

We also disagree with petitioners' argument that Rummo USA and its U.S. customer have a warehouse and distribution agreement. During verification, we found that Rummo sends pasta to two types of warehouses: (1) Locations where Rummo USA rents space; and (2) direct containers. An official explained that for direct sales, Rummo ships to the customer's determined location, which Rummo provided in Appendix A-3 of its October 21, 2002 questionnaire response. Because the direct sales to the U.S. customer go to the company's designated location and Rummo USA rents its own warehouse space to hold its own inventory, we find that Rummo USA and its U.S. customer are not involved in joint warehousing.

Lastly, we find that Rummo's brochure which petitioners referenced as evidence of Rummo and its U.S. customer's exclusive importer/distributor relationship is outdated and, therefore, not persuasive in finding an exclusive importer/distributor relationship between Rummo and its U.S. customer during the POR. Rummo reported in its March 17, 2003 supplemental questionnaire response that, "copies provided in the October 21, 2002 submission were in fact filed in a previous administrative review," thus the brochure was not current for this POR.

The facts before the Department do not support a finding "in which the supplier or buyer becomes reliant upon the other." Neither Rummo nor Rummo USA are in a position to control its U.S. customer and this customer is similarly not in a position to exercise control over Rummo or Rummo USA. As such, the relationship between the companies is not a "close-supplier" relationship. Therefore, we preliminarily find that Rummo and its U.S. customer are not affiliated companies, as defined by 771(33) of the Act or section 351.102(b) of the regulations.

Partial Rescission

On October 2, 2002, Divella and Labor withdrew their requests for a review within 90 days of the publication of the *Initiation Notice*. Because the letters withdrawing the requests were timely filed, and because there were no other requests for review of Divella and Labor, we are rescinding the review with respect to Divella and Labor in accordance with 19 CFR 351.213(d)(1).

Scope of Review

Imports covered by this review 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.

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 Instituto Mediterraneo Di Certificazione, by Bioagricoop Scrl, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, or by Associazione Italiana per l'Agricoltura Biologica.

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 and AntiCircumvention Inquiries

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 antidumping and countervailing duty orders. See Memorandum from Edward Easton to Richard Moreland, dated August 25, 1997, 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 antidumping and countervailing duty orders. See Letter from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Import Administration, to Barbara P. Sidari, Vice President, Joseph A. Sidari Company, Inc., dated July 30, 1998, which is available in the CRU.

(3) On October 23, 1997, the petitioners filed an application requesting that the Department initiate an anti-circumvention investigation of Barilla, an Italian producer and exporter of pasta. The Department initiated the

investigation on December 8, 1997 (62 FR 65673). On October 5, 1998, the Department issued its final determination that Barilla'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 antidumping duty order on pasta from Italy pursuant to section 781(a) of the Act and 19 CFR 351.225(b). See *Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 63 FR 54672 (October 13, 1998).

(4) 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 antidumping and countervailing duty 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 antidumping and countervailing duty orders. See Memorandum from John Brinkmann to Richard Moreland, dated May 24, 1999, which is available in the CRU.

(5) On April 27, 2000, the Department self-initiated an anti-circumvention inquiry to determine whether Pagani'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 antidumping and countervailing duty orders on pasta from Italy pursuant to section 781(a) of the Act and 19 CFR 351.225(b). See *Certain Pasta from Italy: Notice of Initiation of Anticircumvention Inquiry of the Antidumping and Countervailing Duty Orders*, 65 FR 26179 (May 5, 2000).

(6) On July 30, 2003, we issued a preliminary finding on the anti-circumvention inquiry; however, the notice has not yet been published in the **Federal Register**. See *Anti-circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Preliminary Determinations of Circumvention of Antidumping and Countervailing Duty Orders*.

Verification

As provided in section 782(i) of the Act, we conducted verification of the sales and cost information provided by Indalco/Fusco, Rummo, Tomasello, and Zaffiri, and the sales information provided by PAM. We used standard verification procedures, including on-