

MESSAGE NO: 2032203

MESSAGE DATE: 02/01/2002

MESSAGE STATUS: Active

CATEGORY: Antidumping

TYPE: ADM

PUBLIC

NON-PUBLIC

SUB-TYPE:

FR CITE: FR

FR CITE DATE:

REFERENCE
MESSAGE #
(s):

CASE #(s): A-475-818

EFFECTIVE DATE:

COURT CASE #:

PERIOD OF REVIEW:

TO

PERIOD COVERED: 01/03/2002

TO

Notice of Lifting of Suspension Date:

TO: { Directors Of Field Operations, Port Directors }

FROM: { Director AD/CVD & Revenue Policy & Programs }

RE: CASH DEPOSIT INSTRUCTIONS FOR PASTA FROM ITALY (A-475-818)

MESSAGE NO: 2032203

DATE: 02 01 2002

CATEGORY: ADA

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REFERENCE:

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CASES: A - 475 - 818

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PERIOD COVERED: 01 03 2002 TO

LIQ SUSPENSION DATE:

TO: DIRECTORS OF FIELD OPERATIONS
PORT DIRECTORS

FROM: DIRECTOR, TRADE ENFORCEMENT & CONTROL

RE: CASH DEPOSIT INSTRUCTIONS FOR PASTA FROM ITALY (A-475-818)

1. THE DEPARTMENT OF COMMERCE HAS PUBLISHED IN THE FEDERAL REGISTER (67 FR 3000) ON JANUARY 3, 2002 THE FINAL RESULTS OF ITS ADMINISTRATIVE REVIEW OF CERTAIN MANUFACTURERS/EXPORTERS SUBJECT TO THE ANTIDUMPING ORDER ON CERTAIN PASTA FROM ITALY FOR THE PERIOD 07/01/1999 THROUGH 06/30/2000. THE DEPARTMENT HAS ALSO AMENDED THESE FINAL RESULTS FOR ONE MANUFACTURER/EXPORTER, FERRARA.

2. 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, 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 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 ISTITUTO 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 CODEX S.R.L.

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 ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

SEE MEMORANDUM FROM EDWARD EASTON TO RICHARD MORELAND, DATED AUGUST 25, 1997, IN THE CASE FILE IN THE CRU.

(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 ANTIDUMPING AND COUNTERVAILING DUTY ORDERS. SEE LETTER FROM SUSAN H. KUHACH, ACTING DEPUTY ASSISTANT SECRETARY FOR IMPORT ADMINISTRATION, TO BARBARA P. SIDARI, VICE PRESIDENT, JOSEPH A. SIDARI COMPANY, INC., DATED JULY 30, 1998, WHICH IS AVAILABLE IN THE CRU.

(3) ON OCTOBER 23, 1997, THE PETITIONERS FILED AN APPLICATION REQUESTING THAT THE DEPARTMENT INITIATE AN ANTI-CIRCUMVENTION INVESTIGATION OF BARILLA, AN ITALIAN PRODUCER AND EXPORTER OF PASTA. THE DEPARTMENT INITIATED THE INVESTIGATION ON DECEMBER 8, 1997 (62 FR 65673). ON OCTOBER 5, 1998, THE DEPARTMENT ISSUED ITS FINAL DETERMINATION THAT BARILLA'S IMPORTATION OF PASTA IN BULK AND SUBSEQUENT REPACKAGING IN THE UNITED STATES INTO PACKAGES OF FIVE POUNDS OR LESS CONSTITUTES CIRCUMVENTION, WITH RESPECT TO THE ANTIDUMPING DUTY ORDER ON PASTA FROM ITALY PURSUANT TO SECTION 781(A) OF THE ACT. SEE ANTI-CIRCUMVENTION INQUIRY OF THE ANTIDUMPING DUTY ORDER ON CERTAIN PASTA FROM ITALY: AFFIRMATIVE FINAL DETERMINATION OF CIRCUMVENTION OF THE ANTIDUMPING DUTY ORDER, 63 FR 54672 (OCTOBER 13, 1998).

(4) 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 IS WITHIN THE SCOPE OF THE ANTIDUMPING AND COUNTERVAILING DUTY ORDERS. 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 ANTIDUMPING AND COUNTERVAILING DUTY ORDERS. SEE MEMORANDUM FROM JOHN BRINKMANN TO RICHARD MORELAND, DATED MAY 24, 1999, WHICH IS AVAILABLE IN THE CRU.

THE FOLLOWING SCOPE RULING IS PENDING:

(5) ON APRIL 27, 2000, THE DEPARTMENT SELF-INITIATED AN ANTI-CIRCUMVENTION INQUIRY TO DETERMINE WHETHER PAGANI'S IMPORTATION OF PASTA IN BULK AND SUBSEQUENT REPACKAGING IN THE UNITED STATES INTO PACKAGES OF FIVE POUNDS OR LESS CONSTITUTES CIRCUMVENTION, WITH RESPECT TO THE ANTIDUMPING AND COUNTERVAILING DUTY ORDERS ON PASTA FROM ITALY PURSUANT TO SECTION 781(A) OF THE ACT AND 19 CFR 351.225(B). SEE CERTAIN PASTA FROM ITALY: NOTICE OF INITIATION OF ANTI-CIRCUMVENTION INQUIRY OF THE ANTIDUMPING AND COUNTERVAILING DUTY ORDERS, 65 FR 26179 (MAY 5, 2000).

3. AS A RESULT OF COMMERCE'S REVIEW, THE CASH DEPOSIT RATES HAVE BEEN REVISED FOR CERTAIN MANUFACTURERS/EXPORTERS. THEREFORE, FOR SHIPMENTS OF CERTAIN PASTA FROM ITALY ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION ON OR AFTER 01/03/2002, THE REQUIRED CASH DEPOSIT HAS BEEN REVISED FOR THE FOLLOWING MANUFACTURERS/EXPORTERS:

Barilla	A-475-818-028	45.59
Corex	A-475-818-027	ZERO
Ferrara	A-475-818-035	1.25
Pagani	A-475-818-019	ZERO
Pallante	A-475-818-033	1.78
PAM	A-475-818-034	4.10
Puglisi	A-475-818-030	ZERO
Riscossa	A-475-818-036	1.03
Rummo	A-475-818-031	ZERO

4. IF ANY ENTRIES OF THIS MERCHANDISE ARE EXPORTED BY A FIRM OTHER THAN THE

MANUFACTURER, THEN THE FOLLOWING INSTRUCTIONS APPLY:

A. IF THE EXPORTER OF THE SUBJECT MERCHANDISE HAS ITS OWN RATE, USE THE EXPORTER'S RATE FOR DETERMINING THE CASH DEPOSIT RATE.

B. IF THE EXPORTER OF THE SUBJECT MERCHANDISE DOES NOT HAVE ITS OWN RATE, BUT THE MANUFACTURER HAS ITS OWN RATE, THE CASH DEPOSIT RATE WILL BE THE MANUFACTURER'S RATE.

C. WHERE NEITHER THE EXPORTER NOR THE MANUFACTURER CURRENTLY HAS ITS OWN RATE OR THE MANUFACTURER IS UNKNOWN, USE THE 'ALL OTHER' RATE FOR ESTABLISHING THE CASH DEPOSIT RATE.

5. FOR ALL MANUFACTURERS/EXPORTERS OF CERTAIN PASTA FROM ITALY WITHOUT THEIR OWN RATE, THE CASH DEPOSIT RATE IS THE 'ALL OTHER' RATE OF 11.26 PERCENT.

6. THESE CASH DEPOSIT REQUIREMENTS WILL REMAIN IN EFFECT UNTIL PUBLICATION OF THE FINAL RESULTS FOR THE NEXT ADMINISTRATIVE REVIEW. DO NOT LIQUIDATE ANY ENTRIES COVERED BY THIS REVIEW UNTIL YOU HAVE RECEIVED LIQUIDATION INSTRUCTIONS.

7. IF THERE ARE ANY QUESTIONS REGARDING THIS MATTER BY CUSTOMS OFFICERS, PLEASE CONTACT VIA E-MAIL, THROUGH THE APPROPRIATE SUPERVISORY CHANNELS, OTHER GOVERNMENT AGENCY LIAISON, USING THE ATTRIBUTE "HQ OAB." THE IMPORTING PUBLIC AND OTHER INTERESTED PARTIES SHOULD CONTACT GEOFFREY CRAIG, OFFICE OF AD/CVD ENFORCEMENT, IMPORT ADMINISTRATION, INTERNATIONAL TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, AT (202) 482-4161.

8. THERE ARE NO RESTRICTIONS ON THE RELEASE OF
THIS INFORMATION.

PAUL SCHWARTZ

Company Details

*Party Indicator Value:

I = Importer, M = Manufacturer, E = Exporter, S = Sold To Party