



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818, C-475-819]

Certain Pasta From Italy: Initiation And Preliminary Results Of Antidumping Duty And Countervailing Duty Changed Circumstances Reviews, And Intent To Revoke Orders, In Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: Pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(b), Grandi Pastai Italiani, Inc. and Grandi Pastai Italiani S.p.A. (together, GPI) filed a request for an expedited changed circumstances review of the antidumping duty (AD) and countervailing duty (CVD) orders on certain pasta from Italy¹ to revoke the *Orders* with respect to certain cheese- and/or vegetable-filled (stuffed) ravioli and tortellini pasta (stuffed ravioli and tortellini pasta). The Department of Commerce (the Department) is initiating a changed circumstances review to be conducted on an expedited basis and issuing a notice of preliminary intent to revoke, in part, the *Orders*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATES: July 1, 2012 for AD order A-475-818 and January 1, 2012 for CVD order C-475-819

FOR FURTHER INFORMATION CONTACT: Chris Siepmann at (202) 482-7958; AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

¹ See *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta From Italy*, 61 FR 38544 (July 24, 1996) and *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy*, 61 FR 38547 (July 24, 1996) (collectively, the *Orders*).

Background

On July 24, 1996, the Department published in the *Federal Register* the *Orders* on certain pasta from Italy. On May 16, 2014, in accordance with sections 751(b) and 751(d)(1) of the Act, 19 CFR 351.216(b), and 19 CFR 351.222(g)(1), GPI, an importer of subject merchandise, requested revocation, in part, of the *Orders* with respect to its Italian stuffed ravioli and tortellini pasta, filled with cheese and/or vegetables, as part of a changed circumstances review. GPI requested that the Department conduct the changed circumstances review on an expedited basis pursuant to 19 CFR 351.221(c)(3)(ii). On July 15, 2014, the Department extended the deadline for initiation of this review request by 30 days until August 13, 2014.

Scope of the Orders

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

Excluded from the scope of these *Orders* are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, by

Associazione Italiana per l'Agricoltura Biologica, by Ambientale.² Effective July 1, 2008, gluten-free pasta is also excluded from the AD order.³ Effective January 1, 2009, gluten-free pasta is also excluded from the scope of the CVD order.⁴

The merchandise subject to these *Orders* is currently classifiable under items 1901.90.9095 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 description of the merchandise subject to the *Orders* 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 *Orders*.⁵
- (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 *Orders*.⁶
- (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 *Orders*. On May 24, 1999, we issued a final

² See Memorandum from Yasmin Nair to Susan Kuhbach, entitled "Recognition of EU Organic Certifying Agents for Certifying Organic Pasta from Italy" (October 10, 2012), which is on file in the Department's Central Records Unit ("CRU") in Room 7046 of the main Department building.

³ 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).

⁴ See *Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634 (May 12, 2011) (*Pasta from Italy CVD CCR*).

⁵ See Memorandum from Edward Easton to Richard Moreland, dated August 25, 1997, which is on file in the CRU.

⁶ See Letter from Susan H. Kuhbach to Barbara P. Sidari, dated July 30, 1998, which is on file in the CRU.

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 *Orders*.⁷

(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 *Orders* pursuant to section 781(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(b).⁸ On September 19, 2003, we published an affirmative finding in the anti-circumvention inquiry.⁹

(5) On July 18, 2013, the Department issued a scope ruling finding that Valdigrano di Flavio Pagani S.r.L. product which is made from a dough that contains 2.5 percent egg white, by weight, is within the scope of the *Orders*.¹⁰

Initiation And Preliminary Results Of Changed Circumstances Review, And Consideration Of Revocation Of The Order In Part

Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i) provide that the Department may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order, in whole or in part. In addition, in the event the Department determines that expedited

⁷ See Memorandum from John Brinkman to Richard Moreland, dated May 24, 1999, which is on file in the CRU.

⁸ 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).

⁹ 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).

¹⁰ See Memorandum from Joseph Shuler to Christian Marsh, dated July 18, 2013, which is on file in the CRU.

action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

On May 16, 2014, GPI requested the Department conduct the changed circumstances review on an expedited basis. On the same day, Petitioners¹¹ filed a letter in support of GPI's changed circumstances review request. Petitioners stated that, as producers accounting for substantially all of the production of the domestic like product in support of the *Orders*, they have no interest in including ravioli and tortellini filled with cheese and/or vegetables in the scope of the *Orders*.¹²

Therefore, at the request of GPI and in accordance with sections 751(b)(1) and 751(d)(1) of the Act, 19 CFR 351.216, 19 CFR 351.222(g)(1), and 19 CFR 351.221(c)(3)(ii), we are initiating this changed circumstances review of ravioli and tortellini filled with cheese and/or vegetables from Italy to determine whether partial revocation of the *Orders* is warranted with respect to this product. In addition, we determine that expedited action is warranted. In accordance with 19 CFR 351.222(g)(1), we find that Petitioners' affirmative statements of no interest constitutes good cause for the conduct of this review. Additionally, our decision to expedite this review pursuant to 19 CFR 351.221(c)(3)(ii) stems from the domestic industry's lack of interest in applying the *Orders* to ravioli and tortellini filled with cheese and/or vegetables.

Based on the expression of no interest by Petitioners and absent any objections by other domestic interested parties, we preliminarily determine that substantially all of the domestic

¹¹ Petitioners in this proceeding include A. Zerega's Sons, Inc., American Italian Pasta Company, Dakota Growers Pasta Company, New World Pasta Company, Philadelphia Macaroni Company, and ST Specialty Foods.

¹² See Letter from Petitioners, "Changed Circumstances Review Request – Certain Pasta from Italy," dated May 16, 2014. In its administrative practice, the Department has interpreted "substantially all" to mean at least 85 percent of the total production of the domestic like product covered by the order. See, e.g., *Pasta from Italy CVD CCR*, 76 FR at 27635.

producers have no interest in the continued application of the *Orders* on pasta from Italy to the merchandise that is subject to GPI's request. Therefore, we are notifying the public of our intent to revoke, in part, the *Orders* as they relate to imports of ravioli and tortellini filled with cheese and/or vegetables from Italy. This partial revocation would be retroactively applied to entries of ravioli and tortellini filled with cheese and/or vegetables, entered or withdrawn from warehouse, for consumption, on or after July 1, 2012 for the antidumping duty order and January 1, 2012 for the countervailing duty order, which are the day after the last day of the most recently completed administrative reviews under each order.¹³ We intend to modify the scope of the AD order to read as follows:

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

Excluded from the scope of these orders are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, by

¹³ See, e.g., *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 74 FR 8506 (February 25, 2009) (retroactively revoking an order, in part, to unliquidated entries not subject to a final determination by the Department).

Associazione Italiana per l'Agricoltura Biologica, by Ambientale.¹⁴ Effective July 1, 2008, gluten-free pasta is also excluded from the AD order.¹⁵ Effective January 1, 2009, gluten-free pasta is also excluded from the scope of the CVD order.¹⁶ *Effective July 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the AD order. Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the CVD order.*

The merchandise subject to these orders is currently classifiable under items 1901.90.9095 and 1902.19.20 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the description of the merchandise subject to the orders is dispositive.

Public Comment

Interested parties are invited to comment on these preliminary results. Written comments may be submitted no later than 14 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 21 days after the date of publication of these preliminary results. Consistent with 19 CFR 351.309, parties who submit written comments or rebuttal comments in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument (no longer than five pages, including footnotes). Pursuant to 19 CFR 351.310(c),

¹⁴ See Memorandum from Yasmin Nair to Susan Kuhbach, entitled "Recognition of EU Organic Certifying Agents for Certifying Organic Pasta from Italy" (October 10, 2012), which is on file in the Department's Central Records Unit ("CRU") in Room 7046 of the main Department building

¹⁵ 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).

¹⁶ See *Pasta from Italy CVD CCR*.

any interested party may request a hearing within 10 days of the date of publication of this notice. Further, any hearing, if requested, will be held no later than 25 days after the date of publication of this notice, or the first business day thereafter. All written comments and/or hearing requests must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS).¹⁷ An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time of the deadlines set forth in this notice.

We will issue our final results of this changed circumstances review as soon as practicable following the above comment period, but not later than 270 days after the date on which we initiated the changed circumstances review or within 45 days if all parties agree to our preliminary results, in accordance with 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 dates of the notice of revocation and to release any cash deposit or bond. The current requirement for a cash deposit of estimated AD and CVD duties on all subject merchandise will continue unless and until it is modified pursuant to the final results of this changed circumstances review.

¹⁷ *See, generally*, 19 CFR 351.303.

This initiation and preliminary results of review notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216, 351.221(b)(1), (4), and 351.222(g).

Dated: August 8, 2014.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

[FR Doc. 2014-19401 Filed 08/14/2014 at 8:45 am; Publication Date: 08/15/2014]