

will be the rate established for the most recent period for the manufacturer of the subject merchandise; (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous segment of the proceeding, the cash-deposit rate will continue to be the all-others rate established in the LTFV investigation which is 32.62 percent. *See Antidumping Duty Order.* These cash-deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The preliminary results of administrative review and this notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 7, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-475-819]

Certain Pasta From Italy: Preliminary Results of Countervailing Duty Changed Circumstances Review and Intent To Revoke, In Part

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

SUMMARY: On September 17, 2010, the Department of Commerce ("the Department") published a notice of initiation of a changed circumstances review and consideration of revocation, in part, of the countervailing duty order on certain pasta from Italy. *See Certain Pasta From Italy: Notice of Initiation of Changed Circumstances Review and Consideration of Revocation of Order, in Part*, 75 FR 56992 (September 17, 2010) ("Initiation Notice"). The Department confirmed that New World Pasta Company, Dakota Growers Pasta

Company, and American Italian Pasta Company (collectively "Petitioners") have no interest in countervailing duty relief from imports of gluten-free pasta. Therefore, we are notifying the public of our intent to revoke, in part, the countervailing duty order as it relates to imports of gluten-free pasta, as described below. The Department invites interested parties to comment on these preliminary results.¹

DATES: *Effective Date:* December 15, 2010.

FOR FURTHER INFORMATION CONTACT:

Patricia Tran or Austin Redington, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-1503 and (202) 482-1664, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, the Department published in the **Federal Register** the countervailing duty ("CVD") order on certain pasta from Italy. *See Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta From Italy*, 61 FR 38544 (July 24, 1996). On July 29, 2010, the Department received a request on behalf of H.J. Heinz Company ("Heinz") to initiate a no-interest changed circumstance review and revocation, in part, of the CVD order on certain pasta from Italy with respect to gluten-free pasta. On September 17, 2010, the Department published a notice of initiation of changed circumstances review and consideration of revocation of order, in part, with respect to the CVD order on certain pasta from Italy and invited interested parties to comment. *See Initiation Notice.*

On September 27, 2010, Petitioners expressed a lack of interest in maintaining the order with respect to gluten-free pasta. *See Memorandum to the File from Austin Redington, International Trade Compliance Analyst, AD/CVD Operations Office 1, entitled "Changed Circumstance Review*

¹ On July 2, 2009, the Department published a notice of initiation and preliminary results of a changed circumstances review and intent to revoke, in part, the AD order of certain pasta from Italy, in part, with respect to gluten-free pasta. The Department gave interested parties an opportunity to comment on the preliminary results and notice of intent to revoke, but received no comments. The Department issued their final results on August 14, 2009 and revoked the AD order, in part, with respect to gluten-free pasta. *See Certain Pasta From Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part*, 74 FR 41120 (August 14, 2009).

of Certain Pasta from Italy: Statement of No Opposition from Domestic Industry," dated October 13, 2010 ("No Opposition Memo"). On October 12, 2010, Heinz submitted comments, restating its request that the Department revoke the CVD order, in part, with respect to gluten-free pasta. On November 30, 2010, Petitioners confirmed that they represent "substantially all" of the production of the domestic like product. *See Memorandum to the File from Patricia Tran, Acting Program Manager, entitled "Ex Parte Memorandum: Phone Conversation with Counsel for Petitioners," dated November 30, 2010 ("Substantially All Memo").*

We received no comments to counter Heinz's request. Although we stated in the *Initiation Notice* that we would issue final results within 45 days if all parties agreed to the outcome, we have instead determined to publish these preliminary results of changed circumstances review and intent to revoke the order, in part, so that our intention to revoke is clear to parties and our determination may be commented upon, as set forth below. *See* 19 CFR 351.222(g)(3)(v).

Scope of Order

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

Excluded from the scope of the order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, Bioagricoop S.r.l., QC&I International Services, Ecocert Italia, Consorzio per il Controllo dei Prodotti Biologici, Associazione Italiana per l'Agricoltura Biologica, or Codex S.r.l. In addition, based on publicly available information, the Department has determined that, as of August 4, 2004, imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by Bioagricert S.r.l. are also excluded from the order. *See Memorandum from Eric B. Greynolds to Melissa G. Skinner,*

dated August 4, 2004, which is on file in the Department's Central Records Unit ("CRU") in Room 7046 of the main Department building. In addition, based on publicly available information, the Department has determined that, as of March 13, 2003, imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by Istituto per la Certificazione Etica e Ambientale are also excluded from the order. See Memorandum from Audrey Twyman to Susan Kuhbach, dated February 28, 2006, entitled "Recognition of Istituto per la Certificazione Etica e Ambientale (ICEA) as a Public Authority for Certifying Organic Pasta from Italy" which is on file in the Department's CRU.

The merchandise subject to review is currently classifiable under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Scope Rulings

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling finding that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the antidumping ("AD") and CVD orders. See Memorandum from Edward Easton to Richard Moreland, dated August 25, 1997, which is on file in the CRU.

(2) On July 30, 1998, the Department issued a scope ruling finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the AD and CVD orders. See Letter from Susan H. Kuhbach to Barbara P. Sidari, dated July 30, 1998, which is on file in the CRU.

(3) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances is within the scope of the AD and CVD 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 AD and CVD orders. See Memorandum from John Brinkmann to Richard Moreland, dated May 24, 1999, which is on file in the CRU.

(4) On April 27, 2000, the Department self-initiated an anti-circumvention

inquiry to determine whether Pastificio Fratelli Pagani S.p.A.'s importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention with respect to the AD and CVD orders on pasta from Italy pursuant to section 781(a) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.225(b). See *Certain Pasta From Italy: Notice of Initiation of Anti-Circumvention Inquiry on the Antidumping and Countervailing Duty Orders*, 65 FR 26179 (May 5, 2000). On September 19, 2003, we published an affirmative finding in the anti-circumvention inquiry. See *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003).

Preliminary Results of Changed Circumstance Review and Intent To Revoke, In Part

Pursuant to section 751(b)(1) of the Act, and 19 CFR 351.216, the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party for review of, an AD or CVD order which shows changed circumstances sufficient to warrant a review of the order. Additionally, pursuant to 19 CFR 351.222(g)(1)(i), the Department will revoke an order in whole or in part, if the Secretary concludes that "[p]roducers accounting for substantially all of the production of the domestic like product to which the order (or part of the order to be revoked) * * * have expressed a lack of interest in the order, in whole or in part." In its administrative practice, the Department has interpreted "substantially all" to mean at least 85 percent. See, e.g., *Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China: Notice of Initiation and Preliminary Results of Changed Circumstance Review, and Intent To Revoke the Order*, 75 FR 34097, 34098 (June 16, 2010).

In accordance with section 751(b)(1) of the Act and 19 CFR 351.222(g)(1)(i), Petitioners have expressed a lack of interest in the order, in part, with respect to gluten-free pasta and further confirmed with the Department that they comprise substantially all of the production of the domestic like product. See No Opposition Memo; see also Substantially All Memo. Based on the expression of no interest by Petitioners, and absent any objection by any other

interested parties, we have preliminarily determined that the domestic producers of the like product have no interest in the continued application of the CVD order on certain pasta from Italy to the merchandise that is subject to this request. Accordingly, we are notifying the public of our intent to revoke, in part, the CVD order with respect to gluten-free pasta. Therefore, we intend to change the scope of the CVD order on certain pasta from Italy to include the following exclusion: Excluded from the scope is gluten-free pasta.

Public Comment

Interested parties are invited to comment on these preliminary results. Written comments may be submitted no later than 10 days after the date of publication of these preliminary results. Rebuttals to written comments, limited to issues raised in such comments, may be filed no later than 17 days after the date of publication of these preliminary results. The Department will issue the final results of this changed circumstances review, which will include its analysis of any written comments, no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary results. See 19 CFR 351.216(e).

If final revocation occurs, we will instruct U.S. Customs and Border Protection to end the suspension of liquidation for the merchandise covered by the revocation on the effective date of the notice of revocation and to release any cash deposit or bond. See 19 CFR 351.222(g)(4). The current requirement for a cash deposit of estimated countervailing duties on all subject merchandise will continue unless and until it is modified pursuant to the final results of this changed circumstances review.

These preliminary results of changed circumstance review and notice are in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216, 351.221, and 351.222.

Dated: December 8, 2010.

Paul Piguado,

Acting Deputy Assistant Secretary for Import Administration.

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