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DEPARTMENT OF COMMERCE

International Trade Administration

A-475-818

Certain Pasta from Italy: Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review

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

SUMMARY: On September 13, 2016, the Department of Commerce (the Department) initiated a changed circumstances review of the antidumping duty order on certain pasta from Italy in order to determine whether Francesco Tamma S.p.A (Tamma) is the successor-in-interest to Tamma Industrie Alimentare S.r.l. (TIAC), the company affiliated with Delverde, S.r.l. (Delverde), which was excluded from the order on pasta from Italy. We preliminarily determine that Tamma is not the successor-in-interest to TIAC. We invite interested parties to comment on these preliminary results.

DATES: Effective [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: Joy Zhang, Office III, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1168.

SUPPLEMENTARY INFORMATION

Background

On July 14, 1996, the Department published in the *Federal Register* the antidumping

duty order on pasta from Italy, which included Delverde and its affiliate TIAC¹ (collectively, Delverde/TIAC).² Pursuant to a decision by the Court of International Trade, on remand, the Department determined that Delverde/TIAC had a *de minimis* dumping margin and should be excluded from the order on pasta from Italy (hereinafter referred as the *Pasta Order*).³

In 2014, the Department conducted a changed circumstances review (CCR) of Delverde Industrie Alimentari S.p.A. (Delverde S.p.A.) and found that Delverde S.p.A. was not the successor-in-interest to Delverde based on aspects of the bankruptcy of Delverde, changes in management, changes in supplier relationships, and changes in production facilities.⁴ Thus, the Department found that Delverde S.p.A. was not entitled to the exclusion from the *Pasta Order* that was originally granted to Delverde, a defunct entity.⁵

On July 29, 2016, American Italian Pasta Company, Dakota Growers Pasta Company, and New World Pasta Company (Petitioners) filed a request for the Department to initiate a CCR of Tamma to determine whether Tamma is the successor-in-interest to TIAC, the company excluded from the *Pasta Order* that was previously affiliated with the now defunct Delverde.⁶

¹ On July 27, 2016, TIAC changed its corporate name to Francesco Tamma S.p.A. (Tamma). See Tamma's letter "Certain Pasta from Italy: Changed Circumstances Review Response of Francesco Tamma S.p.A." dated October 12, 2016.

² See *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) (*Pasta Order*).

³ See *Notice of Amendment of Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision and Revocation in Part: Certain Pasta from Italy*, 66 FR 65889 (December 21, 2001).

⁴ See *Certain Pasta from Italy: Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review*, 79 FR 28481 (May 16, 2014); unchanged in *Certain Pasta from Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 79 FR 76339 (September 19, 2014) and accompanying Issues and Decision Memorandum (*Delverde CCR*).

⁵ See *Delverde CCR*.

⁶ See Petitioners' letter titled, "Request for 2015-2016 Administrative Reviews of the Antidumping Duty Order on Certain Pasta from Italy," dated July 29, 2016. This letter requests an administrative review and changed circumstances review of Tamma. On August 11, 2016, Petitioners refiled this review request to clarify the specific company names requested for review.

On September 13, 2016, we initiated a CCR with respect to Tamma.⁷

On September 13, 2016, the Department requested information from Tamma, which, after an extension, was submitted on October 12, 2016 (hereinafter referred to as the Initial Response). On November 14, 2016, the Department requested additional information from Tamma, which was provided on December 9, 2016 (hereinafter referred to as Supplemental Response).

Scope of the Order

Imports covered by this 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 this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions. The merchandise subject to this order 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.

For a full description of the scope, *see* the memorandum titled, “Preliminary Results of Changed Circumstances Review, Regarding Successor-In-Interest Analysis: Certain Pasta from Italy,” dated concurrently with and hereby adopted by this notice.⁸ The Preliminary Results of Changed Circumstances Review memorandum is a business proprietary document of which the

⁷ *See Certain Pasta from Italy: Initiation of Changed Circumstances Review*, 81 FR 62864 (September 13, 2016) (*Initiation Notice*).

⁸ *See* Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, titled “Preliminary Results of Changed Circumstances Review Regarding Successor-In-Interest Analysis: Certain Pasta from Italy,” dated concurrently with this notice (Preliminary Results of Changed Circumstances Review memorandum).

public version is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and it is available to all parties in the Central Records Unit, room B8024, of the main Department of Commerce building. In addition, a complete public version of the Preliminary Results of Changed Circumstances Review memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>. The signed Preliminary Results of Changed Circumstances Review memorandum and the electronic version of the Preliminary Results of Changed Circumstances Review memorandum are identical in content.

Methodology

In accordance with section 751 (b)(1) of the Tariff Act of 1930, as amended (the Act), we are conducting this CCR based upon the information contained in the submissions of Tamma.⁹ For a full description of the methodology underlying our conclusions, see the Preliminary Results of Changed Circumstances Review memorandum.

Preliminary Results of Changed Circumstances Review

Based on record evidence, we preliminarily determine that Tamma is not the successor-in-interest to TIAC, the company in the Delverde/TIAC entity, which was excluded from the *Pasta Order*. Specifically, we preliminarily determine that the current management of Tamma is materially dissimilar to the management of TIAC before Delverde's bankruptcy in 2005. We also preliminarily determine that the ownership and management structure of Tamma is materially dissimilar to the management of TIAC, due to the acquisition of TIAC's stock by Satel S.r.L. (Satel) in 2016. In addition, we find that Tamma did not demonstrate that

⁹ See Tamma Initial Response, dated October 12, 2016, and Supplemental Response, dated December 9, 2016.

its operations, with respect to the subject merchandise, were materially similar to the operations of TIAC when it comes to supplier relationships and customer base. Thus, we preliminarily determine that Tamma does not operate as the same business entity as TIAC with respect to the subject merchandise. A list of topics discussed in the Preliminary Results of Changed Circumstances Review memorandum appears in the Appendix to this notice.

Consequently, we preliminarily determine that Tamma should not be given the same antidumping duty treatment as the Delverde/TIAC entity. This determination will apply to all entries of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this changed circumstances review.¹⁰ If we reach the same conclusion in the final results, the cash deposit for Tamma will be 15.45 percent, the all-others rate established in the antidumping duty investigation, as modified by the *Section 129 Determination*.¹¹

Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs not later than 10 days after the date of publication of this notice via ACCESS. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs. Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for

¹⁰ See *Granular Polytetrafluoroethylene Resin from Italy: Final Results of Changed Circumstances Review*, 68 FR 25327 (May 12, 2003). See also *Delverde CCR*.

¹¹ See *Implementation of Determinations Pursuant to Section 129 of the Uruguay Round Agreements Act*, 81 FR 37180 (June 9, 2016) (*Section 129 Determination*).

Enforcement and Compliance, filed electronically via ACCESS. An electronically filed document must be received successfully in its entirety by ACCESS, no later than 5:00 p.m. Eastern Time within 10 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in case briefs.

Consistent with 19 CFR 351.216(e), we will issue the final results of this changed circumstances review no later than 270 days after the date on which this review was initiated, or within 45 days after the publication of the preliminary results if all parties in this review agree to our preliminary results.

We are issuing and publishing this determination and notice in accordance with sections 751(b) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Dated: March 15, 2017.

Appendix

List of Topics Discussed in the Preliminary Changed Circumstances Review Memorandum

- I. Background
- II. Scope of the Order
- III. Successor-In-Interest Determination
 - 1. Management
 - 2. Production Facilities
 - 3. Supplier Relationship
 - 4. Customer Base

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