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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 August 12, 2014, 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 La Molisana S.p.A. (La Molisana) is the successor-in-interest to La Molisana Industrie Alimentari, S.p.A. (LMI), a respondent in the investigation and several administrative reviews.¹ We preliminarily determine that La Molisana is not the successor-in-interest to LMI. We invite interested parties to comment on these preliminary results.

DATES: Effective date (Insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, Office III, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3962.

¹ See *Certain Pasta from Italy: Initiation of Changed Circumstances Review*, 79 FR 47090 (August 12, 2014) (*Initiation Notice*).

SUPPLEMENTARY INFORMATION

Background

On July 24, 1996, the Department published in the *Federal Register* the antidumping duty order on pasta from Italy.² The most recently completed administrative review for LMI was for the July 1, 1998 to June 30, 1999 period.³ Pursuant to Section 129 of the Uruguay Round Agreements Act, the Department recalculated the cash deposit rate for LMI and assigned it a *de minimis* margin.⁴

On June 23, 2014, La Molisana requested a changed circumstances review. On August 12, 2014, the Department initiated this review.⁵ On October 20, 2014, New World Pasta Company and Dakota Growers Pasta Company (hereinafter referred to as Petitioners) submitted comments on La Molisana's request for a changed circumstance review. On December 3, 2014, the Department requested additional information from La Molisana, which was submitted, in part, on January 9, 2015, and after an extension was granted, the remainder was submitted on January 28, 2015 (hereinafter referred to as the Supplemental Response).

On February 6, 2015, Petitioners submitted comments on La Molisana's Supplemental Response. On February 11, 2015, La Molisana objected to Petitioners' February 6, 2015, submission and requested that the Department reject it because it contained untimely filed, uncertified, new factual information. On February 20, 2015, the Department decided not to reject

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); see also *Notice of Second Amendment to the Final Determination and Antidumping Duty Order: Certain Pasta From Italy*; 61 FR 42231 (August 14, 1996).

³ See *Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review*, 65 FR 77852 (December 13, 2000).

⁴ See *Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act: Stainless Steel Plate in Coils From Belgium, Steel Concrete Reinforcing Bars From Latvia, Purified Carboxymethylcellulose From Finland, Certain Pasta From Italy, Purified Carboxymethylcellulose From the Netherlands, Stainless Steel Wire Rod From Spain, Granular Polytetrafluoroethylene Resin From Italy, Stainless Steel Sheet and Strip in Coils From Japan*, 77 FR 36257 (June 18, 2012) (Notice of Section 129 Implementation).

⁵ See *Initiation Notice*.

Petitioners' February 6, 2015 submission.⁶ La Molisana filed comments on February 27, 2015, regarding the Department's decision. On March 4, 2015, the Department requested additional information from La Molisana, which was provided on March 24, 2015 (hereinafter referred to as Second Supplemental Response).

On April 27, 2015, we extended the time period for issuing the final results of this changed circumstance review by 90 days.⁷

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.

For a full description of the scope, *see* the Preliminary Results of Changed Circumstances Review Regarding Successor-In-Interest Analysis: Certain Pasta from Italy memorandum 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 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 <http://access.trade.gov>, and it is available to all parties in the Central Records

⁶ See letter from Eric B. Greynolds, Program Manager, Office III, AD/CVD Operations, dated February 20, 2015.

⁷ See Letter from Melissa G. Skinner, Director Office III, Antidumping and Countervailing Duty Operations to La Molisana, dated April 7, 2015.

⁸ See Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance from Christian Marsh, 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).

Unit, room 7046, of the main Department of Commerce building. In addition, a complete version of the Preliminary Results of Changed Circumstances Review memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. 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.

Preliminary Results of Changed Circumstances Review

In this changed circumstances review, pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), the Department conducted a successor-in-interest analysis. In making such a successor-in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.⁹ While no one or combination of these factors will necessarily provide a dispositive indication, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is not materially dissimilar to that of its predecessor.¹⁰ Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the former company, the Department will assign the new company the cash deposit rate of its predecessor.¹¹

⁹ See, e.g., *Pressure Sensitive Plastic Tape from Italy: Preliminary Results of Antidumping Duty Changed Circumstances Review*, 75 FR 8925 (February 26, 2010), unchanged in *Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Duty Changed Circumstances Review*, 75 FR 27706 (May 18, 2010); and *Brake Rotors From the People's Republic of China: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 69941 (November 18, 2005) (*Brake Rotors*), citing *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992), and *Certain Pasta From Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 79 FR 56339 (September 19, 2014) (*Delverde*).

¹⁰ See, e.g., *Brake Rotors*. See also *Delverde*.

¹¹ *Id.*; see also, e.g., *Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp From India*, 77 FR 64953 (October 24, 2012), unchanged in *Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp From India*, 77 FR 73619 (December 11, 2012).

Based on the totality of the record evidence and on comments from interested parties, we preliminarily determine that La Molisana is materially dissimilar to LMI in terms of management, production facilities, and supplier relationships. Therefore, we preliminarily find that La Molisana is not the successor-in-interest to LMI.¹²

Consequently, we preliminarily determine that La Molisana should not be given the same antidumping duty treatment as LMI. 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.¹³ If we reach the same conclusion in the final results, then the cash deposit for La Molisana will continue to be 15.45 percent, the all-others rate established in the antidumping duty investigation, as modified by the section 129 determination.¹⁴ This cash deposit requirement will remain in effect until a company-specific rate is calculated for La Molisana.¹⁵

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. ACCESS is available to registered users at <http://access.trade.gov> and is available to all parties in the Central Records Unit, room 7046, of the main Department of Commerce building. 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

¹² See Preliminary Results in Changed Circumstances Review memorandum.

¹³ See *Granular Polytetrafluoroethylene Resin from Italy: Final Results of Changed Circumstances Review*, 68 FR 25327 (May 12, 2003). See also *Delverde*.

¹⁴ See *Notice of Implementation of Section 129*.

¹⁵ La Molisana is currently being reviewed in an administrative review covering the period July 1, 2013 through June 30, 2014. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 51548 (August 29, 2014).

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 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.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Dated: June 10, 2015.

Appendix

List of Topics Discussed in the Preliminary Changed Circumstances Review Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of Methodology
- V. Analysis
 1. Management
 2. Production Facilities
 3. Supplier Relationship
 4. Customer Base

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