

DEPARTMENT OF COMMERCE

International Trade Administration

A475818

Certain Pasta from Italy: Notice of Partial Rescission of Antidumping Duty Administrative Review and Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review

AGENCY:

Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE:

(Insert date of publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

On July 1, 2009, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the antidumping duty order on certain pasta from Italy. See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 74 FR 31406 (July 1, 2009). Pursuant to requests from interested parties, the Department published in the Federal Register the notice of initiation of this antidumping duty administrative review with respect to the following companies for the period July 1, 2008, through June 30, 2009: Domenico Paone fu Erasmo, S.p.A. (Erasmo), Fasolino Foods Company, Inc. and its affiliate EuroAmerican Foods Group, Inc. (Fasolino/EuroAmerican Foods), Pastaficio Lucio Garofalo S.p.A. (Garofalo), Pastaficio Attilio Mastromauro Pasta Granoro S.r.L. (Granoro), Industria Alimentare Colavita, S.p.A. (Indalco), Pasta Lensi S.r.L. (Lensi), and PAM S.p.A. (PAM). See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 74 FR 42873 (August 25, 2009) (Initiation Notice).

On September 8, 2009, the Department announced its intention to select mandatory respondents based on U.S. Customs and Border Protection (CBP) Data. See Memorandum from George McMahon to Melissa Skinner entitled Customs and Border Protection Data for Selection of Respondents for Individual Review, dated September 8, 2009. On September 11, 2009, the petitioners<FTREF/>1 withdrew their request for review with respect to Erasmo, Garofalo, Indalco, and PAM. As a result of the petitioner's request to withdraw the aforementioned companies, the Department issued a memorandum on October 21, 2009, which indicated that

respondent selection was no longer necessary in the instant review because it was practicable for the Department to review the remaining companies, Lenzi, Granoro, Garofalo and Fasolino/EuroAmerican Foods. On October 30, 2009, Lenzi withdrew its request for a review.<FTREF/>2 On February 22, 2010, the petitioners withdrew their request for review with respect to Fasolino/EuroAmerican Foods.

1The petitioners include the New World Pasta Company, American Italian Pasta Company, and Dakota Growers Pasta Company.

2Petitioners did not request a review on Lenzi.

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for the preliminary results of this review is now April 9, 2010. See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm, dated February 12, 2010.

Scope of the Order

Imports covered by this order are shipments of certain nonegg 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 as all forms of egg pasta, with the exception of nonegg 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, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, by Associazione Italiana per l'Agricoltura Biologica, by Codex S.r.L., by Bioagricert S.r.L., or by Istituto per la Certificazione Etica e Ambientale. Effective July 1, 2008, gluten free pasta is also excluded from this order. 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). 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 order is dispositive.

Extension of Time Limit of Preliminary Results

The preliminary results of this review are currently due no later than April 9, 2010. Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act),

requires the Department to make a preliminary determination in an administrative review within 245 days after the last day of the anniversary month of an order or finding for which a review is requested. Consistent with section 751(a)(3)(A) of the Act, the Department may extend the 245-day period to 365 days if it is not practicable to complete the review within a 245-day period.

We determine that completion of the preliminary results of this review within the 245-day period is not practicable. Specifically, we need additional time to thoroughly consider the responses to the questionnaires that the Department has issued to Garofalo and Granoro.

Therefore, we are extending the time period for issuing the preliminary results of review by 120 days, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2). Therefore, the preliminary results are now due no later than August 7, 2010. However, because August 7, 2010, falls on a Saturday, the due date for the preliminary results falls on the next business day, i.e., August 9, 2010. The final results continue to be due 120 days after publication of the preliminary results.

Partial Rescission of the 20082009 Administrative Review

If a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review, the Secretary will rescind the review pursuant to 19 CFR 351.213(d)(1). In this case, the petitioners withdrew their request with respect to Erasmo, Garofalo, Indalco, and PAM within 90 days of initiation of this review. Garofalo self-requested a review, while the petitioners were the only party which requested a review of Erasmo, Indalco, and PAM. Therefore, in accordance with 19 CFR 351.213(d)(1), and consistent with our practice, we are rescinding this review of the antidumping duty order on certain pasta from Italy, in part, with respect to Erasmo, Lensi, Indalco, and PAM.

On February 22, 2010, the petitioners withdrew their request with respect to Fasolino/EuroAmerican Foods. Although the 90-day deadline to withdraw a review request in the instant review was November 23, 2009, pursuant to 19 CFR 351.213(d)(1), the Secretary may extend the 90-day time limit if it is reasonable to do so. We determine it is reasonable to do so in this case because we have not expended significant resources conducting this review with respect to Fasolino/EuroAmerican Foods, having only issued to and received from interested parties several letters. Therefore, in accordance with 19 CFR 351.213(d)(1), and consistent with our practice, we are also rescinding this review, in part, with respect to Fasolino/EuroAmerican Foods. This administrative review will continue with respect to Garofalo and Granoro. See, e.g., Carbon Steel ButtWeld Pipe Fittings from Thailand: Notice of Rescission of Antidumping Duty Administrative Review, 74 FR 7218 (February 13, 2009).

Assessment

The Department will instruct CBP to assess antidumping duties on all appropriate entries. For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period July 1, 2008, through June 30, 2009, in accordance with 19 CFR 351.212(c)(1)(i).

The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information

disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby

requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1), 751(a)(3)(A), and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: February 26, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations.

[FR Doc. 04?????? Filed ?????04; 8:45 am]BILLING CODE 3510DSS

[FR Doc. 2010-4856 Filed 03/05/2010 at 8:45 am; Publication Date: 03/08/2010]