



DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818]

Certain Pasta from Italy: Initiation and Preliminary Results of Changed Circumstances Review

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

SUMMARY: The Department of Commerce (Commerce) is initiating a changed circumstances review (CCR) to determine if Newlat Food S.p.A. (Newlat) is the successor-in-interest to Delverde Industrie Alimentari S.p.A. (Delverde) in the context of the antidumping duty order on certain pasta from Italy. We preliminarily determine that Newlat is not the successor-in-interest to Delverde.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: John Hoffner, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-3315.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 1996, Commerce published in the *Federal Register* an antidumping duty (AD) order on certain pasta from Italy.¹ On July 30, 2020, Newlat requested that, pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(b), Commerce initiate and conduct a CCR of the *Order* to determine if Newlat is the successor-in-interest to Delverde. Newlat also requested that Commerce issue the preliminary results of this

¹ See *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy*, 61 FR 38544 (July 24, 1996) (*Order*); see also *Notice of Second Amendment to the Final Determination and Antidumping Duty Order: Certain Pasta From Italy*, 61 FR 42231 (August 14, 1996).

CCR in conjunction with the notice of initiation, as permitted under 19 CFR 315.221(c)(3)(ii).²

The domestic industry has filed no comments in response to the request for a CCR.

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 the scope of the *Order* 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 as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. 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 *Order*.³ Pursuant to Commerce's August 14, 2009, changed circumstances review, effective July 1, 2008, gluten free pasta is also excluded from the scope of the order.⁴ Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the *Order*.⁵

Also excluded are imports of organic pasta from Italy that are certified by an EU authorized body in accordance with the United States Department of Agriculture's National Organic Program for organic products. The organic pasta certification must be retained by exporters and importers and made available to U.S. Customs and Border Protection or the Department of Commerce upon request.

² See Newlat's Letter, "Certain Pasta from Italy – Request for Changed Circumstances Review," dated July 30, 2020 (Newlat CCR Request).

³ See Memorandum to Richard Moreland, dated August 25, 1997, which is on file in the Central Records Unit.

⁴ See *Certain Pasta from Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part*, 74 FR 41120 (August 14, 2009).

⁵ See *Certain Pasta from Italy: Final Results of Antidumping Duty and Countervailing Duty Changed Circumstances Reviews and Revocation, in Part*, 79 FR 58319, 58320 (September 29, 2014).

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.

Initiation of CCR

Pursuant to section 751(b)(1)(A) of the Act and 19 CFR 351.216(d), Commerce will conduct a CCR upon receipt of a request from an interested party or receipt of information which shows changed circumstances sufficient to warrant a review of the order. The information provided by Newlat demonstrates changed circumstances sufficient to warrant a review to determine if Newlat is the successor-in-interest to Delverde, in accordance with 19 CFR 351.216(d). Therefore, in accordance with section 751(b)(1)(A) of the Act and 19 CFR 351.216(d), Commerce is initiating a CCR to determine whether Newlat is the successor-in-interest to Delverde for purposes of the *Order*.

Section 351.221(c)(3)(ii) of Commerce's regulations permits Commerce to combine the notice of initiation and the preliminary results if Commerce concludes that expedited action is warranted.⁶ In this instance, because the record contains information necessary to make a preliminary finding, we find that expedited action is warranted and have combined the notice of initiation and the notice of preliminary results.⁷

Methodology

In this CCR, pursuant to section 751(b) of the Act, Commerce conducted a successor-in-interest analysis. In making a successor-in-interest determination, Commerce examines several

⁶ See *Initiation and Preliminary Results of Changed Circumstances Reviews: Antidumping Duty Orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China and Antidumping Duty Order on Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China*; 82 FR 12558 (March 6, 2017) and accompanying Preliminary Decision Memorandum, unchanged in *Antidumping Duty Orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China and Antidumping Duty Orders on Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Results of Changed Circumstances Reviews*, 82 FR 17797 (April 13, 2017).

⁷ See 19 CFR 351.221(c)(3)(ii); see also *Certain Pasta from Italy: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review*, 80 FR 33480, 33480–41 (June 12, 2015)], unchanged in *Certain Pasta from Italy: Final Results of Changed Circumstances Review*, 80 FR 48807 (August 14, 2015).

factors, including, but not limited to, changes in the following: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.⁸ While no single factor or combination of factors will necessarily provide a dispositive indication of succession, generally, Commerce will consider the company to be a successor to the previous company if the new company's operation is not materially dissimilar to that of its predecessor.⁹ Thus, if the record 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 prior company, Commerce may assign the new company the cash deposit rate of its predecessor.¹⁰

Preliminary Results of Changed Circumstances Review

We preliminarily determine that Newlat is not the successor-in-interest to Delverde. Record evidence submitted by Newlat indicates that the post-merger entity (*i.e.*, Newlat, which includes Delverde) does not operate as essentially the same business entity as the pre-merger Delverde with respect to the subject merchandise.¹¹ For the complete successor-in-interest analysis, refer to the accompanying successor-in-interest memorandum.¹²

Public Comment

In accordance with 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the case briefs, in accordance with 19 CFR 351.309(d). Parties who submit case or rebuttal briefs 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.¹³

⁸ See, e.g., *Ball Bearings and Parts Thereof from France: Final Results of Changed-Circumstances Review*, 75 FR 34688 (June 18, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

⁹ See, e.g., *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999) (*Salmon from Norway*).

¹⁰ See, e.g., *Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Initiation of Antidumping Duty Changed Circumstances Review*, 70 FR 17063, 17064 (April 4, 2005); and *Salmon from Norway*, 64 FR at 9980.

¹¹ See Newlat CCR Request.

¹² See Memorandum, "Certain Pasta from Italy: Initiation and Preliminary Results of Changed Circumstances Review," dated concurrently with this notice.

¹³ See 19 CFR 351.309(c)(2) and (d)(2).

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of publication of this notice. Interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Parties are reminded that briefs and hearing requests are to be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System, available to registered users at <https://access.trade.gov> and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁴

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

Notification to Interested Parties

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216(b), 351.221(b) and 351.221(c)(3).

Dated: November 3, 2020.

Jeffrey I. Kessler,
Assistant Secretary for Enforcement and Compliance.
[FR Doc. 2020-24835 Filed: 11/6/2020 8:45 am; Publication Date: 11/9/2020]

¹⁴ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020) (*Temporary Rule*); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 41363 (July 10, 2020).