

company-specific LOT findings for these preliminary results, *see* the company-specific verification reports and calculation memoranda, all on file in the CRU.

#### G. Company-Specific Issues

We relied on the respondents' information as submitted, except in instances where, based on verification findings, we made minor modifications to the calculation of NV and EP or CEP. *See* the company-specific calculation memoranda on file in the CRU.

#### Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve.

#### Intent Not To Revoke

On July 31, 2002, Pagani submitted a letter to the Department requesting, pursuant to 19 CFR 351.222(e), revocation of the antidumping duty order with respect to its sales of the subject merchandise. Pagani submitted along with its revocation request a certification stating that: (1) The company sold subject merchandise at not less than NV during the POR, and that in the future it would not sell such merchandise at less than NV (*see* 19 CFR 351.222(e)(1)(i)); (2) the company sold the subject merchandise to the United States in commercial quantities during each of the past three years (*see* 19 CFR 351.222(e)(1)(ii)); and (3) the company agrees to immediate reinstatement of the order, if the Department concludes that the company, subsequent to revocation, has sold the subject merchandise at less than NV (*see* 19 CFR 351.222(b)(1)(iii)). Petitioners did not comment on the issue of revocation.

The Department "may revoke, in whole or in part" an antidumping duty order upon completion of a review under section 751(d) of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. The regulation requires that exporters or producers covered by the order and desiring revocation submit the following: (1) A certification that the company has sold the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise for at least three consecutive years in commercial quantities; and (3) an

agreement to immediate reinstatement of the order if the Department concludes that the company, subsequent to the revocation, has sold subject merchandise at less than NV. *See* 19 CFR 351.222(e)(1).

Upon receipt of such a request, the Department will consider the following in determining whether to revoke the order in part: (1) Whether the producer or exporter requesting revocation has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether the continued application of the antidumping duty order is otherwise necessary to offset dumping; and (3) whether the producer or exporter requesting revocation in part has agreed in writing to the immediate reinstatement of the order, as long as any exporter or producer is subject to the order, if the Department concludes that the exporter or producer, subsequent to revocation, sold the subject merchandise at less than NV. *See* 19 CFR 351.222(b)(2).

Pagani submitted the required certifications and agreements. However, after applying the criteria outlined in section 351.222(b) of the Department's regulations, and considering the evidence on the record, we have preliminarily determined that one of the Department's requirements for revocation has not been met. While we preliminarily find that Pagani has demonstrated three consecutive years of sales at not less than NV, we also preliminarily find that, based on Pagani's U.S. shipment data, its sales to the United States have not been made in commercial quantities during all three review periods at issue, in accordance with sections 351.222(d) and 351.222(e)(1)(ii) of the Department's regulations.

In particular, data on the record indicate that the amount of subject merchandise sold in the U.S. market by Pagani during the fourth and fifth review periods is small in quantity relative to Pagani's total U.S. sales volume during the period of investigation ("POI"). With respect to the sixth review period, we recognize that Pagani's volume of sales to the United States has substantially increased. However, because Pagani did not make sales in commercial quantities during the fourth and fifth review periods, Pagani did not satisfy the regulatory requirement to sell commercial quantities in each of the three years forming the basis of this revocation request. We conclude that Pagani's sales during the fourth and fifth PORs do not provide any meaningful information concerning Pagani's normal

commercial practice. Consequently, we find that Pagani's shipments during these PORs are not a reasonable basis for finding commercial quantities.<sup>6</sup>

Therefore, we have determined that the requirements for revocation have not been met because Pagani has not made sales to the United States in commercial quantities during the fourth or fifth segment of this proceeding.<sup>7</sup> Based on our examination of these facts, we find that, consistent with Department practice, we do not have a sufficient basis to conclude that the *de minimis* dumping margin calculated for Pagani for the fourth, fifth, or sixth administrative review is reflective of the company's normal commercial experience. *See e.g., Final Results of Antidumping Duty Administrative Review: Silicon Metal from Brazil*, 65 FR 7497, 7498 (February 15, 2000) ("*Silicon Metal from Brazil*") (finding that because sales and volume figures were so small the Department could not conclude that the reviews reflected what the company's normal commercial experience would be absent an antidumping duty order). Because Pagani has not met the commercial quantities requirement, we have not examined the issue as to whether the antidumping duty order is necessary to offset future dumping (*see Silicon Metal from Brazil*, at 7505). For a more detailed discussion, *see* Memorandum to Melissa Skinner through Eric Greynolds from the Team, Re: Commercial Quantities, issued simultaneously with this notice.

Based on the foregoing analysis, we have preliminarily determined that Pagani has not met one of the threshold

<sup>6</sup> Pagani's history of subject merchandise pasta sales is as follows: Pagani's 4th POR sales of subject pasta were 0.94 percent of its POI sales of subject pasta. Pagani's 5th POR sales of subject pasta were 1.06 percent of its POI sales of subject pasta. Pagani's 6th POR sales of subject pasta were 17.63 percent of its POI sales of subject pasta.

<sup>7</sup> As we noted in *Pure Magnesium from Canada: Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke Order In Part*, 64 FR 12977, 12979 (March 16, 1999) ("*Pure Magnesium from Canada*"), sales in commercial quantities is a threshold requirement that must be met by parties seeking revocation. We also note that while the regulation requiring sales in commercial quantities may have developed from the unreviewed intervening year regulation, its application in all revocation cases based on the absence of dumping is reasonable and mandated by the regulations. The application of this requirement to all such cases is reflected not only in the provision for unreviewed intervening years (*see* 19 CFR 351.222 (d)(1)), but also in the new general requirement that parties seeking revocation certify to sales in commercial quantities in each of the years on which revocation is to be based. *See* 19 CFR 351.222(e)(1)(ii). This requirement ensures that the Department's revocation determination is based upon a sufficient breadth of information regarding a company's normal commercial practice. *See Pure Magnesium from Canada*, 64 FR at 12979.