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DEPARTMENT OF COMMERCE

International Trade Administration

(C-475-819)

Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review; 2012

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

SUMMARY: The Department of Commerce (Department) conducted an administrative review of the countervailing duty (CVD) order on certain pasta from Italy. On August 25, 2014, we published the *Preliminary Results* for this administrative review.[1] The period of review (POR) is January 1, 2012 through December 31, 2012. We find that DeMatteis Agroalimentare S.p.A. (also known as, De Matteis Agroalimentare SpA) (DeMatteis) received countervailable subsidies during the POR, and that Fratelli DeCecco di Filippo Fara San Martino S.p.A. (also known as, F.lli De Cecco di Filippo Fara San Martino S.p.A.) (DeCecco) received *de minimis* countervailable subsidies during the POR. As such, we are applying DeMatteis' rate to the other firms subject to this review that were not individually examined.

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

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin or Joshua Morris, AD/CVD Operations, Office I, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6478 or (202) 482-1779, respectively.

[1] *See Certain Pasta From Italy: Preliminary Results and Partial Rescission of the Countervailing Duty Administrative Review; 2012*, 79 FR 50618 (August 25, 2014) (*Preliminary Results*).

SUPPLEMENTARY INFORMATION:

Background

In the *Preliminary Results*, we deferred our analysis of certain programs to a post-preliminary analysis. On October 30, 2014, we issued a post-preliminary analysis memorandum.[2] We invited interested parties to file case briefs and rebuttal briefs following the release of the post-preliminary analysis memorandum. Only the Government of Italy (the GOI) filed a case brief.

Scope of the Order

The scope of the *Order* consists of certain pasta from Italy.[3] The merchandise subject to the 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 is dispositive. A full description of the scope of the *Order* is contained in the "Issues and Decision Memorandum for Final Results of Countervailing Duty Administrative Review: Certain Pasta from Italy," from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated February 23, 2015 (Issues and Decision Memorandum), and hereby adopted by this notice.

The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized

[2] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Post-Preliminary Analysis of Countervailing Duty Administrative Review: Certain Pasta from Italy" (October 30, 2014).
[3] *See Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") From Italy*, 61 FR 38544 (July 24, 1996) (*Order*).

Electronic Service System (ACCESS).[4] ACCESS is available to registered users at http://access.trade.gov and available to all parties in the Central Records Unit, room 7046 of the main Department building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at http://enforcement.trade.gov/frn/index.html. The signed and electronic versions of the Issues and Decision Memorandum are identical in content. A list of topics discussed in the Issues and Decision Memorandum is provided in the Appendix to this notice.

Methodology

We have conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we determine that there is a subsidy, *i.e.*, a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[5] In making these findings, we have relied, in part, on an adverse inference in selecting from among the facts otherwise available because we find that the GOI did not act to the best of its ability to respond to our requests for information regarding certain programs.[6]

DeMatteis reported that it made export sales of pasta to the United States through an unaffiliated trading company, Agritalia S.r.L. (Agritalia), during the POR. In the *Preliminary Results*, we stated our intent to re-examine the approach we used regarding subsidies to Agritalia

[4] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System ("IA ACCESS") to AD and CVD Centralized Electronic Service System ("ACCESS"). The website location was changed from http://iaaccess.trade.gov to http://access.trade.gov. The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity. For a full description of the methodology underlying our conclusions, *see* Issues and Decision Memorandum.

[6] *See* sections 776(a) and (b) of the Act. For further discussion, *see* Issues and Decision Memorandum at "Use of Facts Otherwise Available and Adverse Inferences."

in the *Tenth Administrative Review*,[7] and we solicited comments in that regard.[8] We received no comments on this issue.

Pursuant to 19 CFR 351.213(b) and 19 CFR 351.221(b), Agritalia is not a respondent in this review because a review was not requested for Agritalia. However, pursuant to 19 CFR 351.525(c), benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm that is producing the subject merchandise that is sold through the trading company, regardless of whether the trading company and the producing firm are affiliated. Thus, for these final results, we are cumulating the benefits from subsidies received by Agritalia with the benefits from subsidies received by DeMatteis based on the percentage of DeMatteis' exports of subject merchandise to the United States that were made through Agritalia during the POR.[9]

Final Results of the Review

In accordance with 19 CFR 351.221(b)(5), we calculated individual subsidy rates for the mandatory respondents, DeMatteis and DeCecco.

Three respondents were not selected for individual review: Ghigi Industria Agroalimentare in San Clemente srl, Pasta Granoro S.r.L. (also known as, Pastifico Attilio Mastromauro Granoro S.r.L), and Valdigrano di Flavio Pagani S.r.L. For these non-selected respondents, we assigned the CVD rate calculated for DeMatteis because it is the only rate calculated in this review that is not *de minimis*.[10] As such, we find the net countervailable

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[7] *See Certain Pasta from Italy: Preliminary Results of the Tenth Countervailing Duty Administrative Review*, 72 FR 43616, 43622 (August 6, 2007), unchanged in *Certain Pasta From Italy: Final Results of the Tenth (2005) Countervailing Duty Administrative Review*, 73 FR 7251 (February 7, 2008) (collectively, *Tenth Administrative Review*).
[8] *See Preliminary Results*, 79 FR 50619.
[9] For further discussion, *see* Issues and Decision Memorandum at "Subsidy Valuation Information."
[10] *See*, *e.g.*, *Certain Pasta From Italy: Preliminary Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 18806, 18811 (April 13, 2010), unchanged in *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386 (June 29, 2010).

subsidy rate for the producers and/or exporters under review to be as follows:

Producer/Exporter	Net Subsidy Rate
DeMatteis Agroalimentare S.p.A. (also known as De Matteis Agroalimentare SpA)	1.72
Fratelli DeCecco di Filippo Fara San Martino S.p.A. (also known as F.lli De Cecco di Filippo Fara San Martino S.p.A.)	0.19 (*de minimis*)
Ghigi Industria Agroalimentare in San Clemente srl	1.72
Pasta Granoro S.r.L. (also known as, Pastifico Attilio Mastromauro Granoro S.r.L)	1.72
Valdigrano di Flavio Pagani S.r.L	1.72

Assessment Rates

Consistent with 19 CFR 351.212(b)(2), we intend to issue assessment instructions to the U.S. Customs and Border Protection (CBP) fifteen days after the date of publication of these final results. We will instruct CBP to assess countervailing duties on POR entries in the amounts shown above, except for entries of merchandise produced and/or exported by DeCecco, which will be liquidated without regard to countervailing duties because its subsidy rate is *de minimis.*

Cash Deposit Requirements

In accordance with section 751(a)(1) of the Act, we intend to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review, except that cash deposits of zero percent will be required for entries from DeCecco because its subsidy rate is *de minimis*. For all non-reviewed companies (except Barilla G. e R. F.lli S.p.A. and Gruppo Agricoltura Sana S.r.l., which are excluded from the order,[11] and Pasta Lensi S.r.l., which was revoked from the *Order*),[12] we will instruct CBP to continue to collect cash deposits at the most recent company-specific or all-others rate applicable to the company. Accordingly, the cash deposit rates that will be applied to

[11] *See Order*, 61 FR at 38545.
[12] *See Certain Pasta from Italy: Final Results of the Ninth Countervailing Duty Administrative Review and Notice of Revocation of Order, in Part*, 71 FR 36318, 36319-36320 (June 26, 2006).

companies covered by the *Order*, but not examined in this review, are those established in the most recently completed segment of the proceeding for each company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: February 23, 2015.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum:

1. Summary
2. Background
3. Scope of the Order
4. Use of Facts Otherwise Available and Adverse Inferences
5. Subsidy Valuation Information
6. Analysis of Programs
7. Analysis of Comment: Application of Adverse Facts Available (AFA) for *Sgravi* Programs
8. Recommendation

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