

current framework would be unaffected by this proposal.

Finally, in order to help the FTZ Board evaluate the effectiveness and appropriateness of the alternative framework after actual experience with FTZ grantees, the FTZ staff would report to the Board on a periodic basis regarding the actual usage of the alternative framework. The staff's reporting regarding implementation of the framework at individual participating FTZs would result from staff-initiated reviews and would not require any request or application from the grantee.

Dated: January 5, 2009.

**Andrew McGilvray,**

*Executive Secretary.*

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## DEPARTMENT OF COMMERCE

### INTERNATIONAL TRADE ADMINISTRATION

[A-475-818]

#### **Certain Pasta from Italy: Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement of Order**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** January 12, 2009.

**FOR FURTHER INFORMATION CONTACT:** Eric B. Greynolds, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Ave., NW., Washington, DC 20230, telephone: (202) 482-6071.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On November 19, 2007, the Department of Commerce (the Department) published its notice of initiation of antidumping duty (AD) changed circumstances review (CCR). See *Certain Pasta from Italy: Notice of Initiation of Antidumping Duty Changed Circumstances Review*, 72 FR 65010 (November 19, 2007). On February 22, 2008, the Department published its notice of preliminary results of AD CCR and intent to reinstate the AD order. See *Certain Pasta From Italy: Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review and Intent To Reinstate the Antidumping Duty Order*, 73 FR 9769 (February 22, 2008). On December 22, 2008, the Department extended the due

date of the final results of the AD CCR until January 2, 2009. See *Certain Pasta from Italy: Notice of Extension of Final Results of Antidumping Duty Change Circumstances Review*, 73 FR 80365 (December 31, 2008).

##### **Scope of the Order**

Imports covered by the 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 the 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. 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, by Associazione Italiana per l'Agricoltura Biologica, or by Istituto per la Certificazione Etica e Ambientale (ICEA) are also excluded from the order.

The merchandise subject to the 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* subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

##### **Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to this changed circumstances review are addressed in the *Issues and Decision Memorandum*, which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the *Issues and Decision Memorandum*, is attached to this notice as an Appendix. The *Issues and Decision Memorandum* is available in the Central Records Unit, room 1117, of the main Commerce building. In addition, a complete version of the *Issues and Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the *Issues and*

*Decision Memorandum* are identical in content.

##### **Final Results of Changed Circumstances Review**

We determine that Pasta Lensi S.r.l. (Lensi) made sales at less than normal value (NV) during the 2002-2003 period of review (POR), and that, consequently, Lensi no longer qualifies for revocation based upon three consecutive reviews resulting in *de minimis* margins, and that the order should be reinstated on certain pasta from Italy related to subject merchandise produced and exported by Lensi. For the reasons stated in the *Preliminary Results* and in the *Issues and Decision Memorandum* we continue to determine to base Lensi's margin of dumping in the seventh review and its cash deposit rate on adverse facts available (AFA). The Department continues to select as AFA the weighted average margin of 45.59 percent *ad valorem*. We will instruct U.S. Customs and Border Protection to continue to suspend liquidation of all entries of subject merchandise produced and exported by Lensi entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit of 45.59 percent. This deposit requirement shall remain in effect until further notice.

This notice is in accordance with sections 751(b)(1) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.216 and 351.222.

Dated: January 2, 2009.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

##### **APPENDIX**

*Comment 1:* Whether Lensi's Disclosure Of A Certain Data Discrepancy Should Be Considered As A Mitigating Factor When Assigning The Cash Deposit Rate At Which Lensi Should Be Reinstated

*Comment 2:* Whether The Adverse Facts Available Cash Deposit Rate Applied to Lensi Was In Accordance With The Department's Practice And The Law

*Comment 3:* The Cash Deposit Rate At Which Lensi Should Be Reinstated Into the Antidumping Duty Order

*Comment 4:* Whether The Department's Application Of An Adverse Facts Available Rate Represents A Poor Policy Choice

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