DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–819]

Certain Pasta From Italy: Final Results of the Third Countervailing Duty Administrative Review

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

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On August 8, 2000, the Department of Commerce published in the **Federal Register** its preliminary results of the third administrative review of the countervailing duty order on certain pasta from Italy for the period January 1 through December 31, 1998.

Based on our analysis of the comments received, and the decision of the Court of Appeals for the Federal Circuit in *Delverde S.r.L.* v. *United States,* 202 F.3d 1360 (Fed. Cir. 2000) (''*Delverde III*''), the Department has reexamined its change in ownership analysis and methodology. As a result, we have made changes to Delverde's net subsidy rate. We have also revised Rummo's and Riscossa's net subsidy rate. Therefore, the final results differ from the preliminary results. The final net subsidy rates for each reviewed company are listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: February 23, 2001.

FOR FURTHER INFORMATION CONTACT: Craig Matney, Annika O'Hara, Sally Hastings or Andrew Covington, AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, Room 1780, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–1778, 482–3798, 482–3464 or 482–3534, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''URAA''), effective January 1, 1995 (''the Act''). The Department is conducting this administrative review in accordance with section 751(a) of the Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR 351 (1998).

Background

On July 24, 1996, the Department of Commerce (''the Department'') published in the **Federal Register** (61 FR 38544) the countervailing duty order on certain pasta from Italy.

In accordance with 19 CFR 351.213(b), this review of the order covers the following producers or exporters of the subject merchandise for which a review was specifically requested: Delverde S.p.A. (''Delverde''); Tamma Industrie Alimentari S.r.L. (''Tamma''); Rummo S.p.A. Molino e Pastaficio (''Rummo''); and Pastificio Riscossa F.lli Mastromauro S.r.L. (''Riscossa''). La Molisana, which had requested to be included in this review, withdrew its request on October 14, 1999. Consequently, the Department rescinded this review with respect to La Molisana. (See *Certain Pasta from Italy: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 65 FR 48479 (August 8, 2000) (''*Preliminary Results*'')). This review covers 29 programs.

Since the publication of the *Preliminary Results* the following events have occurred. On August 14, 2000, the European Union (''EU'') submitted its case brief. On September 7, 2000, the Government of Italy (''GOI''), the petitioners, and respondents Delverde and Tamma submitted case briefs. Petitioners and respondents Delverde and Tamma filed rebuttal briefs on September 18, 2000. Respondents Rummo and Riscossa did not file case or rebuttal briefs.

On October 5, 2000, we issued a questionnaire to Delverde regarding its change in ownership; we received Delverde's response to this questionnaire on October 23, 2000. On October 13, 2000, we published in the **Federal Register** a notice extending the due date for issuing these final results to February 5, 2001 (*see Certain Pasta from Italy: Notice of Extension of Time Limit for the 1998 Countervailing Duty Administrative Review*, 65 FR 60911).

On December 27, 2000, the Department placed on the record of the instant case a copy of Delverde's response to a supplemental questionnaire regarding its change of ownership that it had submitted in the remand proceeding pursuant to the September 27, 2000 order from the U.S. Court of International Trade (''CIT'') in *Delverde III.* The Department did not conduct a hearing in this review because none was requested.

Scope of Review

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, 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 review 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 (''IMC''), by Bioagricoop Scrl, by QC&I International Services, by Ecocert Italia, or by the Conzorzio per il Controllo dei Prodotti Biologici.

The merchandise subject to review is currently classifiable under item 1902.19.20 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.

Scope Rulings

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling that 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 countervailing duty order. (*See* August 25, 1997 memorandum from Edward Easton to Richard Moreland, which is on file in the Central Records Unit (''CRU'') in Room B–099 of the main Commerce building.)

(2) On July 30, 1998, the Department issued a scope ruling, finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the countervailing duty order. (*See* July 30, 1998 letter from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Import Administration, to Barbara P. Sidari, Vice President, Joseph A. Sidari Company, Inc., which is on file in the CRU.)

(3) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of

allowable industry tolerances may be within the scope of the countervailing duty order. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the countervailing duty order. (*See* May 24, 1999 memorandum from John Brinkmann to Richard Moreland, which is on file in the CRU.)

Period of Review

The period of review (POR) for which we are measuring subsidies is from January 1 through December 31, 1998.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the February 5, 2001 *Issues and Decision Memorandum* (''*Decision Memorandum*'') from Susan H. Kuhbach, Acting Deputy Assistant Secretary, Import Administration, to Bernard T. Carreau, fulfilling the duties of Assistant Secretary for Import Administration, which is hereby adopted by this notice. Attached to this notice as Appendix I is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the Department. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at *http://ia.ita.doc.gov/frn/* under the heading ''Italy.'' The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, and the Department's revised change-in-ownership approach based on the Court's ruling in *Delverde III*, we have made certain changes to Delverde's net subsidy rate. Also, based on our analysis of the GOI's questionnaire responses, one of which was received after the *Preliminary Results*, we have revised our findings and calculation methodology for interest subsidies received by Rummo under Law 598/94. These changes are discussed in the relevant sections of the *Decision Memorandum*. Lastly, we revised Riscossa's overall net subsidy rate due to a clerical error discovered by the Department since the *Preliminary Results*. See February 5, 2001 Calculation Memorandum for Riscossa, a public version of which is on file in room B–099 of the Department's main building.

Final Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1 through December 31, 1998, we determine the net subsidy rates for producers/exporters under review to be those specified in the chart shown below.

Company	Ad valorem rate percent
Delverde S.p.A./Delverde S.r.L.	4.04
Tamma Industrie Alimentari S.r.L	3.63
Pastificio Riscossa F.lli Mastromauro S.r.L	1.13
Rummo S.p.A. Molino e Pastificio	0.71

We will instruct the U.S. Customs Service (''Customs'') to assess countervailing duties as indicated above. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the percentage detailed above of the f.o.b. invoice prices on all shipments of the subject merchandise from the producers/exporters under review, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

The cash deposit rates for all companies not covered by this review are not changed by the results of this review. Thus, we will instruct Customs to continue to collect cash deposits for non-reviewed companies, except Barilla G. e R. F.lli S.p.A. (''Barilla'') and Gruppo Agricoltura Sana S.r.L. (''Gruppo'') (which were excluded from the order during the investigation), at the most recent rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta from Italy*, 61 FR 38544 (July 24, 1996), *Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review*, 63 FR 43905 (August 17, 1998), or *Amendment of Final Results of Countervailing Duty Administrative Review*, 64 FR 51293 (September 22, 1999), whichever notice provides the most recently published countervailing duty rates for companies not reviewed in this administrative review. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is completed. In addition, for the period January 1 through December 31, 1998, the assessment rates applicable to all non-reviewed companies covered by these orders are the cash deposit rates in effect at the time of entry, except for Barilla and Gruppo (which were excluded from the order during the original investigation).

This notice serves as a 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 351.301. 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.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: February 5, 2001.

Timothy J. Hauser,

Acting Under Secretary for International Trade.

Appendix I—Issues discussed in the Decision Memorandum

I. Methodology and Background Information

1. Change in Ownership
2. Subsidies Valuation Information
   A. Benchmarks for Long-term Loans and Discount Rates
   B. Allocation Period
   C. Benefits to Mills
3. Affiliated Parties

II. Analysis of Program

1. Programs Previously Determined to Confer Subsidies

A. Law 64/86 Industrial Development Grants
B. Law 488/92 Industrial Development Grants
C. Law 183/76 Industrial Development Grants
D. Industrial Development Loans Under Law 64/86
E. Law 304/90 Export Marketing Grants
F. Social Security Reductions and Exemptions-Sgravi
G. Law 598/94 Interest Subsidies
H. Law 236/93 Training Grants
I. European Social Fund
J. Export Restitution Payments
2. Programs Determined Not To Confer Countervailable Subsidies in the POR
A. Social Security Reductions and Exemptions-Fiscalizzazione
3. Programs Determined to Be Not Used During the POR
A. Law 113/86 Training Grants
B. Law 64/86 VAT Reductions
C. Law 357/94 Tax Benefits
D. Local Income Tax (''ILOR'') Exemptions
E. Remission of Taxes on Export Credit Insurance under Article 33 of Law 227/77
F. Export Credits under Law 227/77
G. Capital Grants under Law 675/77
H. Retraining Grants under Law 675/77
I. Interest Contributions on Bank Loans under Law 675/77
J. Interest Grants Financed by IRI Bonds
K. Preferential Financing for Export Promotion under Law 394/81
L. Corporate Income Tax (''IRPEG'') Exemptions
M. Urban Redevelopment under Law 181
N. Debt Consolidation Law 341/95
O. Interest Contributions under Law 1329/65
P. Grant Received Pursuant to the Community Initiative Concerning the Preparation of Enterprises for the Single Market (''PRISMA'')
Q. European Agricultural Guidance and Guarantee Fund (''EAGGF'')
R. European Regional Development Fund (''ERDF'')

III. Analysis of Comment

Comment 1: European Social Fund
Comment 2: Change of Ownership Methodology in Preliminary Determination
Comment 3: Interpretation of *Delverde III*
Comment 4: Use of the Successor-in-Interest Test
Comment 5: Shares v. Assets
Comment 6: Subsidies to Delverde/Analysis of Facts on the Record

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DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of initiation of process to revoke export trade certificate of review No. 97–00001.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to Dairy Marketing Information Association. Because this certificate holder has failed to file an annual report as required by law, the Department is initiating proceedings to revoke the certificate. This notice summarizes the notification letter sent to Dairy Marketing Information Association.

FOR FURTHER INFORMATION CONTACT: Vanessa Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (''the Act'') [15 U.S.C. 4011–21] authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III (''the Regulations'') are found at 15 CFR part 325. Pursuant to this authority, a certificate of review was issued on April 17, 1997 to Dairy Marketing Information Association.

A certificate holder is required by law (section 308 of the Act, 15 U.S.C. 4018) to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate. The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (sections 325.14(a) and (b) of the Regulations). Failure to submit a complete annual report may be the basis for revocation. (Sections 325.10(a) and 325.14(c) of the Regulations.)

The Department of Commerce sent to Dairy Marketing Information Association, on April 7, 2000, a letter containing annual report questions with a reminder that its annual report was due on June 1, 2000. Additional reminders were sent on December 1, 2000 and on December 12, 2000. The Department has received no written response to any of these letters.

On February 16, 2001, and in accordance with section 325.10(c)(1) of the Regulations, a letter was sent by certified mail to notify Dairy Marketing Information Association that the Department was formally initiating the process to revoke its certificate. The letter stated that this action is being taken because of the certificate holder's failure to file an annual report.

In accordance with section 325.10(c)(2) of the Regulations, each certificate holder has thirty days from the day after its receipt of the notification letter in which to respond. The certificate holder is deemed to have received this letter as of the date on which this notice is published in the **Federal Register**. For good cause shown, the Department of Commerce can, at its discretion, grant a thirty-day extension for a response.

If the certificate holder decides to respond, it must specifically address the Department's statement in the notification letter that it has failed to file an annual report. It should state in detail why the facts, conduct, or circumstances described in the notification letter are not true, or if they are, why they do not warrant revoking the certificate. If the certificate holder does not respond within the specified period, it will be considered an admission of the statements contained in the notification letter (section 325.10(c)(2) of the Regulations).

If the answer demonstrates that the material facts are in dispute, the Department of Commerce and the Department of Justice shall, upon request, meet informally with the certificate holder. Either Department may require the certificate holder to provide the documents or information that are necessary to support its contentions (section 325.10(c)(3) of the Regulations).

The Department shall publish a notice in the **Federal Register** of the revocation or modification or a decision not to revoke or modify (section 325.10(c)(4) of the Regulations). If there is a determination to revoke a certificate, any person aggrieved by such final decision may appeal to an appropriate U.S. district court within 30 days from the date on which the Department's final determination is published in the **Federal Register** (sections 325.10(c)(4) and 325.11 of the Regulations).

Dated: February 16, 2001.

Vanessa Bachman,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 01–4464 Filed 2–22–01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021301E]

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.