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DEPARTMENT OF COMMERCE

International Trade Administration

A-475-818

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

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

SUMMARY: The Department of Commerce (Department) is initiating a changed circumstances review of the antidumping duty order on certain pasta from Italy (pasta) with respect to Tamma Industrie Alimentari di Capitanata, S.r.L. (Tamma).

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]

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Background

On July 24, 1996, the Department published in the *Federal Register* the antidumping duty order on pasta from Italy, which included Delverde S.p.A. and its affiliate Tamma (collectively, Delverde).<sup>1</sup> Pursuant to a decision by the Court of International Trade, on remand, the Department determined that Delverde had a de *minimis* dumping margin and should be excluded from the order.<sup>2</sup>

In 2014, the Department conducted a changed circumstances review of Delverde S.p.A

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<sup>1</sup> 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) (*AD Order*).

<sup>2</sup> 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).

and found that Delverde Industrie Alimentari S.p.A. (Delverde) was not a successor-in-interest to Delverde S.p.A. based on aspects of the bankruptcy of Delverde S.p.A., changes in management, changes in supplier relationships, and changes in production facilities.<sup>3</sup> Thus, the Department found that Delverde was not entitled to the defunct entity's antidumping exclusion from the *AD Order*.<sup>4</sup>

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 changed circumstances review of Tamma to determine whether Tamma is the successor-in-interest to the same company that was excluded from the *AD Order*.<sup>5</sup>

#### 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.

Excluded from the scope of this order are refrigerated, frozen, or canned pastas, as well 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 certified by a European

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<sup>3</sup> 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*).

<sup>4</sup> See *Delverde CCR*.

<sup>5</sup> 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.

Union (EU) authorized body and accompanied by a National Organic Program import certificate for organic products. Effective July 1, 2008, gluten free pasta is also excluded from this order.

The merchandise subject to this order is currently classifiable under items 1902.19.20 and 1901.90.9095 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 *AD Order* is dispositive.

#### Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(d), the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. In antidumping duty changed circumstances reviews involving a successor-in-interest determination, the Department typically examines several factors including, but not limited to: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.<sup>6</sup>

Based on the information Petitioners submitted in their July 29, 2016, letter, we find that we have received information which shows changed circumstances sufficient to warrant initiation of such a review in order to determine whether Tamma is the successor-in-interest to the company excluded from the *AD Order* that was previously affiliated with the now defunct Delverde S.p.A.<sup>7</sup> Therefore, in accordance with the above-referenced statute and regulation, the Department is initiating a changed circumstances review.

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<sup>6</sup> See *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460, 20462 (May 13, 1992) and *Certain Cut-to-Length Carbon Steel Plate from Romania: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 22847 (May 3, 2005), unchanged in *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Cut-to-Length Carbon Steel Plate from Romania*, 70 FR 35624 (June 21, 2005).

<sup>7</sup> See 19 CFR 351.216(d).

We intend to issue the final results of the changed circumstances review within 270 days from the date of initiation of this changed circumstance review, or within 45 days if all parties to the proceeding agree to the outcome of the review.<sup>8</sup> During the course of this review, we will not change the cash deposit requirements for the subject merchandise. The cash deposit rate will be changed, if warranted, pursuant only to the final results of the changed circumstances review.

This notice of initiation is in accordance with section 751(b)(1) of the Act and 19 CFR 351.221(b)(1).

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Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

\_\_\_\_ September 7, 2016 \_\_\_\_\_  
(Date)

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<sup>8</sup> See 19 CFR 351.216(e).

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