

Dated: April 2, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-475-819]

Certain Pasta from Italy: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review

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

ACTION: Notice of Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce is conducting an administrative review of the countervailing duty order on certain pasta from Italy for the period January 1, 2001, through December 31, 2001. We preliminarily find that certain producers/exporters have received countervailable subsidies during the period of review. If the final results remain the same as these preliminary results, we will instruct the U.S. Customs Service to assess countervailing duties as detailed in the "Preliminary Results of Review" section of this notice.

As certain requests for review were withdrawn, we are rescinding this review for the following companies: Labor S.r.L., F. Divella, S.p.A., and Delverde, S.p.A.

Interested parties are invited to comment on these preliminary results (see the "Public Comment" section of this notice).

EFFECTIVE DATE: April 9, 2003.

FOR FURTHER INFORMATION CONTACT:

Craig Matney or Stephen Cho, AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-1778 or 482-3798, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The Department of Commerce (the "Department") published the countervailing duty order on certain pasta from Italy on July 24, 1996 (*Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination*:

Certain Pasta From Italy, 61 FR 38544). On July 1, 2002, the Department published a notice of "Opportunity to Request Administrative Review" of this countervailing duty order for calendar year 2001 (*Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 67 FR 44172). We received review requests for five producers/exporters of Italian pasta. We initiated our review on August 27 and September 25, 2002 (*Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 55000 and *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part and Deferral of Administrative Reviews*, 67 FR 60210, respectively).¹

On October 2, 2002, F. Divella, S.p.A. and Labor S.r.L. withdrew their requests for review, and on October 11, 2002, Delverde, S.p.A. withdrew its request for review. We are rescinding this administrative review for these three companies (see the "Partial Rescission" section, below).

Thus, this administrative review of the order covers the following producers/exporters of the subject merchandise: F.lli De Cecco di Filippo Fara S. Martino S.p.A. ("De Cecco") and Italian American Pasta Company, S.r.L. ("IAPC").

On September 10, 2002, we issued countervailing duty questionnaires to the Commission of the European Union ("EC"), the Government of Italy ("GOI"), and the producers/exporters which requested a review.² We received responses to our questionnaires in October and November 2002, and issued a supplemental questionnaire to De Cecco in December 2002. The response to the supplemental questionnaire was received in December 2002.

Partial Rescission

As noted above, F. Divella, S.p.A., Labor S.r.L. and Delverde, S.p.A. withdrew their requests for review. Because these withdrawals were timely filed, we are rescinding this review with respect to these companies (see 19 CFR 351.213(d)(1)). We will instruct the U.S. Customs Service to liquidate any entries from these companies during the period of review and to assess countervailing

duties at the rate that was applied at the time of entry.

Scope of the Review

Imports covered by this review 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 ("subject merchandise"). 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 this review 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.c.r.l., QC&I International Services, Ecocert Italia, the Consorzio per il Controllo dei Prodotti Biologici, Associazione Italiana per l'Agricoltura Biologica, or Codex S.r.L.

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 Rulings

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling 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 countervailing duty order. (See August 25, 1997 memorandum from Edward Easton to Richard Moreland, which is on file in CRU in Room B-099 of the main Commerce building.)

(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 countervailing duty order. (See July 30, 1998 letter from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Import

¹ Italian American Pasta Company, S.r.L. was inadvertently omitted from the August 27, 2002 initiation notice.

² On October 25, 2002, we issued a second courtesy copy of the countervailing duty questionnaire to IAPC because it did not receive the first copy.