

PUBLIC VERSION

COMPLAINT

Pursuant to Section 31 of the *Special Import Measures Act* (SIMA)

**The Dumping and Subsidization of Dry Wheat Pasta Originating in or Exported from
the Republic of Turkey**

Submitted by:

Canadian Pasta Manufacturers Association (CPMA)

[November 7, 2017]

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82	U.S. International Trade Commission, <i>Certain Pasta from Italy and Turkey</i> , Investigation Nos. 701-TA-365-366 and 731-TA-734-735 (Third Review), Publication 4423 (August 2013)	Public
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1. This Complaint is filed by the Canadian Pasta Manufacturers Association (“CPMA” or the “Complainant”) with the Canada Border Services Agency (“CBSA”) pursuant to section 31 of the *Special Import Measures Act* (“SIMA”) regarding the dumping and subsidizing of dry wheat pasta originating in or exported from the Republic of Turkey (“Turkey”). For the reasons set out in this Complaint, the subsidizing and dumping of the subject goods from Turkey have caused and are threatening to cause injury to the Canadian producers of like goods. The CPMA therefore respectfully requests that the President of the CBSA initiate an investigation into these imports.

I. THE COMPLAINANT

2. The CPMA is a not-for-profit association. The CPMA comprises three members that manufacture dry wheat pasta in Canada, namely Italpasta Limited (“Italpasta”), Primo Foods Inc. (“Primo”) and Grisspasta Products Ltd. (“Grisspasta”).

3. The contact information for the CPMA is as follows:

Don Jarvis, Executive Director
Canadian Pasta Manufacturers Association
86 Armstrong Street
Ottawa, Ontario, K1Y 2V7
Tel: (613) 235-4010
Email: info@pastacanada.com

4. Information on the CPMA’s members is provided below in the description of the domestic industry.

5. Legal counsel for the CPMA in this matter is as follows:

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II. SUBJECT GOODS

A. Imports

6. The Subject Goods include:

All dry wheat-based pasta, not stuffed or otherwise prepared, and not containing more than two percent eggs, whether or not enriched, fortified, gluten free, organic, whole wheat or containing milk or other ingredients, excluding refrigerated, frozen or canned pasta.

7. Examples of imports of the Subject Goods are included in Public Appendix 1.

B. Additional Product Information

8. The Subject Goods broadly include all white pasta, standard pasta, regular pasta, gluten free pasta, whole wheat pasta and organic pasta in the durum wheat semolina family of pasta. The Subject Goods can also be enriched or fortified, and may contain milk or other optional ingredients such as chopped vegetables, vegetable purees, vegetable powders, milk, gluten, diastases, vitamins, coloring and flavorings.

9. The Subject Goods include long shapes (generally referred to as vermicelli and including spaghetti, spaghettini, capelli, linguini, vermicelli, angel hair, fettuccini and pasta nests), short lengths (generally referred to as macaroni and including elbow macaroni, penne, rigatoni, rotini, fusilli and ziti) and specialty shapes (including bows, shells, cannelloni, manicotti, lasagna and wagon wheels).

10. The Subject Goods are imported in various types and sizes of packaging. The packaging can include fiberboard, cardboard cartons, polyethylene bags or polypropylene bags in a wide range of sizes. The most common sizes are 200g, 375g, 400g, 454g, 500g, 750g, 800g, 900g, 1kg, 10lb, 20lb, 30lb, 40lb, 50lb, “Box Specialty” and “Bulk Tote”.

11. In Canada, dry pasta is packaged by the producer. To the best knowledge of the Complainant, the Subject Goods are packaged in Turkey. The Complainant is not aware of any Subject Goods being repackaged in Canada.

C. Tariff Classification

12. To date, the Subject Goods are normally classified as “Uncooked Pasta, Not Stuffed or Otherwise Prepared, Not Containing Eggs, Containing Flour and Water Only” under the following HS Codes:

1902.19.21.30
1902.19.22.30
1902.19.23.30

13. It is possible that the Subject Goods could also be classified under the following additional HS Codes:

1902.19.29.30
1902.19.91.00
1902.19.92.30
1909.19.93.00
1902.19.99.30

14. The above tariff classifications are for information purposes only and are not intended to restrict the scope of the Subject Goods.

D. Country of Production and Export

15. This Complaint concerns Subject Goods originating in or exported from Turkey. Detailed production, export and import information is provided below.

E. Production Process

16. The Subject Goods are produced world-wide using materially similar production processes.

17. While technology, particularly the usage of large pasta producing machines, does affect production efficiencies, all dry wheat pasta is produced in the same manner: by mixing finely ground semolina flour with warm water.

18. Semolina flour is produced from milling durum wheat. Semolina flour, and by extension durum wheat, is the ingredient that represents the single largest input cost in the production of the Subject Goods.

19. After mixing semolina flour with warm water, the dough is kneaded mechanically until it becomes firm and dry. The dough is then passed into a laminator to be flattened into sheets, then

compressed by a vacuum mixer machine to clear out air bubbles and excess water from the dough. Next, the dough is processed in a steamer to kill any bacteria it may contain.

20. The dough is then ready to be shaped into different types of pasta. Depending on the type of dry wheat pasta to be made, the dough can either be cut or extruded through dies. The pasta is set in a drying tank under specific conditions of heat (natural gas), moisture, and time depending on the type of pasta. The dried wheat pasta is then packaged.

F. Known Exporters and Importers

21. Public Appendix 2 is compiled from publicly available sources and identifies companies that produce Subject Goods in Turkey or export Subject Goods to Canada from Turkey.

22. Public Appendix 3, also compiled from publicly available sources, identifies enterprises that the Complainants believe are importing Subject Goods into Canada. Further information that may identify additional importers will be available from import documentation filed with the CBSA by importers of the Subject Goods.

G. Sales, Distribution and Pricing in Canada

1. Apparent Market for the Subject Goods

23. The Canadian market for the Subject Goods can be divided into three main segments. The “retail segment” comprises wholesalers, retailers and distributors of products that are sold for consumption by Canadian consumers. The “food service segment” comprises institutions, restaurants and restaurant chains. Finally, the “industrial segment” comprises manufacturers of processed food products that contain pasta.

24. Dry pasta is packaged in various configurations. Within the retail segment, dry pasta is packaged in a range of sizes, with the most common being 200g, 375g, 400g, 454g, 500g, 750g, 800g, 900g and 1kg. Dry pasta is also packaged in larger quantities, including 10lb, 20lb, 30lb, 40lb, 50lb, “Box Specialty” and “Bulk Tote”. In this context, “Box Specialty” refers to packing specialty pasta such as lasagna and manicotti and “Bulk Tote” refers to large volumes between 800 to 1,000 lbs packaged in a one-way cardboard tote.

25. Public data on the total annual production of Canadian manufacturers is not available. Confidential Appendix 4 sets out the Complainant's best estimate, which includes production (in kg) from the Canadian domestic industry for both sales in Canada and export from Canada:

Producer	2014	%	2015	%	2016	%	Jan 1 to Sept 30 2017	%
Italpasta								
Primo								
Grisspasta								
Catelli**								
All others***								
Total								

26. Please note that the actual production for Catelli Foods Corporation (Catelli) is not known. The only information in the Complainant's possession with respect to Catelli is the sales in the 2016 Retail Market as provided by A.C. Nielsen at Confidential Appendix 5.¹ Confidential Appendix 5 shows that Catelli's sales in 2016 for the retail market were [] kg (under both the Catelli brand and the Lancia brand). The Complainant is not aware of Catelli selling in the commercial or industrial markets. For this reason, the best information available to the Complainant for estimating Canadian production is Catelli's 2016 retail sales. For 2016, Catelli's sales represented approximately [] of total Canadian production. This percentage has been applied to the previous years and the period from January 1 through September 30 in 2016 and 2017 for the purpose of estimating total domestic production.

27. The Complainant also attaches as Confidential Appendix 6 the A.C. Nielsen Summary of the Retail Market up to June 2017. This is the most recent information in the possession of the Complainant. Please note that, for the 52 weeks ending June 2017, Catelli's sales represented [] of the market. For the purpose of estimating annual domestic production, the Complainant has relied upon the 2016 percentage, set out in Confidential Appendix 5, because that amount is for

¹ The A.C. Nielsen Market Track data is protected by copyright and is therefore redacted from the public version of the Complaint. For members of the public wishing to review the data, access is available through A.C. Nielsen. See <http://sites.nielsen.com/connectedpartner/partner/market-track/>.

the full fiscal year. It is submitted that this is the best comparison to the annual production figures provided by the Complainant's members in Confidential Appendix 4.

28. The Complainant does not know the actual production for Prairie Harvest Pasta Limited (Prairie Harvest) or other small producers. The data for such small producers are not segregated by A.C. Nielsen. Based upon the Complainant's knowledge of the Canadian market, it has been assumed that the other producers represent no more than [] of total production in Canada, which is the amount included in the estimate.

29. Please further note that the annual sales in both volume and value are set out in the following Appendices:

- a. Appendix 7 - Confidential - Primo Pro Formas for 2014-2019;
- b. Appendix 8 - Confidential - Italpasta 2014 Trend Statement of Income;
- c. Appendix 9 - Confidential - Italpasta 2015 Trend Statement of Income;
- d. Appendix 10 - Confidential - Italpasta 2016 Trend Statement of Income;
- e. Appendix 11 - Confidential - Italpasta 2017 Trend Statement of Income;
- f. Appendix 12 - Confidential - Italpasta Jan-Sept 2017 Trend Statement of Income;
- g. Appendix 13 - Confidential - Grisspasta Sales Comparisons 2015-2014;
- h. Appendix 14 - Confidential - Grisspasta Sales Comparisons 2016-2015;
- i. Appendix 15 - Confidential - Grisspasta Sales Comparisons 2017-2016;
- j. Appendix 16 - Confidential - Grisspasta Sales Comparisons Jan-Sept 2017;
- k. Appendix 84 – Confidential - Primo 2016 Pro Forma by Period; and
- l. Appendix 85 – Confidential – Primo 2017 Pro Forma by Period.

30. The Complainant has used actual value, on an annual basis, of its members to estimate the annual value of the domestic industry's production. Because the Complainant does not have any sales information from Catelli or from other producers, it used the same assumptions relied upon to estimate domestic production. Specifically, the Complainant assumed that Catelli represented [] of the value of the Canadian market and that all "others" (including Prairie Harvest) totaled

[REDACTED]. On this basis, estimate of the value of Canadian domestic pasta sales, which is shown in Confidential Appendix 88, is as follows:

Production (CA\$)	2014	2015	2016	Jan 1 to Sept 30 2016	Jan 1 to Sept 30 2017
Italpasta					
Primo					
Grisspasta					
Catelli*					
All Others**					
Total					

31. It is the Complainant's best evidence, based upon its general knowledge of the Canadian market, that Catelli exports little or no like goods from Canada, and that Prairie Harvest only sells locally and does not export its product. For the purposes of the Complaint, it has been assumed that Catelli does not export from Canada. The exports of like goods from Canada by the other three Canadian producers is set out at Confidential Appendix 17 and can be summarized as follows:

Exports (kg)	2014	2015	2016	Jan-Sept 2017	Jan-Sept 2017
Italpasta					
Primo					
Grisspasta					
Total					

32. Please note that the volumes and values of Grisspasta's exports are contained in Confidential Appendices 13-16. The volumes and values of Italpasta's exports are contained in Confidential Appendices 18 and 19. Primo's export volumes are [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

33. The best estimate of the value of the value of these exports is set out at Appendix 86, and can be summarized as follows:

Exports (CA\$)	2014	2015	2016	Jan-Sept 2017	Jan-Sept 2017
Italpasta					
Primo					
Grisspasta					
Total					

34. Confidential Appendix 20 provides the Complainant's best estimate of the total Canadian market (in kg) as follows:

Market (kg)	2014	2015	2016	Jan-Sept 2016	Jan-Sept 2017
Domestic Production*					
Total Imports**					
Subtotal					
Less Exports***					
Total Canadian Market					
	* See Confidential Appendix 4 ** See Appendix 21 and 87 *** See Confidential Appendix 17				

35. Confidential Appendix 89 provides the Complainant's best estimate of the total value of the Canadian market as follows:

Market (CA\$)	2014	2015	2016	Jan-Sept 2016	Jan-Sept 2017
Domestic Production*					
Total Imports**					
Subtotal					
Less Exports***					
Total Canadian Market					
	* See Confidential Appendix 88 ** See Appendix 21 & 87 *** See Confidential Appendix 86				

36. Public data on the size of the total Canadian dry pasta market, inclusive of domestic production and imports, is not available. Statistics Canada does publish the import data for the relevant HS codes, which is attached as Public Appendix 21. This information has been relied upon for the estimates above.

37. Data on the composition of the Canadian dry pasta retail market is available in third-party surveys. A.C. Nielsen Market Track, attached as Confidential Appendices 5 and 6, provides data on the retail segment.

38. The Complainant does not have information on the total size of the food service and industrial segments, nor is such information available from third party surveys. Please note that while the Complainant has information about the size the annual Canadian retail market for 2014-2016, it does not have the segregated information for January to September 2017. The Complainant's best information on the composition of the Canadian market, attached at Confidential Appendix 22, is as follows:

Market Segments (kg)	2014	%	2015	%	2016	%
Total Canadian Market*						
Retail Segment**						
Food Services and Industrial Segments						
* Confidential Appendix 20						
** Confidential Appendix 5						

a) Retail

39. In the retail market segment, dry pasta is marketed and sold as national brands (under labels such as “Primo”, “Italpasta”, or “Catelli”) and as private label brands that are retail-chain specific (such as “President’s Choice”, “PC Black Label Collection”, or “No-Name” brand). Many pasta manufacturers produce dry wheat pasta for both the branded and the private label sub-segments. In addition, some producers will “co-package” with other brands. When this happens, the pasta producer will produce and branded and packaged pasta for other pasta producers.

40. According to A.C. Nielsen Market Track data, attached at Confidential Appendix 5, the Canadian retail segment for dry wheat pasta in 2014 was [] kg, decreasing to [] kg in 2015, and then increasing back up to [] kg in 2016. The decrease

in 2015 is a direct result of price spikes in the cost of durum wheat in late 2014 and early 2015, which in turn led to an increase in the cost of pasta. This demonstrates the direct correlation between the cost of durum wheat and the cost of manufactured pasta. To this end, Primo's cost of durum wheat from January 21, 2014 until March 13, 2017 is attached as Confidential Appendix 23.

41. The A.C. Nielsen Market Track provides a summary of the dry pasta sales in Canada, by both volume and value, for 2016. While this summary may include some specialty dry pasta that could fall outside the scope of the Subject Goods, it is believed by the Complainant that such speciality pasta would represent a *de minimis* volume of the overall dry pasta sales. Examples of such speciality-type pasta would include egg-based pasta, chick pea-based pasta and lentil-based pasta. It is estimated that such non-subject pasta would total less than 1% of the annual retail segment.² As such, the A.C. Nielsen data provides a fair representation of the Canadian market in 2016.

42. The annual total retail segment for Canada, according to A.C. Nielsen Market Track at Confidential Appendix 5, segregated by branded product versus private label, can be summarized as follows:

Estimated Composition of the Canadian Retail Market (kg)			
Year	CDN Retail Market	Branded Product	Private Label
2014			
2015			
2016			

43. The Canadian retail segment is made up of national chains, buying groups and independent retailers.

44. Examples of buying groups include:

a. [REDACTED]

² Witness Statement of John Porco, Primo Foods Inc., Confidential Appendix 24.

[REDACTED]

b. [REDACTED]

45. Examples of independent retailers include [REDACTED]

46. The food service market segment includes the following companies: [REDACTED]

47. Confidential Appendix 5 also shows that the top 9 branded products of the retail segment are (in no particular order): [REDACTED]

48. For 2016, A.C. Nielsen Market Track data at Confidential Appendix 5 confirms that the retail segment for dry pasta was [REDACTED] kg. The top nine branded products, set out above, represented [REDACTED] kg, or [REDACTED]% of the total Canadian retail segment.

49. According to A.C. Nielsen Market Track data, the private label sub-segment for 2016 was [REDACTED] kg. This represents [REDACTED]% of the total Canadian retail segment. Unfortunately, A.C. Nielsen Market Track does not provide any information on the quantities associated with each different private label product (such as “President’s Choice” as compared to “No Name”). The

Complainant believes that pasta from Turkey represents a significant portion of the private label sub-segment.

b) Food Service

50. Other than the confidential information provided by the CPMA's members, the Complainant does not have information on the composition of the food service segment and is not aware of any third-party survey data, such as that available from A.C. Nielsen, with respect to that market.

c) Industrial

51. Other than the confidential information provided by the CPMA's members, the Complainant does not have information on the composition of the industrial segment and is not aware of any third-party survey data, such as that available from A.C. Nielsen, with respect to that market.

2. Distribution

a) General

52. Canadian customers demand that pasta be delivered on a just-in-time basis according to their needs. The domestic industry must maintain inventories to meet this demand.

b) Retail, Food Service, and Industrial

53. The distribution methods and channels are the same for the members of the Complainant, regardless of whether the dry pasta in question is destined for the retail, food service, or industrial segments.

i) Italtasta

54. A witness statement on behalf of Italtasta is attached as Confidential Appendix 25.

55. Italtasta's inventory space is [] square feet at its main facility in Brampton, Ontario, which serves as its primary distribution centre. It has one other warehouse located nearby, which has an additional [] square feet of inventory space. Inventory levels are managed by

Italpasta's Finance and Costing Manager. Italpasta maintains inventory of between approximately [REDACTED], with a value of approximately CAD \$[REDACTED].

56. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

57. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

58. [REDACTED]
[REDACTED]
[REDACTED]

ii) Primo

59. Primo supplies its dry wheat pasta to [REDACTED]
[REDACTED]

60. Primo's distribution facility in Concord, Ontario has [REDACTED] square feet dedicated to housing inventory. Of that, approximately [REDACTED] square feet are used for dry pasta inventory with the balance of other Primo products taking approximately [REDACTED] square feet. On average, just over [REDACTED] of Primo's inventory space is used for pasta inventory, with a value ranging between CAD \$[REDACTED].

61. [REDACTED]
[REDACTED]

62. [REDACTED]
[REDACTED]

63. [REDACTED]
[REDACTED]

64. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

iii) Grisspasta

65. A witness statement on behalf of Grisspasta is attached as Confidential Appendix 26.

66. Grisspasta’s facility in Longueuil, Quebec has [REDACTED] square feet of inventory space, with storage capacity of approximately [REDACTED] pallets.

67. Approximately [REDACTED] worth of inventory is in stock at any given time. Approximately [REDACTED] percent of Grisspasta’s business, [REDACTED]
[REDACTED]

68. [REDACTED]
[REDACTED]
[REDACTED]

3. Pricing

69. The Canadian market for the Subject Goods is served by many suppliers. The buyers are sophisticated, and the products are substitutable. As a consequence, price competition is high.

70. Purchasing decisions related to pasta are driven by price. With respect to pricing, the domestic industry is not at all able to negotiate price increases with its customers unless such increases are representative of a very significant change in pricing across the market, such as price increases due to a protracted increase in durum wheat prices and, therefore, semolina costs.

71. Price competition in the retail segment is particularly intense. The retail segment reacts very quickly to price changes — particularly when one manufacturer offers prices that severely undercut existing prices. Retail segment prices are driven by the lowest price offer.

72. Price competition in the food service and industrial segments may not be as immediately affected by low price offers as the retail segment because [REDACTED]
[REDACTED]
[REDACTED]

73. Under normal competitive circumstances, price competition within each of the three segments is isolated from the other segments. However, where a price decline in one segment is substantial, it will spill over into the other segments.

III. THE DOMESTIC INDUSTRY

74. There are four primary producers of like goods in Canada, all of whom are situated in Ontario and Quebec. There is also one small plant specializing in organic dry wheat pasta, Prairie Harvest, that is based in Western Canada.

75. The four primary producers of like goods are the three CPMA members — namely, Italpasta, Primo, and Grisspasta — and Catelli, which is not a member of the CPMA.

76. The production figures for the CPMA members and the estimated production figures for Catelli are presented in Confidential Appendix 4. These figures demonstrate that the CPMA members account for approximately [REDACTED] percent of the production in Canada of the like goods and therefore meet the standing requirement in subsection 31(2) of the SIMA.

77. Each of the four primary Canadian producers is described below.

A. Italpasta

78. Located in Brampton, Ontario, Italpasta was founded in 1989. It currently employs [REDACTED] people. Italpasta's main facility in Brampton is just over [REDACTED] square feet, houses [REDACTED] operational production lines, and serves as the primary distribution center for the business. The main facility is coupled with a separate inventory warehouse, as previously discussed (above).

79. Italpasta sells its dry wheat pasta products across Canada in the retail, food service, and industrial segments. Italpasta also produces dry wheat pasta for global markets, including [REDACTED]

80. A public list of Italpasta's dry pasta products, representing the like goods, is attached as Public Appendix 27.

81. Italpasta also markets an extensive range of imported food products, including sauces, tomatoes, olive oil, vinegar, beverages, coffee, biscuits, and confectionary. [REDACTED] Attached at Confidential Appendix 28 is a summary of Italpasta's imports from 2014 to June of 2017.

82. Italpasta's dry wheat pasta manufacturing process utilizes Canadian durum semolina [REDACTED]

83. The annual production of dry pasta by Italpasta is as follows:

2014: [REDACTED] kg

2015: [REDACTED] kg

2016: [REDACTED] kg

84. The contact information for Italpasta is as follows:

Frank DeMichino
Chief Operating Officer
116 Nuggett Court
Brampton, Ontario, L6T 5A9
Phone Number: (905) 792-9928
Facsimile: (905) 792-2381

B. Primo

85. Primo was established in 1954. It was subsequently acquired by Sun-Brite Foods in 2006. It operates out of a [REDACTED] square foot manufacturing facility located in Toronto, Ontario, and currently has [REDACTED] employees.

86. Today, Primo offers a range of over [REDACTED] products for both the branded and the private label sub-segments of the Canadian market. With respect to its branded labels, it markets under the Primo and Unico brand names. A list of Primo's dry pasta products, representing the like goods, is attached as Public Appendix 29.

87. In addition to the like goods, Primo also produces a wide range of tomatoes and sauces, beans and lentils, fish, rice and flour, and cooking oils.

88. Primo is unique in that it is the only Canadian pasta manufacturer that has an on-site grain processing mill through which it grinds its own semolina. This semolina is derived from durum wheat purchased from Western Canada.

89. Since it was acquired by Sun-Brite Foods in 2006, significant capital investments [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

90. The annual production of dry pasta by Primo is as follows:

2014: [REDACTED] kg

2015: [REDACTED] kg

2016: [REDACTED] kg

91. Primo is currently ranked as the second leading brand for dry wheat pasta sales in Canada, as measured by A.C. Nielsen Market Track. According to A.C. Nielsen, Primo and Unico branded pasta represented [REDACTED]% of the total Canadian retail segment (including domestic production and imports) in 2016.³

92. Primo exports approximately [REDACTED] kg of pasta annually. For the period from January to September 2017, Primo exported approximately [REDACTED] kg at a price of approximately [REDACTED] (CDN).

93. Primo imports approximately [REDACTED] kg of pasta annually at a price of approximately [REDACTED].

94. The contact information for Primo is as follows:

John Porco
Chief Operating Officer
56 Huxley Road
Toronto, Ontario, M9M 1H2

³ See A.C. Nielsen Summary of the Retail Market for 2016, Confidential Appendix 5, at the worksheet entitled "Dry Pasta Share by Brand" (A.C. Nielsen Market Track Summary of 2016 Canadian Retail Market by brand).

Phone Number: (416) 741-9300
Facsimile: (416) 741-3766

C. Grisspasta

95. Grisspasta was created in 1982. It serves the food processing, retail, and food service segments. Grisspasta currently employs [] staff and operates in a [] square foot facility. It manufactures its dry wheat pasta []

96. A list of Grisspasta’s dry pasta products, representing the like goods, is attached as Public Appendix 30.

97. Annual production for Grisspasta is as follows:

2014: [] kg
2015: [] kg
2016: [] kg

98. A significant component of Grisspasta’s business []

99. The contract information for Grisspasta is as follows:

Eddy Petaccia
Chief Operating Officer
805 Boulevard Guimond
Longueuil, Quebec, J4G 1M1
Phone Number: (450) 651-4150
Facsimile: (450) 651-8701

D. Catelli

100. Catelli sells its branded pasta under the Catelli and Lancia labels. To the best knowledge of the Complainant, while Catelli []

101. According to A.C. Nielsen data, Catelli's sales for the retail market in 2016 were [REDACTED] kg (under both the Catelli brand and the Lancia brand).⁴ Considering that the total domestic production in 2016 was approximately [REDACTED] kg, Catelli's production in that year was about [REDACTED]% of total Canadian production.⁵ On this basis, it is estimated that Catelli annually represents approximately [REDACTED]% of Canadian domestic production.

102. The contact information for Catelli is as follows:

Doug Watt
President & Chief Executive Officer
401, The West Mall, Suite 1000
Etobicoke, Ontario, M9C 5J5
Phone Number: (416) 626-3500
Facsimile: (416) 626-4569

IV. LIKE GOODS AND SINGLE CLASS OF GOODS

103. Subsection 2(1) of the SIMA defines "like goods" in relation to any other goods as "(a) goods that are identical in all respects to the other goods, or (b) in the absence of any [such] goods ..., goods the uses and other characteristics of which closely resemble those of the other goods." In considering the issue of like goods, several factors can be considered, including the physical characteristics of the goods (composition and appearance) and their market characteristics (substitutability, pricing, distribution channels, end uses, and whether the domestic goods fulfill the same customer needs).

104. While dry wheat pasta comes in a variety of sizes and shapes, it is nevertheless a commodity-type product. The imported and domestic pasta have the same physical characteristics, are used for the same purpose, are sold through the same channels of distribution, and are used by the same end users. They compete with one another in the Canadian marketplace based on price and are otherwise fully interchangeable.

105. For these reasons, imported and domestic dry wheat-based pasta products are "like goods" within the meaning of the SIMA.

⁴ See Confidential Appendix 5.

⁵ Confidential Appendix 4.

106. Moreover, for the same reasons, all dry wheat-based pasta products, regardless of the size and shape, constitute a single class of goods.

V. PRODUCTION AND SALE OF SUBJECT GOODS IN TURKEY

107. The Subject Goods are produced in Turkey using the same production method and the same kinds of machinery that are used in Canada.

A. Durum Wheat

108. As already noted, durum wheat is the primary agricultural input in the production of pasta. Given its importance in the production of the Subject Goods, it is necessary to understand the durum wheat market in Turkey.

1. *High Import Tariffs and Price Support*

109. The Turkish market for durum wheat and semolina is protected by high import tariffs of 130% and 54%, respectively.⁶ Durum wheat prices in the Turkish market are also supported by the Turkish Grain Board (“TMO”) through the establishment and support of intervention prices.⁷ The TMO is a state-owned enterprise that regulates prices in grain markets, including durum wheat.⁸ Headquartered in Ankara, the TMO is a subsidiary organization of the Ministry of Food, Agriculture and Livestock.⁹ Its main role in the market is to stabilize prices for producers by intervening through purchases in domestic and foreign markets when prices deviate from a pre-determined reference price.¹⁰

110. The 2014, 2015, 2016, and 2017 domestic prices for durum wheat in Turkey, as published by the TMO, are attached as Public Appendices 38-41.

⁶ Turkish Grain Board (TMO), “Trade Matters”, Public Appendix 31. See also the WTO, Tariff Schedule of Turkey, applied tariffs for goods under HS subheadings 1101.00 (durum wheat) and 1103.11 (semolina), Public Appendix 32.

⁷ Turkey Grain and Feed Annual Report 2017 (“GAIN Report”), Public Appendix 33, p.6.

⁸ See WTO, Trade Policy Review Body, *Turkey – Trade Policy Review*, WT/TPR/S/331 (9 February 2016), Public Appendix 34 [“WTO TPRM Report”], p. 136. See also “The Past and Present of the Turkish Grain Board (TMO)”, Public Appendix 35, and “Questions on Purchase and Conservative Matters”, Public Appendix 36.

⁹ “The Past and Present of the Turkish Grain Board (TMO)”, Public Appendix 35.

¹⁰ WTO TPRM Report, Public Appendix 34, p. 136; See also Turkish Grain Board (TMO), *Wheat Intervention Purchases (1988-2016)*, Public Appendix 37; see also Turkish Grain Board (TMO), *Domestic Prices for Durum Wheat for 2014, 2015, 2016 and year-to-date 2017* at Public Appendices 38-41.

111. The combination of high tariff protection and price support means that durum wheat and semolina prices in the Turkish market are higher than world market levels.¹¹ All pasta factories in Turkey produce the semolina required for their production in their own facilities.¹² To the extent that domestic durum wheat is used in the production of semolina for dry wheat pasta exported to Canada, the higher cost of this input must be considered.

2. Inward Processing Regime

112. The price of Turkish domestic durum wheat semolina is distorted by the subsidies and government intervention discussed above and, as a consequence, it is above international prices for durum wheat and, therefore, durum wheat semolina. Thus, notwithstanding the government subsidization of durum wheat¹³, there is a cost disadvantage associated with using semolina produced from Turkish domestic durum wheat.

113. Turkish dry pasta producers can reduce this cost disadvantage by importing durum wheat from the international market using Turkey's Inward Processing Regime ("IPR"), provided that they export dry pasta to the world market.¹⁴ Given that it appears that all Turkish pasta producers mill their own semolina (as discussed above), there is no obvious indication that semolina is being imported under the IPR program.

114. To the extent that durum wheat imported under the IPR program is being used by Turkish dry pasta producers, the cost of their durum wheat semolina is similar to that of Canadian dry pasta producers. This will represent the lowest durum wheat cost available to Turkish producers. In this light, the fact that Turkish producers are exporting to Canada at prices that do not cover the full

¹¹ This is confirmed by the TMO's 2017 monthly domestic sales prices at Public Appendix 41.

¹² Miller Magazine, World Durum Wheat Market and Turkey, Public Appendix 42, p. 4.

¹³ There appears to be significant subsidization of durum wheat. See GAIN Report, Public Appendix 33, pp. 4-6.

¹⁴ Inward Processing Regime Communiqué No. 2006-12, *Official Gazette* No. 26382 (20 December 2006), Public Appendix 43 (original) and English translation at Public Appendix 44. See also USDA Foreign Agricultural Service, "Amendment to Turkey's Import Policies will Impact 2016 Corn Trade", GAIN Report No. TR6022 (March 5, 2016), Public Appendix 45, p. 3 ("After exportation, exporters gain IPR certificates which allow them to import wheat (or corn, barley, etc dependent upon what they exported) with zero tariff. In implementation of the IPR, TMO, a state intervention agency, has also a supplier role. In addition to export with zero tariff, exporters can buy their raw materials from TMO. In recent years, TMO has sold its stocks to IPR holders at international prices. ... According to the IPR, flour, pasta (wheat products) exporters firstly export their product and after they gain IPR certificates"). See also Republic of Turkey, Ministry of Customs and Trade, "Inward Processing Regime", Public Appendix 46; and WTO TPRM Report, Public Appendix 34, paras. 3.116-3.117.

production costs of pasta in a free market (discussed below) strongly indicates that Turkish dry pasta producers and exporters are receiving additional subsidization or cross-subsidization from the Turkish government for their export sales. For example, the administration and application of the IPR program is not transparent, and it is likely that the benefits under the program exceed the value of the duties that are being relieved under the program (i.e., “excess” drawback). There may be other indirect benefits created by the administration and application of the program, including through the use of the IPR program by the TMO and resale to Turkish pasta producers.¹⁵

115. The evidence indicates that exported Turkish pasta is being produced using semolina produced from both high-cost Turkish durum wheat and low-cost durum wheat imported into Turkey from the international market. Durum wheat demand in Turkey has been very strong due to high levels of exports of pasta products, indicating a direct link between the subsidized Turkish domestic durum wheat discussed above and exports of Turkish pasta to the world market, including Canada.¹⁶

116. The IPR program is discussed below in the context of subsidization.

B. Turkish Dry Pasta Production and Market

117. There are 23 active dry pasta factories in Turkey with more than 2 million MT annual production capacity in 2016/2017.¹⁷ Capacity utilization is approximately 70 percent, indicating production of approximately 1.4 million MT in 2016/2017 and unutilized capacity of approximately 600,000 MT, an amount approximately three times the size of the Canadian dry pasta market.¹⁸

118. In 2017, the Turkish Ministry of Economy published a document entitled “Pasta”, which confirms that semolina and macaroni factories were among the first branches of the food industry established in Turkey as of the 1920s.¹⁹ Production capacity has since increased massively.

¹⁵ The TMO has been attempting to sell milling wheat, durum wheat, and corn in their stocks to import certificate holders who are wheat-based product producers and who are also exporters under the IPR. The prices which these firms pay (who are planning to export their products) are approximately equivalent to the world price of that commodity. GAIN Report, Public Appendix 33, pp. 11 and 20.

¹⁶ GAIN Report, Public Appendix 33, p. 9.

¹⁷ GAIN Report, Public Appendix 33, p. 9.

¹⁸ GAIN Report, Public Appendix 33, p. 9.

¹⁹ Republic of Turkey, Ministry of Economy, General Directorate of Exports, *Food & Agriculture: Pasta* (2017) [“Pasta”], Public Appendix 47, p. 1.

119. The following Table depicts Turkey's historic pasta production from 2005 to 2015:²⁰

Pasta Production in Turkey by Years

Years	MT
2005	580,516
2006	558,517
2007	571,292
2008	640,985
2009	595,160
2010	732,410
2011	863,967
2012	976,643
2013	1,026,430
2014	1,202,516
2015	1,158,069

120. The dry wheat pasta production in Turkey, particularly since 2009, shows a dramatic upward trend. While domestic production volumes have significantly increased (almost doubling between 2009 and 2015), domestic consumption has not increased by the same rate.

121. Turkey has historically exported uncooked dry wheat pasta that does not contain eggs. This type of pasta has constituted up to 80-90% of the total Turkish pasta exports. Total pasta exports from Turkey totaled 831,562 MT in 2016, with an increase of 24% compared to the previous year, while the value of exports totaled \$422 million in 2016. The following Table shows Turkish pasta exports from 2005 to 2016:²¹

Turkish Pasta Exports by Years

Years	MT
2005	164,413
2006	191,620
2007	177,971
2008	175,614
2009	213,516

²⁰ *Pasta*, Public Appendix 47, p. 1.

²¹ *Pasta*, Public Appendix 47, p. 2.

2010	297,464
2011	404,087
2012	505,613
2013	693,212
2014	735,285
2015	672,105
2016	831,562

122. The large increase in exports corresponds with the increase in Turkish production. During this time, domestic consumption was relatively stable, confirming the export orientation of Turkish dry pasta producers:

Domestic Consumption of Turkish Pasta (MT)

Years	Total Production	Total Export	Domestic Consumption
2006	558,517	191,620	366,897
2007	571,292	177,971	393,321
2008	640,985	175,614	465,371
2009	595,160	213,516	381,644
2010	732,410	297,464	434,946
2011	863,967	404,087	459,880
2012	976,643	505,613	471,030
2013	1,026,430	693,212	333,218
2014	1,202,516	735,285	467,231
2015	1,158,069	672,105	485,964

C. Dry Pasta Exports

123. After flour, pasta production is the most important industry in Turkey's wheat products sector. Pasta exporters have been expanding their markets in Africa with the help of a new amendment in 2015 to the IPR. The amendment allows imports of up to 30 percent milling wheat if producers blend milling wheat and durum wheat to produce pasta for the African market. Producers can sell only 100% durum wheat pasta in Turkey.²² Pasta exports have been consistently increasing, as shown in the following export data:²³

²² GAIN Report, Public Appendix 33, p. 21.

²³ GAIN Report, Public Appendix 33, pp. 21-22.

Quantity of Pasta Exports from Turkey (MT of pasta)

Year	Quantity
MY 2014/2015	663,943
MY 2015/2016	746,416
MY 2016/2017	850,000 (est.)

124. This export data is consistent with the information published by the Turkish Ministry of Economy:²⁴

Turkish Pasta Exports by Years

Years	MT
2014	735,285
2015	672,105
2016	831,562

VI. THE DRAMATIC INCREASE OF IMPORTS FROM TURKEY INTO CANADA

125. Public Appendix 21 shows that the imports from Turkey, as compared to the total imports from all countries in the world (including Turkey), are as follows:

Source: Statistics Canada, CATSNET Analytics

		Quantity (Kilograms)				
		2014	2015	2016	2016 – September	2017 – September
HS 1902.19.22.30	Turkey	1,325,332	4,750,193	9,425,860	6,441,861	7,868,483
	All Countries	20,300,090	25,569,987	37,244,472	28,109,519	28,091,725
HS 1902.19.23.30	Turkey	5,459	7,267	8,599	4,970	10,408
	All Countries	25,348,409	29,111,402	12,885,552	12,323,327	1,274,505
HS 1902.19.21.30	Turkey	392,364	846,806	2,306,245	1,875,664	1,960,870
	All Countries	12,502,132	13,497,007	10,013,949	8,483,750	9,030,591
Total	Turkey	1,723,155	5,604,266	11,740,704	8,322,495	9,839,761
	All Countries	58,150,631	68,178,396	60,052,425	46,927,541	38,415,396

126. In 2014, imports of dry wheat pasta from Turkey totalled 1,723,155 kg, which represented only 2.96% of total imports.

²⁴ *Pasta*, Public Appendix 47, p. 2.

127. Just two years later, in 2016, Turkish dry wheat pasta imports had increased to 11,740,704 kg, which represented 19.53% of total imports.

128. For January-September 2016, Turkish dry wheat imports represented 17.7% of total imports. For that same nine month period in 2017, Turkish dry wheat imports increased as a percentage of total imports to 25.6%.

129. This dramatic increase in imports from Turkey is explained by the extremely low prices relative to the prices of dry wheat pasta imports from non-subject countries. Public Appendix 21 shows that the average prices of dry pasta products imported from Turkey, as compared to other countries, are as follows:

Source: Statistics Canada, CATSNET Analytics

	<i>FOB Import Price per Kilogram</i>				
	2014	2015	2016	2016 – Septem ber	2017 – Septem ber
United States	1.326	1.549	1.665	1.594	1.775
Italy	1.850	1.873	1.632	1.671	1.538
Turkey	0.902	1.002	0.804	0.823	0.759
China	1.530	1.647	1.897	1.728	1.700
All Countries	1.484	1.585	1.492	1.484	1.428

130. Since 2016, the price of imports of dry wheat pasta from Turkey has been less than half the price of imports of like goods from the other three largest import sources (i.e., the United States, Italy, and China) and close to half of the average price of imports from all countries.

131. The average domestic price for the Complainant's three members, calculated as the total annual sales (Confidential Appendix 88) divided by total annual production (Confidential Appendix 4) are as follows:

Price (CA\$)	2014	2015	2016	Jan 1 to Sept 30 2016	Jan 1 to Sept 30 2017
Italpasta					
Primo					
Grisspasta					
Average					

132. For the first nine months of 2017, the average Turkish price of \$0.759/kg is just [] of the domestic average of []. This represents cost undercutting of [].

VII. DUMPING

A. Normal Values: Overview

133. Section 15 of the SIMA provides as follows:

15. Subject to sections 19 and 20, where goods are sold to an importer in Canada, the normal value of the goods is the price of like goods when they are sold by the exporter of the first mentioned goods

(a) to purchasers with whom the exporter is not associated at the time of the sale of the like goods, and who are at the same or substantially the same trade level as the importer,

(b) in the same or substantially the same quantities as the sale of goods to the importer,

(c) in the ordinary course of trade for use in the country of export under competitive conditions,

(d) during such period of sixty days that ends in the interval commencing with the first day of the year preceding the date of the sale of the goods to the importer and ending on the fifty-ninth day after such date as is selected by the President or, where, in the opinion of the President, the nature of the trade in those goods or the fact that they are sold to the importer for future delivery requires that sales of like goods by the exporter during a period other than a period of sixty days that ends in that interval be taken into account, during such period of sixty days or longer that precedes the date of the sale of the goods to the importer, or where the goods are sold to the importer for future delivery, that precedes the date of the sale of the goods to the importer or within the year that precedes the date of the delivery of the goods to the importer as the President specifies for those goods or for goods of the class to which those goods belong, and

(e) at the place from which the goods were shipped directly to Canada or, if the goods have not been shipped to Canada, at the place from which the goods would be shipped directly to Canada under normal conditions of trade, adjusted in the

prescribed manner and circumstances to reflect the differences in terms and conditions of sale, in taxation and other differences relating to price comparability between the goods sold to the importer and the like goods sold by the exporter.

134. Section 19 of the SIMA goes on to provide as follows:

19. Subject to section 20, where the normal value of any goods cannot be determined under section 15 by reason that there was not, in the opinion of the President, such a number of sales of like goods that comply with all the terms and conditions referred to in that section or that are applicable by virtue of subsection 16(1) as to permit a proper comparison with the sale of the goods to the importer, the normal value of the goods shall be determined, at the option of the President in any case or class of cases, as such price of like goods when sold by the exporter to importers in any country other than Canada during the period referred to in paragraph 15(d) as, in the opinion of the President, fairly reflects the market value of the goods at the time of the sale of the goods to the importer in Canada, adjusted in the prescribed manner and circumstances to reflect the differences in terms and conditions of sale, in taxation and other differences relating to price comparability between the goods sold to the importer in Canada and the like goods sold by the exporter to importers in the country other than Canada; or the aggregate of the cost of production of the goods, a reasonable amount for administrative, selling and all other costs, and a reasonable amount for profits.

135. The Complainant has not been able to obtain any reliable information that would allow it to estimate normal values using the selling price where the goods are sold at a profit to unrelated purchasers within the Turkish domestic market. No publicly available evidence of such a selling price in Turkey — e.g., from price lists, market surveys, sales invoices, bids, sales correspondence, quotes, etc. — is available to the Complainant.

136. The only reliable information that the Complainant has on the costs of production in Turkey are the costs of durum wheat in Turkey as published by the TMO. Durum wheat is the primary input in the production of dry pasta. These costs are attached at Public Appendices 38-41.

137. In the absence of information on sales of the comparable goods in the Turkish home market, normal values for the Subject Goods have been estimated in accordance with Section 19 of the SIMA. This Complaint relies upon the costs of durum wheat in Turkey, as established by the TMO, and the production costs of Canadian producers to estimate the total cost of Subject Goods. As discussed above, in the context of subsidies to Turkish durum wheat, the actual cost of the durum wheat would be higher than the TMO published prices if the subsidies were removed.

138. Primo, Italpasta and Grisspasta all sell competitively within the Canadian market. Their prices are also similar to imports from countries other than Turkey.²⁵ It is worth noting that the import prices per kilogram of dry pasta from the United States and Italy – the two largest exporting countries – are more than double the import prices per kg of dry pasta products from Turkey.

B. Calculation of Normal Values

139. As set out above, all pasta factories in Turkey produce the semolina required for their production in their own facilities.²⁶ This is further confirmed by public statements contained on the websites of various Turkish pasta producers. Attached as Public Appendices 48-51 are extracts from the websites of Arbel S.A. (whose brand product is sold at Loblaws), Acarsan Makarna Un Gida Sanayi ve Ticaret A.S., Besler and Nuh'un Ankara.

140. Primo is the only manufacturer in Canada that mills its own semolina from durum wheat. It purchases its durum wheat from unrelated Canadian suppliers. For this reason, the Complainant has relied upon Primo's production costs to estimate the cost of semolina production in Turkey. Attached as Confidential Appendix 52 is detailed costing information from Primo for the years 2014-2016. That Appendix segregates the various components in the cost of producing a kilogram of pasta, including the prices per kg of wheat, milled semolina, total ingredients, packaging, labour, and overhead.

141. To estimate normal values, the Complainant has employed a "bottom-up" approach to calculate the cost of ingredients in Turkey, based on Turkish wheat prices as published by the TMO.

142. The non-ingredient costs, including labour, packaging, overhead, trade spending, distribution, warehouse, general & administrative, selling, and marketing are all set out below.

1. The Cost of Durum Wheat

143. Durum wheat is the single largest cost component in pasta production. Attached at Confidential Appendix 23 are Primo's durum wheat purchases from January 21, 2014 to March 13,

²⁵ See Appendix 21, which summarizes the price per kg price of all imports of dry pasta products into Canada.

²⁶ Miller Magazine, World Durum Wheat Market and Turkey, Public Appendix 42, p.4.

2017. This Appendix sets out the purchase date, the quantity, the price in US and CAD dollars, and the landed cost for each transaction.

144. [

[REDACTED]

145. Confidential Appendix 52 provides the annual average cost per kg (CAD) of the durum wheat used by Primo to produce pasta in 2014, 2015, and 2016. These annual average costs are as follows:

Annual Average Cost of Durum Wheat	
Year	CA\$/kg
2014	[REDACTED]
2015	[REDACTED]
2016	[REDACTED]

146. Attached as Public Appendices 38-41 are the TMO domestic prices for wheat. Attached as Public Appendices 53-56 are the exchange rates for Turkish Lira to Canadian Dollars for the years 2014-2017. Based on this data, the range of costs for durum wheat in Turkey for the period 2014-2017, on a price per kilogram basis, may be summarized as follows:²⁷

²⁷ According to the TMO price data set out in Public Appendix 38, there was a single price for “Durum Wheat No. 1” in Turkey in 2014: i.e., TL 890 per MT. The annual average rate of exchange in 2014 (i.e., CA\$0.505177 per TL, as set out in Public Appendix 53, p. 8 of 9) was applied to determine the price in CAD: \$449.61 per MT or \$0.4496 per kg. The same approach was applied to determine the highest and lowest TMO prices in the years 2015 and 2016. For 2017, TMO reports a single price being TL 1,050 per MT.

TMO Prices of Durum Wheat in Turkey		
Year	Low Price (CA\$/kg)	High Price (CA\$/kg)
2014	\$0.4496	
2015	\$0.4471	\$0.5082
2016	\$0.4747	\$0.4769
2017	\$0.3819	\$0.3819

2. *The Cost of Milling Semolina*

147. Semolina is the flour used to produce pasta. It is milled from high quality durum wheat. For pasta producers that do not mill their own wheat, semolina represents the single largest cost component of all ingredients in pasta. In Canada, Primo is the only producer that mills its own semolina. Italpasta, Grisspasta, and Catelli all directly purchase semolina.

148. Primo's production costs, at Confidential Appendix 52, show that the cost of durum wheat for the years 2014-2016 represented between []% and []% of the cost of semolina. The three-year average is []%. For calculating the cost of semolina in Turkey, the Complainant has assumed that the cost of wheat in Turkey represents []% of the cost of semolina. This figure is based upon the 2016 data, which is the most recent full year. On this basis, the Complainant estimates the cost of semolina in Turkey as follows:

Estimated Costs of Semolina in Turkey				
Year	Low Cost of Durum Wheat (CA\$/kg)	Low Cost of Semolina (CA\$/kg)	High Cost of Durum Wheat (CA\$/kg)	High Cost of Semolina (CA\$/kg)
2014				
2015				
2016				
2017				

3. *Cost of All Ingredients*

149. Primo's production costs, which are attached at Confidential Appendix 52, show both the cost per kilogram (CAD) of the semolina and the total cost per kilogram (CAD) of all ingredients. Those costs can be summarized as follows:

Annual Average Costs of Total Ingredients in Pasta Production			
	2014	2015	2016
Costs of Semolina (CA\$/kg)			
Total Costs of all ingredients (CA\$/kg)			
Costs of semolina as a percentage of total ingredients costs			
Average percentage of semolina costs 2014-2016			

150. There is no basis to surmise that the cost of semolina in Turkey would not also represent approximately []% of the cost of all ingredients. The Complainant has applied Primo's 2016 percentage of []% to calculate the total cost of all ingredients as follows:

Estimated Costs of Total Ingredients in Turkey				
Year	Low Cost of Semolina (CA\$/kg)	Low Total Cost of All Ingredients (CA\$/kg)	High Cost of Semolina (CA\$/kg)	High Total Cost of All Ingredients (CA\$/kg)
2014				
2015				
2016				
2017				

4. The Total Cost of Goods

151. Primo's total production costs, as set out at Confidential Appendix 52, demonstrate that the cost of ingredients (including the milling costs) represent between []% and []% of the total cost of goods. The three-year average for 2014-2016 was []% of the total cost of goods.

152. For estimating normal values, the Complainant has assumed that the ingredients represent []% of the total cost of goods in Turkey., which is the 2016 figure. The remaining [] represents labour, packaging and overhead. On that basis, Turkey's total cost of goods can be summarized as follows:

Estimated Total Cost of Goods in Turkey				
Year	Low Total Cost of All Ingredients (CA\$/kg)	Low Total Cost of Goods (CA\$/kg)	High Total Cost of All Ingredients (CA\$/kg)	High Total Cost of Goods (CA\$/kg)
2014				
2015				
2016				
2017				

5. Labour Costs in Turkey Compared to Canada

153. Obtaining up-to-date information on labour costs in Turkey is difficult. The best evidence obtained by the Complainant is a report prepared by The Conference Board on “International Comparisons of Hourly Compensation Costs in Manufacturing and Sub-Manufacturing Industries” (the “Board Report”). The Board Report is attached as Public Appendix 57.

154. Table 1 of the Board Report provides hourly compensation costs, in US dollars, for the years 1996 to 2015. According to that table, in 2015 Canada’s hourly compensation costs were \$30.94 (USD) and Turkey’s were \$5.81 (USD). Based on this data, which is the best evidence available to the Complainant, Turkey’s hourly compensation costs are 18.78% (or 81.22% less) than Canada’s hourly compensation costs. On this basis, the Complainant has used this adjustment rate to calculate the Turkish labour costs included in the calculations of normal values below. Specifically, the labour components for costs of Canadian producers has been reduced by 81.22%.

155. It is important to note that since 2015, the net minimum wage in Turkey has significantly increased. Attached as Public Appendices 58-59, are articles confirming that wages in Turkey have increased by approximately 30% in 2016, and have continued to increase in 2017. While this is a factor that we urge the CBSA to consider when conducting its investigation, we have conservatively used the 81.22% reduction of labour costs based upon the 2015 data for the purpose of calculating normal values.

6. Additional Expenses Incurred in Manufacturing and Selling Pasta

156. In addition to the cost of goods, producers incur the following additional costs and expenses:

- Trade Spending;
- Warehouse costs;
- Distribution costs;
- General and Administrative (“G&A”) costs;
- Selling Expenses; and
- Marketing expenses.

157. The Complainant is not aware of any evidence supporting a conclusion that Turkish non-labour costs in these categories would be less than Canadian costs in these categories. The Complainant has adjusted the costs and expenses actually expended by Primo (as the only company that mills its own Semolina) and Italtasta (as the member of the Complainant with the largest annual production) to account for lower Turkish labour costs, as a percentage of total sales, to estimate Turkish costs in each category.

158. The Complainant does not have any publicly available financial statements of Turkish pasta producers or pasta producers from states other than Turkey or Canada. The only financial statements, other than the information provided by the Complainant’s members, that are available to the Complainant are from a global company, Barilla. Amongst other things, Barilla manufactures pasta. Barilla’s 2016 financial statement, which is attached as Public Appendix 60, reports all of its lines of business on a consolidated basis. Because the financial information relating only to pasta production cannot be segregated, the Complainant has not relied upon Barilla’s financial statement. That said, it is worth noting that that Barilla’s expenses as a percentage of its revenue are higher than those of the Complainant’s members.

159. Finally, members of the Complainant do not segregate their production costs by market segment. As such, the Complainant is unable to segregate these costs for each market segment.

7. The Calculation of Normal Values

160. The Complainant has prepared two models based upon 2016 costs to estimate normal values. The first model uses information from Primo’s 2016 pro forma to provide an estimate of

Turkish normal values.²⁸ The second model uses Italtasta's 2016 trend statement of income to provide an estimate of Turkish normal values.²⁹

161. The Complainant submits these two models to provide the CBSA with one calculation based on data relating to the only Canadian producer that mills its own semolina (Primo), and another calculation based on data relating to the largest producer of the Complainant's members that purchases semolina (Italtasta). Moreover, the live models permit the CBSA to easily run different scenarios.

162. The model can be explained as follows:

- a. The cost of durum wheat in Turkey is set at the lowest 2016 price, as publicly reported by the TMO.³⁰ By selecting the lowest reported price, the cost of wheat used in the model is conservative;
- b. The milling costs and total cost of ingredients have been calculated in accordance with subsections 2, 3 and 4, above;
- c. The labour component of the cost to manufacture and package pasta is [REDACTED]%³¹ of total production costs for Primo;
- d. The labour component of the cost to manufacture and package pasta is [REDACTED]%³² of the total production costs for Italtasta;
- e. Primo does not separately track labour costs for Warehouse, Distribution, G&A, Selling Expense, and Marketing. It has, however, provided estimates for the non-production labour in each category. The additional labour reductions are shown in Confidential Appendix 66 and incorporated into the Primo Model at Confidential Appendix 61;

²⁸ Confidential Appendix 7.

²⁹ Confidential Appendix 10.

³⁰ Public Appendix 40.

³¹ See Confidential Appendix 63 for calculation of Primo Labour Reduction.

³² See Confidential Appendix 64 for calculation of Italtasta Labour Reduction.

- f. Italpasta does separately track labour costs for Distribution, G&A, and Selling Expense. These additional labour reductions are shown in Confidential Appendix 67 and incorporated into the Italpasta model at Confidential Appendix 62;
- g. Turkish labour costs are calculated as 18.78% of Canadian labour costs, in accordance with subsection 5, above;
- h. The gross sales for Turkey, under the heading “Turkey”, is the total value of sales (in Canadian dollars) of dry pasta imported from Turkey in 2016 under HS Codes 1902.19.21.30, 1902.19.22.30, and 1902.19.23.30, as reported by Statistics Canada³³;
- i. The quantity in kilograms for Turkey, under the heading “Turkey”, is the total quantity of sales of dry pasta imported from Turkey in 2016 under HS Codes 1902.19.21.30, 1902.19.22.30, and 1902.19.23.30, as reported by Statistics Canada³⁴;
- j. The information under the headings “Primo” (Model 1) and “Italpasta” (Model 2) represent the actual sales, cost of goods, and expense information for Primo and Italpasta,³⁵ as further adjusted for labour costs in Confidential Appendices 66 and 67;
- k. The trade spending, warehouse, distribution, G&A, selling expense, and marketing costs for Turkey have been calculated in each model on a percentage of gross sales basis; and
- l. For estimating normal values, a profit margin of [REDACTED] has been included. This is the three-year average (2014-2016) for all three members of the Complainant (Primo, Italpasta, and Grisspasta) that are set out at Confidential Appendix 68.

163. The Primo 2016 model produces an estimated normal value of \$[REDACTED]/kg. The Italpasta 2016 model produces an estimated normal value of \$[REDACTED]/kg.

³³ Public Appendix 21.

³⁴ Public Appendix 21.

³⁵ See the 2016 pro forma for Primo at Confidential Appendix 7 for Primo, and the 2016 trend statement for Italpasta at Confidential Appendix 10.

164. Both models have also been prepared with costing information from January to September 2017. The Primo 2017 model, attached as Confidential Appendix 90, produces an estimated normal value of [REDACTED]. The Italtasta 2017 model, attached as Confidential Appendix 91, produces an estimated normal value of [REDACTED].

165. The Complainant has also prepared, for both 2016 and 2017, Primo Model Version 2 and Italtasta Model Version 2 which calculate trade spending, warehouse, distribution, G&A, selling expense, and marketing costs for Turkey on a percentage of the cost of goods instead of on gross sales. These models are attached at Appendices 92-95. The estimated normal values provided by these four models are as follows

- a. Primo Model V2 2016: [REDACTED];
- b. Italtasta Model V2 2016: [REDACTED];
- c. Primo Model V2 2017: [REDACTED];
- d. Italtasta Model V2 2017: [REDACTED].

166. These eight models produce estimated normal values in the range of [REDACTED] to [REDACTED], which are all significant.

167. In light of the fact that Turkish producers mill their own Semolina, the Complainant submits that the estimated normal values produced by the Primo V2 models provides the best estimate of normal values – those being [REDACTED] for 2016 and [REDACTED] for January to September 2017.

C. The Export Price

168. The following estimated export prices are based on actual quotations from 2016 and 2017.³⁶ They are calculated on an FOB Turkish port basis. Inland freight is not deducted, so the actual *ex factory* export price will be lower. The Complainant is unable to obtain information on Turkish inland freight costs. The estimated export prices are CAD \$[REDACTED]/kg for 2017 and CAD \$[REDACTED]/kg for 2016.³⁷

³⁶ Email quotes from Turkey are attached at Confidential Appendix 69.

³⁷ Export Price Calculation, Confidential Appendix 70.

169. The Complainant would like to bring to the attention of the CBSA that when Primo was obtaining the quotations which have been relied upon to calculate the export prices, it asked [REDACTED] how it was able to offer to sell pasta at CAD \$[REDACTED]/MT when the cost of Semolina was CAD \$[REDACTED]/MT. The answer was as follows:

We would like to inform you that we are the number one in Turkey so sometimes we do not think the profit, just we think that to start business with a good companies like UNICO.³⁸ [sic]

170. This admission that sales are made below profit supports the initiation of an investigation by the CBSA.

D. The Margin of Dumping

171. The margins of dumping have been calculated in the eight models outlined above. These calculations are attached at Confidential Appendices 61, 62 and 90-95 respectively.

172. The Primo Model 2016 produces the following margin of dumping:

Estimated Margin of Dumping	
Normal Value (CA\$/kg)	
2016 Export Price to Canada (CA\$/kg)	
Margin of Dumping (CA\$)	
Margin of Dumping (%)	

173. The Italpasta Model 2016 produces the following margin of dumping:

Estimated Margin of Dumping	
Normal Value (CA\$/kg)	
2016 Export Price to Canada (CA\$/kg)	
Margin of Dumping (CA\$)	
Margin of Dumping (%)	

174. The Primo Model 2017 produces the following margin of dumping:

Estimated Margin of Dumping	
Normal Value (CA\$/kg)	
2016 Export Price to Canada (CA\$/kg)	
Margin of Dumping (CA\$)	
Margin of Dumping (%)	

³⁸ Confidential Appendix 64, pp21-22.

175. The Italtasta Model 2017 produces the following margin of dumping:

Estimated Margin of Dumping (Scenario 2)	
Normal Value (CA\$/kg)	
2016 Export Price to Canada (CA\$/kg)	
Margin of Dumping (CA\$)	
Margin of Dumping (%)	

176. The Primo Model V2 2016 produces the following margin of dumping:

Estimated Margin of Dumping (Scenario 1)	
Normal Value (CA\$/kg)	
2016 Export Price to Canada (CA\$/kg)	
Margin of Dumping (CA\$)	
Margin of Dumping (%)	

177. The Italtasta Model V2 2016 produces the following margin of dumping:

Estimated Margin of Dumping (Scenario 2)	
Normal Value (CA\$/kg)	
2016 Export Price to Canada (CA\$/kg)	
Margin of Dumping (CA\$)	
Margin of Dumping (%)	

178. The Primo Model V2 2017 produces the following margin of dumping:

Estimated Margin of Dumping (Scenario 1)	
Normal Value (CA\$/kg)	
2016 Export Price to Canada (CA\$/kg)	
Margin of Dumping (CA\$)	
Margin of Dumping (%)	

179. The Italtasta Model V2 2017 produces the following margin of dumping:

Estimated Margin of Dumping (Scenario 2)	
Normal Value (CA\$/kg)	
2016 Export Price to Canada (CA\$/kg)	
Margin of Dumping (CA\$)	
Margin of Dumping (%)	

180. It is submitted that, because Primo is the only Canadian producer that mills its own Semolina, and Turkish producers all mill their own Semolina, that the Primo's costs are the most appropriate to be relied upon. To this end, Primo Model V2 2016 and 2017 should be relied upon. These produce margins of dumping of [] for 2016 and [] for 2017.

VIII. SUBSIDIZATION

181. There is little public information on the subsidization of Turkish pasta and pasta exports. Given the low prices at which Turkish pasta is being sold into Canada, it can be reasonably assumed that significant subsidies are being granted to Turkish pasta producers and exports of pasta. In February 2016, it was publicly reported that pasta exports were benefitting from an export subsidy equal to 130 TL/MT (CAD \$56/MT).³⁹

182. Given the absence of public information, the Complainant's counsel commissioned a study on the subsidization of Turkish pasta exports.⁴⁰ This section is based on the findings in that study. The study includes as appendices English translations of the relevant parts of Turkish laws, regulations, and decrees.

A. Turkish Export Subsidies for Agricultural Products

183. The Government of Turkey disburses subsidies to exports of specific agricultural products based on the Decree initiated by the Ministry of Economy and signed into law by the Money-Credit and Coordination Council every year. The Decree determines which export products are going to be supported and how much support will be provided. The legal basis of the Decree is the Cabinet Decree No. 94/6401.21.⁴¹

184. Based on the Money-Credit and Coordination Council Decrees, which specify the eligible products, terms of eligibility, and regulations in effect for this program for the years 2015 to 2017, export subsidies disbursed for pasta exports are listed in the following table:

Year	Product	HS Code	Export Subsidy Rate	Average CAD/TL FX CBRT Rate	Export Subsidy Rate in CAD
2015 ⁴²	Pasta	19.02	120 TL per tonne	2.1338	56.24 CAD

³⁹ Public Appendix 71, Important Subsidies for Turkish Exports.

⁴⁰ Report on Turkish Pasta Subsidies, Public Appendix 72.

⁴¹ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 1, fn. 2.

⁴² See Money-Credit and Coordination Council Decree published on the Official Gazette dated 14 Feb. 2015 and no. 29267; Report on Turkish Pasta Subsidies, Public Appendix 72, p. 1, fn. 3.

2016 ⁴³	Pasta	19.02	130 TL per tonne	2.2869	56.85 CAD
2017 ⁴⁴	Pasta	19.02	130 TL per tonne	2.7539	47.21 CAD

185. While the program is administered by the Ministry of Economy, exporters need to apply to the exporter's union to receive the subsidy. Once the company's application is accepted, an account is opened for the exporter at the Central Bank of the Republic of Turkey.

186. An exporter does not receive direct cash benefits. Rather, the amounts credited to its account offset the company's obligations to the government. In other words, the exporter's benefit is deducted from its obligations such as taxes, tax penalties, Social Security Administration payments, communication fees (fixed phone lines, telefax, etc.), energy costs (electricity and natural gas), debts to the Savings Deposits Insurance Fund, and other debts to the government.

187. The subsidies provided under this program are contingent on export performance. The export subsidy ranged from CAD \$56.85 to \$ 47.21 per metric tonne in 2016 and 2017. This equates to approximately CAD \$0.05 per kilogram, which amounts to approximately 6 percent of the per kilogram import value.⁴⁵

B. Inward Processing Regime

188. Turkey's inward processing regime ("IPR"), which has been listed as one of the major factors that boosted Pasta exports of Turkey in the 2000s,⁴⁶ entered into force with its current form in 2005.⁴⁷ and the IPR allows exporters to import raw materials and inputs without paying customs duties and other taxes on the condition that those inputs are used to produce exported products. The regime can be used in two distinct ways. Under the suspension system, customs duties and Value Added Tax ("VAT") on imported inputs are suspended either after or before exportation of compensating products if goods are to be re-exported. Under the duty drawback system, customs

⁴³ See Money-Credit and Coordination Council Decree published on the Official Gazette dated 12 Feb. 2016 and no. 29622; Report on Turkish Pasta Subsidies, Public Appendix 72, p. 1, fn. 4.

⁴⁴ See Money-Credit and Coordination Council Decree published on the Official Gazette dated 28 Dec. 2016 and no. 29932; Report on Turkish Pasta Subsidies, Public Appendix 72, p. 1, fn. 5.

⁴⁵ As noted above, the per kg price in 2016 and 2017 ranged from CAD \$0.804 to \$0.780.

⁴⁶ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 2, fn. 6.

⁴⁷ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 2, fn. 8.

duty and VAT paid on imported inputs are refunded, after exportation of goods produced using imported inputs. Under both systems, exporters provide a letter of guarantee that is returned to them upon fulfillment of the export commitment. The Ministry of Economy is the authority responsible for administering the regime. To benefit from the program requires an Inward Processing Certificate issued by the Ministry of Economy, which lists the amount of raw materials/intermediate unfinished goods to be imported and the amount of product to be exported.

189. Despite the Complainant's best efforts, it has been unable to obtain information on how the program is administered and whether excess duty drawbacks or deferrals are being conferred. Given the recognized importance of this program to exports of pasta, which has been listed as one of the major factors that boosted pasta exports of Turkey in the 2000s,⁴⁸ the substantial increases in such exports, and the very low prices of Turkish pasta imported into Canada, it is reasonable to assume that excess duty drawbacks are being provided.

C. Investment Encouragement Program

190. The Government of Turkey has established an Investment Encouragement Program ("IEP") which applies to four different types of investments: general, regional, large-scale, and strategic investments. Pursuant to Cabinet Decree No. 2012/3305⁴⁹ and consequent amendments thereto, the magnitude and scale of the incentives vary. The classification of provinces into six regions is the basis for allocation of incentives. The location of the proposed investment identifies the regions demarcated according to the economic development level. The program is administered by the Ministry of Economy, which is the department responsible for the international trade policies of Turkey. Once an applicant is deemed to be eligible for the program, it is granted a certificate which defines the scope and magnitude of the type(s) of incentives that the applicant is entitled to. The types of rebates, incentives, and exemptions are summarized as follows:⁵⁰

General Investment Encouragement

The thresholds for eligibility vary according to the regional demarcation. The certificate holders can benefit from:

⁴⁸ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 2, fn. 7.

⁴⁹ Report on Turkish Pasta Subsidies, Public Appendix 72, pp. 3-4.

⁵⁰ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 3.

1. Customs duty exemption⁵¹
2. VAT exemption⁵²
3. Income Tax Withholding Relief (for region six only)
4. Social security premium support (for ship production only)

Regional Investment Encouragement

1. Customs duty exemption
2. VAT exemption
3. Income and/or Corporate Tax relief⁵³
4. Social security premium support
5. Land grants
6. Interest support (for regions 3, 4, 5, and 6): from 4% points to 7% points, for a maximum of 5 years
7. Income Tax Withholding Relief – for region six only
8. Social security premium support-employee's premium (for region six only)

Large-Scale Investment Encouragement

1. Customs duty exemption
2. VAT exemption
3. Income and/or Corporate Tax relief
4. Social security premium support
5. Land grant
6. Income Tax Withholding Relief – for region six only
7. Social security premium support-employee's premium (for region six only)

Strategic Investment Encouragement

An investment is assessed as “strategic” when certain conditions are met, among which is that the investment should be made for a product for which annual imports are more than USD \$50 million and the domestic production capacity is less than imports. For products with no domestic production, the USD \$50 million imports criterion is waived. Recipients can benefit from:

1. Customs duty exemption
2. VAT exemption
3. Income and/or Corporate Tax relief
4. Social security premium support
5. Land grants
6. Interest support
7. VAT exemption
8. Income Tax Withholding Relief – for region six only.
9. Social security premium support-employee's premium (for region six only).

⁵¹ The Turkish HS system is a 12-digit code (abbreviated as GTIP), adding a further 6 digits to the WCO's 6-digit HS code. For durum wheat, the 12-digit HS code is “1001.19.00.00.00”, and the rate of duty is 130%. For machinery used in pasta production, the HS code is “8438.10.90.00.00” and the rate of duty is 1.7%.

⁵² The VAT rate for pasta is 8%. For durum wheat it is 1%.

⁵³ The corporate income tax rate is 20%.

191. Social security premium support is applied for 2 to 10 years, depending on the region of the investment. The income and/or corporate tax relief is applied from 50% to 90% of the tax payable, depending on the regions, for regional and large-scale investment encouragement programs. A company may have more than one certificate for different investment projects. Before a certificate is granted, the company is obliged to commit to a certain level of investment and deposit a contribution margin with the government. The minimum fixed investment threshold is 500,000 TL to 1 million TL, depending on the region.⁵⁴

192. Information on the certificates granted between 2015 and 2017 to Turkish pasta producers is presented in the following table:⁵⁵

Date of Certificate	Location of Investment	Company	Fixed Investment TL	Provisional Machinery Imports \$	Employment	Incentives	Capacity TONNES per YEAR
18.11.2015	GAZIANTEP	MUTLU MAKARNACILIK	105,044,860	30,530,030	40	VAT exemption, Customs duty exemption	Pasta 219,516
29.01.2015	GAZIANTEP	TAT MAKARNACILIK	2,115,100	659	4	VAT exemption, Customs duty exemption	PASTA 6,161.6; SEMOLINA 9,188
9.05.2017	DIYARBAKIR	EBAY GIDA	11,800,000	0	34	Tax Relief, Social security premium support, Income Tax Withholding Relief, VAT exemption, Interest Support	PASTA 14,976
14.02.2017	MERSIN	GÖYMEN FOOD	99,000,000	18,980,500	70	Customs duty exemption, VAT exemption	PASTA 110,160; SEMOLINA 11,750
20.06.2017	ANKARA	NUHUN ANKARA MAKARNA	100,000,000	21,856,975	30	VAT exemption, Customs duty exemption	PASTA 218,601; SEMOLINA 150,457

⁵⁴ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 4.

⁵⁵ Report on Turkish Pasta Subsidies, Public Appendix 72, pp. 4-5.

193. One of the identified producers — Goymen Food — [REDACTED].⁵⁶

Considering this fact, combined with the substantial increases in such exports and the very low prices of Turkish pasta imported into Canada, it is reasonable to assume that Turkish pasta production is benefitting from the IEP program.

D. Turk Eximbank Credit Programs

194. Turk Eximbank, which was established in 1987, is the sole official export credit agency in Turkey. Turk Eximbank has three main areas of operation — providing short-, medium- and long-term cash and non-cash credits; international loans/guarantees for the financing of exports or overseas projects of Turkish companies; and export credit insurance to protect against commercial and political risks. Providing export credits has been the main business of Turk Eximbank for many years.⁵⁷

195. The credit programs offered (for the years between 2015 and 2017) by the Eximbank are as follows:⁵⁸

1. Short-term Export Credits
 - a. Credits Extended via Commercial Banks
 - i. Pre-shipment Export Credit (PSEC) program
 - ii. PSEC-Priority Investment Areas Export Credit program
 - iii. Free Trade Zone Pre-shipment Foreign Currency Export Credit program
 - b. Credits Extended Directly by Turk Eximbank
 - i. Foreign Trade Companies (FTC) Short-term Export Credit program
 - ii. Pre-export Credit program
 - iii. Free Trade Zone Pre-export Foreign Currency Export Credit program
 - iv. Pre-export Credit program for Small and Medium Scale Enterprises (SMEs)
 - c. Credits provided using the sources of the Central Bank of Turkey
 - i. Post-Shipment Rediscount Credit program
 - ii. Rediscount Credit program
2. Medium-Term Export Credits (Project Credits)
 - a. The Export Oriented Working Capital Credit program
 - b. The Export Oriented Investment Credit program
 - c. Overseas Chain Stores Investment Credit program
 - d. Ship-Building Finance and Guarantee program

⁵⁶ Confidential Appendix 69.

⁵⁷ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 5.

⁵⁸ For more detailed explanation of Turk Eximbank Programs see <http://www.eximbank.gov.tr/? Dil=1>.

- e. Letter of Guarantee program for Overseas Contractors' Services
 - f. Specific Export Credit program
 - g. Bridge Credit program for Overseas Contractor Services
 - h. Trademark Credit program
3. Credits for Foreign Currency Earning Services
 - a. Tourism Credit program
 - b. International Transportation Marketing Credit program
 - c. Credit program for Participating to Overseas Trade Fairs
 - d. Credit program for Foreign Currency Earning Services
 4. Export Finance Intermediation Loan (EFIL – IV)
 5. The European Investment Bank Credit program
 6. International Loans programs (previously Buyers' Credit & Guarantee programs)
196. The Bank's insurance programs are as follows:⁵⁹
1. Short-term Credit Insurance
 - a. Short-term Export Credit Insurance program
 - b. Short-term Domestic Credit Insurance program
 2. Medium and Long-term Insurance Facilities
 3. Specific Export Credit Insurance Post Shipment Risk program
 4. Insurance program for Unfair Calling of Bonds
 5. Political Risk Insurance program for Overseas Contracting Services

197. Short-term export credits have proved to be the most popular product of the Bank over the years. Of those credits, about 80% are made through the export and foreign exchange earning services' rediscount credits, which were extended by the Central Bank of Turkey ("CBRT"). These rediscount credits require special attention for the years of 2016 and 2017.⁶⁰

198. The CBRT defines the rediscount credits as follows:

Pursuant to the CBRT Regulations on Rediscount which were issued in the scope of Article 45 of the Central Bank Law, firms can obtain rediscount credits from the CBRT through intermediary banks with a maturity of maximum 240 days -360 days for exports of high-tech industrial products, exports to new markets and foreign exchange earning services- by presenting foreign exchange bills for rediscount.⁶¹

⁵⁹ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 6.

⁶⁰ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 6.

⁶¹ [Report on Turkish Pasta Subsidies, Public Appendix 72, p. 6, fn. 14.](#)

199. Regarding repayments of these credits to the CBRT:

As the repayments of these credits are made in foreign exchange [with the Exchange rate on the day of repayment], they help boost the CBRT foreign exchange reserves on the date of maturity.

200. However, on 17 February 2017, the CBRT announced that “[based on the Article 6 of Legislative Decree No. 683] ... for all rediscount credits that were extended before 1 January 2017 and had the maturity dates before 31 May 2017, repayments to the CBRT could be done with the Exchange rate of 2 January 2017 [rather than the exchange rate on the maturity date].”⁶²

201. Since the Turkish Lira experienced significant deterioration against developed world currencies in 2017, this policy move by the CBRT has created significant financial gains for the exporters.⁶³

202. Given the importance of pasta exports to Turkey, the growth rate of those exports and the very low prices of Turkish pasta imported into Canada, it is reasonable to assume that those exports benefit from Turk Eximbank credits.

E. Small and Medium Enterprises Support for Pasta Producers

203. Small and Medium Enterprises (“SMEs”) constitute a crucial part of the Turkish economy, as 55.1% of exports and 37.7% of imports are conducted by SMEs⁶⁴. Turkey’s SMEs are supported by the Small and Medium Enterprises Development Organization (“KOSGEB”), a Turkish public organization that aims to increase SMEs’ share in the economy and help them to develop their businesses. Cabinet Decree No. 2009/15431 outlines the prioritized sectors that the KOSGEB is responsible for supporting via its grants.⁶⁵ The KOSGEB has a number of programs to support SMEs that are guided by its support regulations. They take the form of direct grants and reimbursements. The KOSGEB also provides loans and subsidized services such as financing and laboratory fees.

⁶² Report on Turkish Pasta Subsidies, Public Appendix 72, p. 6, fn. 15.

⁶³ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 6.

⁶⁴ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 6, fn. 16.

⁶⁵ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 7, fn. 17.

204. Within the manufacturing sectors, “manufacture of pasta, noodle, couscous and similar bakery products” are listed under the sectors to be supported.⁶⁶ The KOSGEB supports do not have export contingency, but they are sector specific.

205. Given the importance of the exported pasta industry in Turkey, the growth rate of pasta exports from Turkey and the very low prices of Turkish pasta imported into Canada, it is reasonable to assume that those pasta exports benefit from KOSGEB supports.

F. Deduction from Taxable Income for Export Revenue

206. The Turkish Income Tax Code allows companies to deduct a proportion of their exports, as an expense, from their payable tax amount. Article 40 of Income Tax Law No. 193⁶⁷ of 31 December 1960, as amended on 2 June 1995, regulates the expenses that can be deducted from the payable tax amount. An exporting company is allowed to deduct 0.5% of its exports as a lump sum expense item, apart from the overall SG&A expenses, under the marketing and selling expenses section of its income statement. The allowance is not contingent upon prior approval of the government.

207. It is reasonable to assume that Turkish companies that export pasta benefit from this export-contingent tax deduction.

G. Resource Utilization Support Fund Levy Exemption on Export-Related Loans

208. The importation of goods on a credit basis and any credit obtained from abroad are subject to a Resource Utilization Support Fund levy, which varies depending on certain criteria. However, according to Article 2 of the Communique on Resource Utilization Support Fund for the Decree No. 88/12944⁶⁸, if imports with acceptance credit, deferred letter of credit, or cash against goods are conducted within the scope of the Inward Processing Regime, or, or if the credits are extended to finance Turkish exports, the levy is reduced to zero.

209. It is reasonable to assume that Turkish companies that export pasta benefit from this export contingent levy reduction.

⁶⁶ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 7, fn. 18.

⁶⁷ [Report on Turkish Pasta Subsidies, Public Appendix 72, p. 7, fn. 19.](#)

⁶⁸ [Report on Turkish Pasta Subsidies, Public Appendix 72, p. 8, fn. 21.](#)

H. Fuel Subsidy for Exports

210. Pursuant to the Special Consumption Tax Law No. 4760, Article 7/A, the Value Added Tax Law No. 6473, Article 14/3, and the Cabinet Decree No. 2006/10784⁶⁹ on 26 June 2006, the consignments of diesel are exempted from Special Consumption Tax (“SCT”) and Value Added Tax (“VAT”) for the vehicles carrying export products. The SCT and VAT together total more than 50% of diesel prices in Turkey.⁷⁰

211. Given the high volume of Turkish pasta exports and the location of production facilities throughout Turkey, it is reasonable to assume that vehicles moving the pasta from the plants to the ports benefit from this export-contingent subsidy.

I. Conclusions

212. Given the absence of public information on the granting of subsidies to Turkish pasta exports to Canada, it is not possible to quantify the amount of those subsidies. However, the export subsidies alone, which amount to approximately 6 percent of the per kilogram import value into Canada, exceed the 1% *de minimis* (i.e., “insignificant”) threshold specified in the SIMA.

IX. THE DOMESTIC INDUSTRY HAS SUFFERED MATERIAL INJURY

213. Dumped and subsidized imports of Turkish dry pasta have caused material injury to the domestic industry in the form of lost production, lost sales, price depression, loss of employment, and reduced profitability.

A. Volume of Dumped and Subsidized Turkish Imports and Lost Production

214. In both absolute and relative terms, there has been a material increase in the volume of imports of the Subject Goods.

215. As set out in Public Appendix 21, imports of dry pasta from Turkey compared to total imports of dry pasta from all countries (including Turkey) under the three relevant HS codes can be summarized as follows:

⁶⁹ [Report on Turkish Pasta Subsidies, Public Appendix 72, p. 8, fn. 23.](#)

⁷⁰ Report on Turkish Pasta Subsidies, Public Appendix 72, p. 8.

Estimated Import Volumes			
Year	Total imports from all countries (kg)	Imports from Turkey (kg)	Imports from Turkey as a percentage of imports from all countries
2014	57,885,108	1,723,155	3%
2015	68,178,396	5,604,266	8%
2016	60,117,919	11,742,434	20%
Jan-Sept 2017	38,415,396	9,839,761	25.6%

216. Beginning in 2014, suppliers from Turkey began offering low-priced dry pasta into the Canadian market. Since that time, imports of Subject Goods from Turkey have dramatically increased. Whereas dry pasta from Turkey represented only 3% of the total imports of dry pasta into Canada in 2014, it represented 20% of all imports just two years later, in 2016. For the first nine months of 2017 this increases further to 25.6%. This increase in import share is a direct result of the dumped and subsidized prices at which the Subject Goods are being sold into Canada.

217. The market share of dry pasta from Turkey relative to the total Canadian market has also dramatically increased. As set out in Confidential Appendix 20, the total estimated size of the Canadian market in 2014 was [REDACTED] kg. Subject Goods in 2014 represented just [REDACTED] of the Canadian market in 2014. Just two years later, in 2016, the Subject Goods represented [REDACTED]% of the total Canadian market.

218. Moreover, a comparison of the period January to September for the years 2016 and 2017 show that Turkey's estimated market share has increased from 6.22% in 2016 to 8.38% in 2017.

219. The estimated market shares for these periods are set out below:

Estimated Market Share			
Year	Total Canadian Market (kg)	Share of Imports from Turkey (kg)	Share of Imports from Turkey as a percentage of the Total Canadian Market
2014			
2015			
2016			
Jan-Sept 2016			
Jan-Sept 2017			8.38%

220. Given the competitive nature of the Canadian dry pasta market, market shares of this magnitude are substantial enough to cause price effects throughout the market.

221. There is a direct causal relationship between the increase in dumped and subsidized imports of dry pasta from Turkey and the reduction in Canadian production of like goods. In absolute terms, the estimated volume of imports of Subject Goods increased from 1,723,155 kg in 2014 to 11,742,434 kg in 2016: an increase of 10,019,279 kg. This represents a 681% increase from 2014 to 2016. By contrast, domestic production decreased from [REDACTED] kg in 2014 to [REDACTED] kg in 2016 (see Confidential Appendix 4). This decrease of [REDACTED], which is a [REDACTED] reduction in total production is substantial because it represents lost sales as well as reduced throughput and, as a consequence, increased per unit production costs.

222. Moreover, for the period January to September, the domestic market has decreased from [REDACTED] in 2016 to [REDACTED] in 2017. This reduction of 8,812,179 in just one year represents an [REDACTED] loss in production.

223. By any standard, whether in absolute or relative terms, the volume of dumped and subsidized Subject Goods from Turkey has materially increased. Moreover, concurrent with the dramatic increase in imports, there has been a decrease in domestic production. The Complainant submits that the dramatic increase in dumped and subsidized pasta from Turkey, coupled with the decrease in domestic production, supports a conclusion that dumped and subsidized imports of dry pasta from Turkey have caused material injury to the domestic industry.

B. Lost Sales and Price Depression

224. The evidence in this Complaint demonstrates that the pricing of dry pasta from Turkey has caused material injury to the domestic industry by significantly undercutting the price of pasta sold in the Canadian market, preventing price increases that would otherwise have likely occurred, and depressing the price of competing Canadian dry pasta.

225. This is evidenced in the price of dry pasta imported from Turkey, which is substantially lower than the prices of dry pasta imported from all other countries. The import prices are set out in Public Appendices 21 and 87, and can be summarized as follows:

Re: Imports of Dumped and Subsidized Dry Wheat Pasta from Turkey

Import Prices of Dry Pasta				
		From Turkey	From all countries (incl. Turkey)	From all countries (excl. Turkey)
2014	Total Annual Value (CA\$)	\$1,554,166	\$86,315,765	\$84,315,765
	Quantity (kg)	1,723,155 kg	58,150,631 kg	56,427,476 kg
	Average FOB Import Price (CA\$/kg)	\$0.90 / kg	\$1.48 / kg	\$1.50 / kg
2015	Total Annual Value (CA\$)	\$5,616,852	\$108,079,694	\$102,462,842
	Quantity (kg)	5,604,266 kg	68,178,396 kg	62,574,130 kg
	Average FOB Import Price (CA\$/kg)	\$1.00 / kg	\$1.59 / kg	\$1.64 / kg
2016	Total Annual Value (CA\$)	\$9,444,366	\$89,677,129	\$80,232,763
	Quantity (kg)	11,740,704 kg	60,117,919 kg	48,377,215 kg
	Average FOB Import Price (CA\$/kg)	\$0.80 / kg	\$1.49 / kg	\$1.66 / kg
Jan to Sept 2016	Total Annual Value (CA\$)	\$6,848,747	\$69,621,093	\$62,772,346
	Quantity (kg)	8,322,495	46,927,541	38,605,046
	Average FOB Import Price (CA\$/kg)	\$0.82.3 / kg	\$1.484/ kg	\$1.63/ kg
Jan to Sept 2017	Total Annual Value (CA\$)	\$7,466,462	\$54,871,566	\$47,405,104
	Quantity (kg)	9,839,761	38,415,396	28,575,635
	Average FOB Import Price (CA\$/kg)	\$0.759/ kg	\$1.428/ kg	\$1.66/ kg

226. In 2014, the average import price of dry pasta products from Turkey was \$0.90. The average import price of dry pasta products from all other countries excluding Turkey was \$1.50. Thus, Turkish pasta undercut the average price of other imports (excluding Turkey) by \$0.60 or 40 percent. In 2015, Turkish imports undercut the average price of other imports (excluding Turkey) by \$0.64 or 39 percent. In 2016 the corresponding figures were \$0.86 or 52 percent.

227. As set out above, the Complainants best evidence of export prices, based on actual quotations from 2016 and 2017,⁷¹ are \$0.68/kg for 2017 and \$0.64/kg for 2016.⁷² These prices are dramatically below the cost being offered by any other country.

228. Moreover, when the average domestic price for the Complainant's three members, calculated as the total annual sales (Confidential Appendix 88) divided by total annual production (Confidential Appendix 4) are considered, the extent of the price undercutting is even more dramatic:

Producer	2014	2015	2016	Jan 1 to Sept 30 2016	Jan 1 to Sept 30 2017
Italpasta					
Primo					
Grisspasta					
Average					

229. For the first nine months of 2017, the average Turkish price of \$0.759/kg is just [REDACTED] of the domestic average of [REDACTED]. This represents cost undercutting of [REDACTED].

230. While Subject Goods are being sold or offered at dumped and subsidized prices in all segments of the Canadian market, the largest destination for Turkish pasta to date is the retail private label sub-segment.

231. According to A.C. Nielsen Market Track, there are currently [REDACTED] Canadian retailers offering private label brands. This is the Canadian market sub-segment in which imports of Subject Goods are currently the most active.

232. Sales of imported Turkish pasta in this market sub-segment have caused a substantial adverse impact on the Canadian industry. [REDACTED]

⁷¹ Email quotes from Turkey are attached at Confidential Appendix 69.

⁷² Export Price Calculation, Confidential Appendix 70.

[REDACTED]

233. [REDACTED]

[REDACTED]

234. [REDACTED]

235. [REDACTED]

236. In addition to these lost sales, the Canadian domestic industry has also been forced to severely lower prices in order to maintain other accounts. In or around June 2016, [REDACTED]

[REDACTED]

237. [REDACTED]

238. [REDACTED]

239. The price effects of low-priced imports of dry pasta products from Turkey are cascading throughout the Canadian market and [REDACTED]

240. [REDACTED]

241. [REDACTED]

C. Loss of Employment

242. To date, [REDACTED]

[REDACTED]

243. [REDACTED] has been forced to layoff [REDACTED] employees, [REDACTED] because of dumped and subsidized imports of the Subject Goods.⁷³ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

D. Reduced Profitability of the Domestic Industry

244. Attached as Confidential Appendices 8-12 are Italtasta's trend income statements for the fiscal years 2013/14, 2014/15, 2015/16, and 2016/17, and for the period from January to September of 2017.

245. Attached as Confidential Appendix 7 are the financial 2014, 2015, 2016, and January to October 2017 *Pro Formas* for Primo's pasta production. Primo's projections for 2017, 2018, and 2019 if dumped and subsidized imports of dry pasta products from Turkey continue are also included in that Confidential Appendix.

246. Attached as Confidential Appendices 78-79 are Grisspasta's financial statements. Attached as Confidential Appendices 13-16 are the sales comparisons for Grisspasta for the years 2014 to 2016, and up to September 2017.

a) Italtasta

247. Italtasta's trend statements at Confidential Appendices 8-12 show [REDACTED]

[REDACTED]

⁷³See also Witness Statement of Italtasta, Confidential Appendix 25.

[REDACTED]

248. Directly as a result of dumped and subsidized imports of Subject Goods, Italtasta was also

[REDACTED]

b) Grisspasta

249. With respect to Grisspasta, the sales comparisons attached as Confidential Appendices 42 and 43 show [REDACTED]

[REDACTED]

250. [REDACTED]

[REDACTED]

c) Primo

251. Finally, Confidential Appendix 7 presents the financial *Pro Formas* for Primo’s production of like goods for the years 2014, 2015, 2016, and the period from January to September 2017, as well as its projections for 2017, 2018, and 2019 if Turkey is permitted to continue to dump Subject Goods into Canada.

252. The adverse effects of dumped and subsidized imports of dry pasta products from Turkey are cascading through the market [REDACTED]

[REDACTED]

E. Causation

253. The influx of dumped and subsidized imports from Turkey constitutes the only factor that has materially changed in the Canadian market. There are no other factors to attribute to the adverse effects being caused to the domestic industry by the imports of Subject Goods. The adverse effects suffered by the domestic Industry are not being caused or contributed to by any other or unrelated factors. The domestic industry has taken all possible commercially rational steps to respond to such imports and has no choice but to request the initiation of this investigation.

F. Summary of the Injury Caused by Dumped and Subsidized Turkish Pasta

254. Dry pasta products imported from Turkey are consistently being offered and sold into the Canadian market at landed prices that do not even cover the cost of production of that pasta. Such

pricing is not commercially rational, unless the pricing is being distorted by Turkish government intervention and subsidies and by dumping related to factors specific to the circumstances of Turkish dry pasta producers.

255. The injury factors set out above demonstrate that low-priced imports of Subject Goods have caused material injury to the domestic industry. There has been a substantial increase in the volume of the Subject Goods imported into Canada, both in absolute terms and relative to the production of like goods in Canada. Moreover, the Complainant has provided account-specific examples of lost sales and price depression, as well as evidence of the adverse financial impact of such effects.

X. SUBJECT GOODS FROM TURKEY POSE AN IMMINENT AND FORESEEABLE THREAT OF MATERIAL INJURY

256. The dumping and subsidizing of Subject Goods from Turkey also poses an imminent and foreseeable threat of injury to the domestic industry. That threat of injury, which is likely to have an impact over the next 12 to 18 months, is apparent by examining the following factors:

- a. The likelihood that the subject imports will continue to substantially increase, while the market share of the domestic industry continues to be eroded;
- b. Turkey's pasta industry has substantial unutilized production capacity and is export dependent; and
- c. Turkey has shown a propensity to dump and subsidize exports of dry pasta products, which has resulted in anti-dumping and countervailing duty orders imposed by the United States on certain pasta products from Turkey since 1996.

A. The Dramatic Increase of Imports Will Continue

257. The Subject Goods have captured market share at the expense of the Canadian industry by aggressively undercutting Canadian market pricing. Even with the expense of shipping dry pasta products long distances, dry pasta products from Turkey are still priced substantially below the prices offered by the Canadian producers and other importers. There is no reason to believe that aggressive price undercutting by Turkish pasta will subside.

258. As discussed above, the volume of Subject Goods imported into Canada has materially increased in absolute terms and relative to the consumption of like goods in Canada. From 2014 to 2016, the volume of imports of Subject Goods increased 681%, from 1,723,155 kg to 11,742,434 kg. Over the same period, their share of the total Canadian market increased from [REDACTED]% to [REDACTED]%. For the first nine months of 2017, this has increased to [REDACTED]

259. Even more troubling is the fact that the average FOB import price per kilogram for Turkish pasta for the first nine months of 2017 is \$0.759 per kg. This is not only the lowest average price offered by Turkey since 2014, but it is the lowest average price offered by any importer. In comparison, the average import price offered over the same period for like goods from all countries, including Turkey, is \$1.428 per kg. This is a difference of \$0.667.

260. The domestic industry's average selling price over that same period was [REDACTED]. Turkey is selling its pasta at a price which is, on average, [REDACTED] per kg lower than the average domestic price. Absent protection, it is certain that dumped and subsidized imports of low-priced dry pasta products from Turkey will continue to exert strong downward pressure on the pricing of like goods in Canada. This will likely result in the continuation of lost sales and material price depression. This, in turn, will continue to result in material injury to the Canadian domestic industry.

B. Turkey's Pasta Industry is Export Dependent

261. As discussed above, since approximately 2009, domestic production volumes of pasta in Turkey have significantly increased (almost doubling between 2009 and 2015), but domestic consumption has not increased by the same rate. Over that same period, exports increased 215%, from 213,516 MT in 2009 to 672,105 MT in 2015. Moreover, from 2015 to 2016, exports grew an additional 24%, from 672,105 kg in 2015 to 831,562 kg in 2016.

262. The most recent data available to the Complainant relates to the production and export of dry pasta products from Turkey in 2015. In that year, Turkey produced 1,158,069 MT of dry wheat-based pasta products, of which 672,105 MT (representing 58% of all production) was exported. The Turkish pasta industry is obviously export-oriented.

263. Attached as Public Appendix 81 is an article dated 19 October 2015, in which a member of the Board of Turkey's Pasta Industrialists Association asserts that Turkish pasta producers have a

target of exporting 2 million tons of pasta in 2023, yielding revenues of 1 billion dollars, and that there is no reason why Turkey can't be the "largest pasta exporter in the world".

264. Considering the facts that pasta producers in Turkey annually produce substantially more pasta than the domestic market consumes, the Turkish pasta industry has significant excess production capacity, and the stated goal of the Turkish pasta industry is to materially increase exports to become the single "largest pasta exporter in the world", it is a certainty that Turkey will continue to export dumped and subsidized pasta into Canada.

C. The Imposition of Anti-dumping and Countervailing Measures in a Country Other Than Canada

265. Since 1996, the United States has issued anti-dumping and countervailing duty orders on subject imports from Turkey. Since that initial decision, the anti-dumping and countervailing orders against Turkey have been reviewed three times by the U.S. International Trade Commission. The most recent review is attached as Public Appendix 82.

266. The absence of anti-dumping and countervailing duty protection in Canada, coupled with the presence of such protection in the United States, creates a strong incentive for Turkish producers to continue to increase exports of the Subject Goods to Canada. This supports a finding that the injury already being suffered by the Canadian domestic industry will continue to increase.

D. The Imposition of a Tariff Quota by the European Union

267. The European Union currently imposes a tariff quota on certain pasta imports from Turkey. Attached as Public Appendix 83 is a copy of Commission Regulation (EC) No 816/2007. That Regulation establishes an annual quota of 20,000 MT for certain pasta products from Turkey.

268. The existence of such EU trade restrictions creates further incentive for Turkish producers to increase exports to countries, such as Canada, that do not impose trade protection against dumped and subsidized imports of dry pasta products from Turkey. This further supports a finding that the injury already being suffered by the Canadian domestic industry will continue to increase.

E. The Magnitude of Dumping

269. As set out above, the Complainants best estimate of the margins of dumping, based upon the Primo Model V2, is [] for 2016 and [] for 2017. The magnitude of such dumping margins, in and of themselves, establish that the threat of injury to the domestic industry imposed by dumped and subsidized imports of dry pasta from Turkey is imminent and real.

F. The Magnitude of the Margin of Subsidization

270. The significant subsidization conferred upon imports of dry pasta from Turkey, as set out in the complaint and, in particular, in the report at Confidential Appendix 72, further confirm that the threat of injury to the domestic industry is imminent and real.

G. Conclusion on Threat of Injury

271. For the foregoing reasons, the Complainant submits that dumped and subsidized pasta from Turkey constitutes an imminent and foreseeable threat of injury to the domestic producers of like goods in Canada.

XI. SUMMARY AND CONCLUSION

272. Imports of dumped and subsidized Subject Goods have caused material injury to the domestic industry. The domestic industry has suffered material injury in the form of lost production, lost sales, price depression, loss of employment and reduced profitability.

273. Further, imports of dumped and subsidized Subject Goods threaten to cause imminent and foreseeable injury to the domestic industry over the next 12 to 18 months. This threat is based upon: the increasing volumes of dumped and subsidized imports from Turkey and the corresponding decrease in the Canadian industry's market share; the fact that the trend for imports of dry pasta products from Turkey in 2017 supports a conclusion that the volumes of such imports are substantially increasing while the prices are further decreasing; the import prices of dry pasta products from Turkey remain materially lower than the import prices of like products from all other countries; Turkey's pasta industry is export dependent; Turkish pasta producers have demonstrated a propensity to dump pasta exports, and this has resulted in the imposition of US anti-dumping and countervailing duty orders on certain pasta products from Turkey since 1996; a tariff quota currently

limits access to the EU market for dry pasta products from Turkey; and the magnitude of the dumping margins for imports of dry pasta products from Turkey is estimated to be [REDACTED] for 2016 and [REDACTED] for 2017; and the magnitude of the subsidy margin to be well above the 1% *de minimis* threshold.

274. Accordingly, the Complainant hereby respectfully requests that the President of the CBSA initiate an investigation into the injurious subsidization and dumping of the Subject Goods, being all dry wheat-based pasta products originating in or exported from Turkey.