

parties. Subsequently, on March 7, 2003, Gidasa submitted comments on petitioners' objections and provided further support for its expedited treatment request.

Scope of Reviews

Imports covered by these reviews are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of these reviews are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States (HTSUS)*. Although the HTSUS subheading is provided for convenience and Customs purposes, the written description of the merchandise subject to the order is dispositive.

Scope Ruling

On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package of pasta weighing over five pounds as a result of allowable industry tolerances is within the scope of the antidumping and countervailing duty orders. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the antidumping and countervailing duty orders. *See Memorandum from John Brinkmann to Richard Moreland*, dated May 24, 1999, in the case file in the Central Records Unit, main Commerce building, room B-099 ("CRU").

Initiation and Preliminary Results of Changed Circumstances Antidumping and Countervailing Duty Reviews

In a submission dated February 12, 2003, Gidasa advised the Department that in December 2002, Gidasa had acquired all of Maktas' assets. The relevant facts in that process were as follows.

In December 2002, a Turkish holding company, Haci Omer Sabanci Holding

A. S. ("Sabanci"), incorporated Gidasa as a Turkish corporation. Once established, Gidasa bought the assets of Maktas, including its facilities and its brand name ("Piyale"), essentially taking over all the activities and functions of Maktas.

Gidasa then began producing the same products, under the Piyale name, with the same personnel and equipment and selling them to the same customers through the same channels, using the same management team as its predecessor, Maktas. In accordance with section 751(b) of the Tariff Act of 1930, as amended ("the Act") and 19 CFR 351.216, the Department has determined that there is a sufficient basis to initiate a review of changed circumstances to determine whether Gidasa is the successor-in-interest to Maktas.

In making a successor-in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See, e.g., Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Administrative Review*, 57 FR 20460, 20461 (May 13, 1992) ("Canadian Brass"). While no one or several of these factors will necessarily provide a dispositive indication, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is not materially dissimilar to that of its predecessor. *See, e.g., Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944 (February 14, 1994) and *Canadian Brass*, 57 FR at 20461. Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the former company, the Department will assign the new company the cash deposit rate of its predecessor.

We preliminarily determine that Gidasa is the successor-in-interest to Maktas. In its February 12, 2003, submission, Gidasa provided evidence that production continues with the same equipment, the same workers, the same raw materials purchased from the same suppliers, and the same production process. Gidasa also provided evidence that it continues to sell the same products to the same customers to which Maktas previously sold. Moreover, Gidasa has provided evidence that substantially all management and employees are the same as when the factory was managed by Maktas. Documentation attached to

Gidasa's February 12, 2003, submission supports its claims that the acquisition of Maktas resulted in little or no changes in either production facilities, supplier relationships, customer base, or management. This documentation consisted of: (1) Maktas and Gidasa's price lists, supplier lists, distributor lists, sales history, and product catalogs; (2) Sabanci, Maktas, and Gidasa's organization charts; and (3) documents supporting transfer of trademarks, equipment, and real property from Maktas to Gidasa. The documentation described above demonstrates that (i) substantially all employees of Maktas, including management, have been transferred to Gidasa, (ii) the business was sold as a going concern, and (iii) there was little to no change in management structure, supplier relationships, production facilities, or customer base. In its March 5, 2003, submission, petitioners objected to an expedited treatment of these changed circumstances reviews. However, petitioners offered no compelling reasons for the Department not to proceed with these changed circumstances reviews on an expedited basis.

When warranted, the Department may publish the notice of initiation and preliminary determination concurrently. *See* 19 CFR 221(c)(3)(ii). The Department has determined that such action is warranted because Gidasa has provided *prima facie* evidence that it is the successor-in-interest to Maktas.

For the forgoing reasons, we preliminarily determine that Gidasa is the successor-in-interest to Maktas and should receive the same antidumping and countervailing duty rates with respect to certain pasta from Turkey as the former Maktas.

Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held no later than 44 days after the date of publication of this notice, or the first workday thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 351.303. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing. The Department will publish the final results of these changed circumstances reviews,