos. 701-TA-365-366 and 731-TA-734-735 (Second Review), August 16, 2007.

**Table V-16**

**Dry Pasta: Instances of underselling/overselling and the range and average of margins, by country, January 1993-December 1995 (Original Investigation)**

Source	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
Italy—Retail	32	1.8 to 35.0	15.0	15	-2.9 to -29.6	-17.4
Italy—Distributor	29	0.8 to 40.4	14.8	7	-0.4 to -10.5	-8.0
Turkey—Retail	39	24.9 to 65.4	50.1	0	--	--

Source: Staff Report to the Commission, Investigations Nos. 701-TA-365-366 and 731-TA-734-735 (Final), July 2, 1996 p. V-27.



## **APPENDIX A**

### ***FEDERAL REGISTER* NOTICES**



The Commission makes available notices relevant to its investigations and reviews on its website, [www.usitc.gov](http://www.usitc.gov). In addition, the following tabulation presents, in chronological order, *Federal Register* notices issued by the Commission and Commerce during the current proceeding.

<b>Citation</b>	<b>Title</b>	<b>Link</b>
77 FR 53867 September 4, 2012	<i>Initiation of Five-Year ("Sunset") Review</i>	<a href="http://www.gpo.gov/fdsys/pkg/FR-2012-09-04/pdf/2012-21732.pdf#page=1">http://www.gpo.gov/fdsys/pkg/FR-2012-09-04/pdf/2012-21732.pdf#page=1</a>
77 FR 53909 September 4, 2012	<i>Certain Pasta From Italy and Turkey; Institution of Five-year Reviews Concerning the Countervailing and Antidumping Duty Orders on Certain Pasta From Italy and Turkey</i>	<a href="http://www.gpo.gov/fdsys/pkg/FR-2012-09-04/pdf/2012-21488.pdf">http://www.gpo.gov/fdsys/pkg/FR-2012-09-04/pdf/2012-21488.pdf</a>
78 FR 959 January 7, 2013	<i>Certain Pasta From Italy and Turkey; Notice of Commission Determination To Conduct Full-Five-Year Reviews</i>	<a href="http://www.gpo.gov/fdsys/pkg/FR-2013-01-07/pdf/2013-00048.pdf">http://www.gpo.gov/fdsys/pkg/FR-2013-01-07/pdf/2013-00048.pdf</a>
78 FR 693 January 4, 2013	<i>Certain Pasta From Italy: Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order</i>	<a href="http://www.gpo.gov/fdsys/pkg/FR-2013-01-04/pdf/2012-31727.pdf">http://www.gpo.gov/fdsys/pkg/FR-2013-01-04/pdf/2012-31727.pdf</a>
78 FR 692 January 4, 2013	<i>Certain Pasta From Turkey: Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order</i>	<a href="http://www.gpo.gov/fdsys/pkg/FR-2013-01-04/pdf/2012-31726.pdf">http://www.gpo.gov/fdsys/pkg/FR-2013-01-04/pdf/2012-31726.pdf</a>
78 FR 2368 January 11, 2013	<i>Certain Pasta From Italy and Turkey; Final Results of Expedited Third Sunset Reviews of the Antidumping Duty Orders</i>	<a href="http://www.gpo.gov/fdsys/pkg/FR-2013-01-11/pdf/2013-00454.pdf">http://www.gpo.gov/fdsys/pkg/FR-2013-01-11/pdf/2013-00454.pdf</a>
78 FR 9937 February 12, 2013	<i>Certain Pasta From Italy and Turkey Scheduling of Full Five-Year Reviews Concerning the Countervailing and Antidumping Duty Orders on Certain Pasta From Italy and Turkey</i>	<a href="http://www.gpo.gov/fdsys/pkg/FR-2013-02-12/pdf/2013-03088.pdf">http://www.gpo.gov/fdsys/pkg/FR-2013-02-12/pdf/2013-03088.pdf</a>

Tabulation continued on next page.

Citation	Title	Link
78 FR 15046 March 8, 2013	<i>Certain Pasta From Italy and Turkey; Revised Schedule for the Subject Reviews</i>	<a href="http://www.gpo.gov/fdsys/pkg/FR-2013-03-08/pdf/2013-05346.pdf">http://www.gpo.gov/fdsys/pkg/FR-2013-03-08/pdf/2013-05346.pdf</a>
<p>Note.—The press release announcing the Commission’s determinations concerning adequacy and the conduct of a full or expedited review can be found at <a href="http://www.usitc.gov/press_room/news_release/2012/er1210kk1.htm">http://www.usitc.gov/press_room/news_release/2012/er1210kk1.htm</a>. A summary of the Commission’s votes concerning adequacy and the conduct of a full or expedited review can be found at <a href="http://pubapps2.usitc.gov/sunset/caseProfSuppAttmnt/download/11521">http://pubapps2.usitc.gov/sunset/caseProfSuppAttmnt/download/11521</a>. The Commission’s explanation of its determinations can be found at <a href="http://pubapps2.usitc.gov/sunset/caseProfSuppAttmnt/download/11522">http://pubapps2.usitc.gov/sunset/caseProfSuppAttmnt/download/11522</a>.</p>		

**APPENDIX B**

**CALENDAR OF PUBLIC HEARING**



## CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

**Subject:** Certain Pasta from Italy and Turkey  
**Inv. Nos.:** 701-TA-365-366 and 731-TA-734-735 (Third Review)  
**Date and Time:** July 11, 2013 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, SW, Washington, D.C.

### **OPENING REMARKS:**

In Support of Continuation (**Paul C. Rosenthal**, Kelley Drye & Warren LLP)  
In Opposition to Continuation (**William Silverman**, Drinker Biddle & Reath LLP)

### **In Support of the Continuation of the Antidumping and Countervailing Duty Orders:**

Kelley Drye & Warren LLP  
Washington, D.C.  
on behalf of

Domestic Industry

**Robert Vermynen**, Vice President, A. Zerega's Sons, Inc.

**Walt George**, Consultant, American Italian Pasta Company

**Scott Mekus**, Vice President of Finance, American  
Italian Pasta Company

**Brian Fox**, Vice President of Category Management,  
American Italian Pasta Company

**In Support of the Continuation of  
the Antidumping and Countervailing Duty Orders: (continued):**

**Jack Hasper**, Vice President of Sales and Marketing,  
Dakota Growers Pasta Company

**Shane Faucett**, Senior Vice President of Sales and  
Customer Development, New World Pasta Company

**Gregory S. Richardson**, Senior Vice President and Chief  
Financial Officer, New World Pasta Company

**Neil Petrucelli**, Senior Director of Sales, Eastern U.S.,  
New World Pasta Company

**Jeff Bryant**, Senior Director Customer Marketing,  
New World Pasta Company

**Michael T. Kerwin**, Director, Georgetown Economic Services

**Gina E. Beck**, Economist, Georgetown Economics Services

<b>Paul C. Rosenthal</b>	)	
<b>Kathleen W. Cannon</b>	)	
	)	– OF COUNSEL
<b>David C. Smith</b>	)	
<b>Grace W. Kim</b>	)	



**In Opposition to the Continuation of  
the Antidumping and Countervailing Duty Orders:**

Drinker Biddle & Reath LLP  
Washington, D.C.  
on behalf of

Italian Respondents

**Riccardo Felicetti**, President of Pastificio Felicetti S.r.l.,  
President of AIDEPI Pasta Manufacturers *and*  
Vice President of AIDEPI

**Anthony DiPietro**, Vice President, George DeLallo Co. Inc.

**Antonio Scocca**, International Sales Manager, Rummo S.p.A.

**Dr. Enrica Massarelli**, Administrative Officer, Pastificio  
Garofalo S.p.A.

**Dustin Aglietti**, National Accounts Manager, Rema Foods, Inc.

**Melissa Tendick**, Marketing Associate Director, Pasta  
Americas, Barilla America, Inc.

**Richard P. Ferrin** )  
**William Silverman** ) – OF COUNSEL  
**Douglas J. Heffner** )

Arent Fox LLP  
Washington, D.C.  
on behalf of

Turkish Producers and Exporters

**Abdülkadir Külahçioğlu**, General Manager, Durum Arbella,  
Turkish Pasta Producers Association

**Mehmet Karakus**, General Manager, Selva Gıda Sanayii A.Ş.,  
Turkish Pasta Producers Association

**In Opposition to the Continuation of  
the Antidumping and Countervailing Duty Orders (continued):**

**Nihat Uysalli**, General Coordinator, Nuh'un Ankara  
Makarnası Sanayi ve Ticaret A.Ş., Turkish  
Pasta Producers Association

**Bulent Hacıoglu**, Economic Consultant, Trade Resources  
Company

**Matthew M. Nolan** )  
 ) – OF COUNSEL  
**Diana Dimitriuc-Quaia** )

**REBUTTAL/CLOSING REMARKS:**

In Support of Continuation (**Paul C. Rosenthal**, Kelley Drye & Warren LLP)

In Opposition to Continuation (**William Silverman**, Drinker Biddle & Reath LLP; *and*  
**Matthew Nolan**, Arent Fox LLP)

**-END-**

**APPENDIX C**

**SUMMARY DATA**



**Dry Pasta:** Summary data concerning the U.S. market, 2007-12, January-March 2012, and January-March 2011

(Quantity=1,000 pounds: Value=1,000 dollars: Unit values, unit labor costs, and unit expenses=dollars per pound: Period changes=percent--exceptions noted)

Table continued next page

Table C-1--Continued

## Dry Pasta: Summary data concerning the U.S. market, 2007-12, January-March 2012, and January-March 201

(Quantity=1,000 pounds; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per pound; Period changes=percent--exceptions noted)

	Report data								Period changes						
	Calendar year						January to March		Calendar year					Jan-Mar	
	2007	2008	2009	2010	2011	2012	2012	2013	2007-12	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
U.S. producers:															
Average capacity quantity.....	2,806,561	2,877,370	2,944,373	3,108,463	3,169,131	3,231,406	807,953	818,364	15.1	2.5	2.3	5.6	2.0	2.0	1.3
Production quantity.....	2,331,898	2,429,015	2,532,865	2,562,900	2,557,485	2,481,352	644,696	641,068	6.4	4.2	4.3	1.2	(0.2)	(3.0)	(0.6)
Capacity utilization (fn1).....	83.1	84.4	86.0	82.4	80.7	76.8	79.8	78.3	(6.3)	1.3	1.6	(3.6)	(1.7)	(3.9)	(1.5)
U.S. shipments:															
Quantity.....	2,315,072	2,409,232	2,483,719	2,553,366	2,495,697	2,445,574	626,328	615,536	5.6	4.1	3.1	2.8	(2.3)	(2.0)	(1.7)
Value.....	1,224,168	1,813,346	1,766,135	1,690,498	1,792,514	1,834,249	482,243	449,935	49.8	48.1	(2.6)	(4.3)	6.0	2.3	(6.7)
Unit value.....	\$0.53	\$0.75	\$0.71	\$0.66	\$0.72	\$0.75	\$0.77	\$0.73	41.8	42.3	(5.5)	(6.9)	8.5	4.4	(5.1)
Export shipments:															
Quantity.....	18,699	18,822	31,311	29,178	34,957	39,444	9,774	11,717	110.9	0.7	66.4	(6.8)	19.8	12.8	19.9
Value.....	9,992	15,229	22,470	20,375	28,849	34,812	8,500	9,471	248.4	52.4	47.5	(9.3)	41.6	20.7	11.4
Unit value.....	\$0.53	\$0.81	\$0.72	\$0.70	\$0.83	\$0.88	\$0.87	\$0.81	65.2	51.4	(11.3)	(2.7)	18.2	6.9	(7.1)
Ending inventory quantity.....	201,644	202,606	220,442	200,800	227,628	223,961	236,222	237,784	11.1	0.5	8.8	(8.9)	13.4	(1.6)	0.7
Inventories/total shipments (fn1).....	8.6	8.3	8.8	7.8	9.0	9.0	9.3	9.5	0.4	(0.3)	0.4	(1.0)	1.2	0.0	0.2
Production workers.....	2,034	2,044	2,119	2,103	2,156	2,153	2,188	2,159	5.9	0.5	3.7	(0.8)	2.5	(0.1)	(1.3)
Hours worked (1,000s).....	4,593	4,599	4,786	4,808	4,919	4,855	1,224	1,232	5.7	0.1	4.1	0.5	2.3	(1.3)	0.7
Wages paid (\$1,000).....	91,140	96,683	104,000	106,333	110,213	107,984	27,442	27,470	18.5	6.1	7.6	2.2	3.6	(2.0)	0.1
Productivity (pounds per hour).....	507.7	528.2	529.2	533.0	519.9	511.1	526.7	520.3	0.7	4.0	0.2	0.7	(2.5)	(1.7)	(1.2)
Unit labor costs.....	\$0.04	\$0.04	\$0.04	\$0.04	\$0.04	\$0.04	\$0.04	\$0.04	11.3	1.8	3.2	1.0	3.9	1.0	0.7
Net Sales:															
Quantity.....	2,285,993	2,359,642	2,503,046	2,542,561	2,493,341	2,460,510	624,247	615,991	7.6	3.2	6.1	1.6	(1.9)	(1.3)	(1.3)
Value.....	1,185,293	1,691,345	1,808,035	1,684,710	1,770,503	1,877,747	484,934	453,888	58.4	42.7	6.9	(6.8)	5.1	6.1	(6.4)
Unit value.....	\$0.52	\$0.72	\$0.72	\$0.66	\$0.71	\$0.76	\$0.78	\$0.74	47.2	38.2	0.8	(8.3)	7.2	7.5	(5.1)
Cost of goods sold (COGS).....	875,703	1,296,577	1,248,908	1,041,471	1,144,560	1,308,400	357,706	302,585	49.4	48.1	(3.7)	(16.6)	9.9	14.3	(15.4)
Gross profit of (loss).....	309,590	394,768	559,127	643,238	625,943	569,347	127,228	151,303	83.9	27.5	41.6	15.0	(2.7)	(9.0)	18.9
SG&A expenses.....	216,030	273,348	272,412	270,705	297,801	297,895	75,908	84,588	37.9	26.5	(0.3)	(0.6)	10.0	0.0	11.4
Operating income or (loss).....	93,559	121,419	286,715	372,533	328,143	271,452	51,321	66,715	190.1	29.8	136.1	29.9	(11.9)	(17.3)	30.0
Capital expenditures.....	28,947	42,812	43,501	64,589	46,504	41,967	6,811	6,410	45.0	47.9	1.6	48.5	(28.0)	(9.8)	(5.9)
Unit COGS.....	\$0.38	\$0.55	\$0.50	\$0.41	\$0.46	\$0.53	\$0.57	\$0.49	38.8	43.4	(9.2)	(17.9)	12.1	15.8	(14.3)
Unit SG&A expenses.....	\$0.09	\$0.12	\$0.11	\$0.11	\$0.12	\$0.12	\$0.12	\$0.14	28.1	22.6	(6.1)	(2.2)	12.2	1.4	12.9
Unit operating income or (loss).....	\$0.04	\$0.05	\$0.11	\$0.15	\$0.13	\$0.11	\$0.08	\$0.11	169.6	25.7	122.6	27.9	(10.2)	(16.2)	31.7
COGS/sales (fn1).....	73.9	76.7	69.1	61.8	64.6	69.7	73.8	66.7	(4.2)	2.8	(7.6)	(7.3)	2.8	5.0	(7.1)
Operating income or (loss)/sales (fn1).....	7.9	7.2	15.9	22.1	18.5	14.5	10.6	14.7	6.6	(0.7)	8.7	6.3	(3.6)	(4.1)	4.1

(1)--Report data are in percent and period changes are in percentage points.

(2)--Inventory numbers do not capture inventories of nonsubject merchandise from Italy or Turkey.

Source: Compiled from data submitted in response to Commission questionnaires and from adjusted official Commerce statistic

**APPENDIX D**

**RESPONSES OF U.S. PRODUCERS, U.S. IMPORTERS,  
U.S. PURCHASERS, AND FOREIGN PRODUCERS  
CONCERNING THE SIGNIFICANCE OF THE ANTIDUMPING DUTY  
AND COUNTERVAILING DUTY ORDERS AND THE LIKELY  
EFFECTS OF REVOCATION**





**U.S. PRODUCERS' COMMENTS REGARDING THE SIGNIFICANCE OF THE ANTIDUMPING DUTY  
AND COUNTERVAILING DUTY ORDERS**

Describe the significance of the existing countervailing duty/antidumping duty orders covering imports of certain dry pasta from Italy and Turkey in terms of its effect on your firm's production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values.

*Note.—Throughout this appendix, responses have been presented as received.*

\* \* \* \* \*

**U.S. PRODUCERS' COMMENTS REGARDING THE LIKELY EFFECTS OF REVOCATION OF THE  
ANTIDUMPING DUTY ORDERS**

Would your firm anticipate any changes in its production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, or asset values relating to the production of dry pasta in the future if the orders on certain dry pasta from Italy and Turkey were to be revoked?

*Note.—Throughout this appendix, responses have been presented as received.*

\* \* \* \* \*

**U.S. IMPORTERS' COMMENTS REGARDING THE SIGNIFICANCE OF THE ANTIDUMPING DUTY  
AND COUNTERVAILING DUTY ORDERS**

Describe the significance of the existing countervailing duty and antidumping duty orders covering imports of certain dry pasta from Italy and Turkey in terms of its effect on your firm's imports, U.S. shipments of imports, and inventories.

*Note.—Throughout this appendix, responses have been presented as received.*

\* \* \* \* \*

**U.S. IMPORTERS' COMMENTS REGARDING THE LIKELY EFFECTS OF REVOCATION OF THE  
ANTIDUMPING DUTY ORDERS**

Would your firm anticipate any changes in its imports, U.S. shipments of imports, or inventories of certain dry pasta in the future if the countervailing duty and the antidumping duty orders on certain dry pasta from Italy and Turkey were to be revoked?

*Note.—Throughout this appendix, responses have been presented as received.*

\* \* \* \* \*

**U.S. PURCHASERS' COMMENTS REGARDING THE LIKELY EFFECTS OF REVOCATION OF THE  
COUNTERVAILING AND ANTIDUMPING DUTY ORDERS**

What do you think will be the likely effects of any revocation of the countervailing and antidumping duty orders for imports of certain dry pasta from Italy and Turkey? As appropriate, please discuss any potential effects of revocation of the countervailing and antidumping duty orders on (1) the future activities of your firm and (2) the U.S. market as a whole. Please note the future time period to which you are referring.

(1) Activities of your firm:

\* \* \* \* \*

(2) Entire U.S. market:

\* \* \* \* \*

Please identify and discuss any improvements/changes in the U.S. dry pasta industry since 2007 and explain the factors, including the order(s) under review, that were responsible for each improvement/change.

\* \* \* \* \*

Please discuss any improvements/changes that you anticipate in the future in the U.S. dry pasta industry. Identify the time period and causes for these improvements/changes.

\* \* \* \* \*

**FOREIGN PRODUCERS' COMMENTS REGARDING THE LIKELY EFFECTS  
OF REVOCATION OF THE ORDERS**

Describe the significance of the existing countervailing and antidumping duty orders covering imports of certain dry pasta from Italy and Turkey in terms of its effect on your firm's production capacity, production, home market shipments, exports to the United States and other markets, and inventories. You may wish to compare your firm's operations before and after the imposition of the order.

*Note.—Throughout this appendix, responses have been presented as received.*

\* \* \* \* \*

**FOREIGN PRODUCERS' COMMENTS REGARDING ANTICIPATED  
CHANGES IF THE ORDERS ARE REVOKED**

Would your firm anticipate any changes in its production capacity, production, home market shipments, exports to the United States and other markets, or inventories relating to the production of certain dry pasta in the future if the countervailing and antidumping duty orders on certain dry pasta from Italy and Turkey were to be revoked?

\* \* \* \* \*

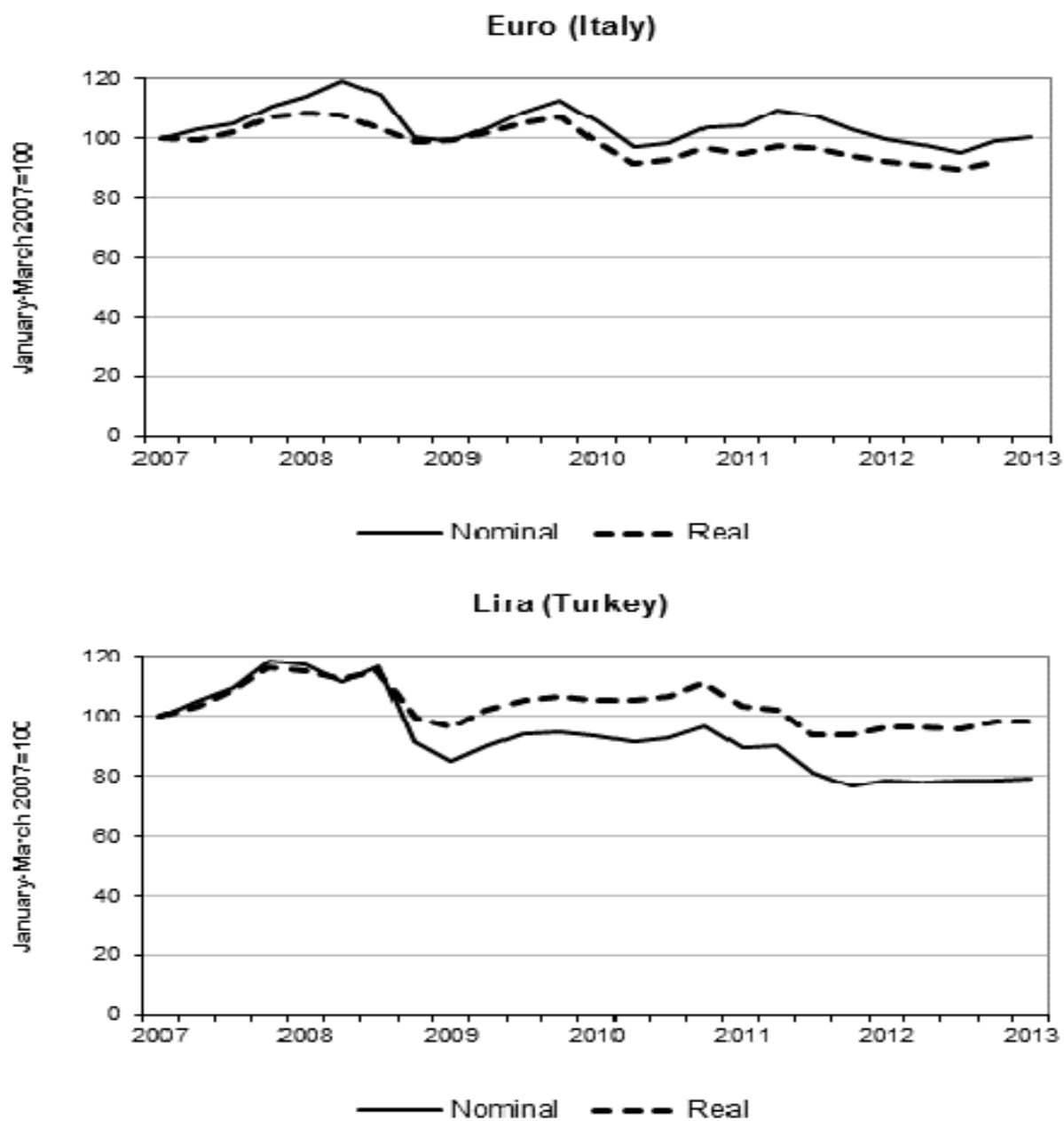


**APPENDIX E**  
**EXCHANGE RATES**



**Table E-1**

**Exchange Rates: Indexes of the nominal and real exchange rates of the Euro (Italy) and Turkish Lira, January 2007-March 2013**



Note.—An upward trend in the line indicates an appreciation against the U.S. dollar; a downward trend in the line indicates a depreciation against the U.S. dollar.

Source: International Monetary Fund, *International Financial Statistics*, and staff calculations.

