



A-475-818  
Changed Circumstances Review  
P.A.P. SRL.  
**Public Document**  
AD/CVD III: CR

**DATE:** June 5, 2015

**MEMORANDUM TO:** Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

**FROM:** Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Initiation and Preliminary Results of Changed Circumstances  
Review: Certain Pasta from Italy

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## I. Summary

In response to a request from P.A.P. S.R.L. (PAP SRL), a producer/exporter of certain pasta from Italy, the Department of Commerce (the Department) is initiating a changed circumstances review (CCR) pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216. Further, pursuant to 19 CFR 351.221(c)(3)(ii), the Department is combining the initiation with the preliminary results of review. We preliminarily determine that PAP SRL is the successor-in-interest to P.A.P. SNC Di Pазienza G. B. & C (PAP SNC).

If these preliminary results are adopted in our final results of review, we will instruct Customs and Border Protection (CBP) to suspend liquidation of entries of certain pasta from Italy made by PAP SRL, effective on the publication date of the final results, at the cash deposit rate assigned to PAP SNC.

Interested parties are invited to comment on these preliminary results. Consistent with 19 CFR 351.216(e), we intend to issue the final results of this CCR no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary finding.

## II. Background

On July 24, 1996, the Department published in the *Federal Register* the antidumping duty (AD) order on certain pasta from Italy.<sup>1</sup> On April 22, 2015, PAP SRL submitted a request for a CCR for purposes of the *Pasta Italy Order*, in which it argues that it is the successor-in-interest to PAP

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<sup>1</sup> See *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 38547 (July 24, 1996) (*Pasta Italy Order*).

SNC,<sup>2</sup> and therefore requests that the Department assign PAP SRL the cash deposit rate of its predecessor, PAP SNC.

We received no comments from interested parties.

### **III. Scope of the Order**

Imports covered by this 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 this order are refrigerated, frozen, or canned pastas, as well 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 certified by a European Union (EU) authorized body and accompanied by a National Organic Program import certificate for organic products.<sup>3</sup> Effective July 1, 2008, gluten free pasta is also excluded from this order.<sup>4</sup>

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 *AD Order* is dispositive.

### **IV. Initiation and Preliminary Results of Changed Circumstances Review**

Pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d), the Department will conduct a CCR upon receipt of a request from an interested party or receipt of information concerning an AD order which shows changed circumstances sufficient to warrant a review of the order.

We received information indicating that in January 2015, PAP SNC's legal form changed from a *Società in nome collettivo*, or SNC, which is a form of partnership, to a *Società a responsabilità limitata*, or SRL, which is a form of limited-liability corporation. PAP SRL also provided

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<sup>2</sup> See PAP SRL's request for Changed-Circumstances Review dated April 22, 2015 (CCR Request).

<sup>3</sup> On October 10, 2012, the Department revised the "Scope of the Order" to recognize the EU-authorized Italian agents for purposes of the antidumping and countervailing duty orders on pasta from Italy. See Memorandum from Yasmin Nair to Susan Kuhbach, titled "Recognition of EU Organic Certifying Agents for Certifying Organic Pasta from Italy," dated October 10, 2012, which is on file in the Department's Central Records Unit.

<sup>4</sup> 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).

information regarding changes in: 1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.<sup>5</sup> No other party commented on PAP SRL's submission.

Based on the information provided in its submission, the Department preliminarily determines that PAP SRL provided sufficient evidence to warrant a review to determine if it is the successor-in-interest to PAP SNC, in accordance with 19 CFR 351.216(d). Therefore, pursuant to section 751(b)(1) of the Act, we are initiating a CCR based upon the information contained in the CCR Request.<sup>6</sup>

Under 19 CFR 351.221(c)(3)(ii) the Department may combine the notice of initiation of a CCR and the notice of preliminary results if the Department concludes that expedited action is warranted. In this instance, because we have on the record the information necessary to make a preliminary finding, we find that expedited action is warranted, and have combined the notice of initiation and the notice of preliminary results, in accordance with 19 CFR 351.221(c)(3)(ii).<sup>7</sup>

## V. Discussion of Methodology

In making a successor-in-interest determination, the Department examines several factors, including but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.<sup>8</sup> While no single factor or combination of these factors will necessarily provide a dispositive indication of a successor-in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is essentially similar to that of its predecessor.<sup>9</sup> Thus, if the record demonstrates that, with respect to the production and sale of the

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<sup>5</sup> See, e.g., *Pressure Sensitive Plastic Tape from Italy: Preliminary Results of Antidumping Duty Changed Circumstances Review*, 75 FR 8925 (February 26, 2010), unchanged in *Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Duty Changed Circumstances Review*, 75 FR 27706 (May 18, 2010); *Brake Rotors From the People's Republic of China: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 69941 (November 18, 2005), citing *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992); and *Structural Steel Beams from Korea: Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 66 FR 15834 (March 21, 2001).

<sup>6</sup> See CCR Request.

<sup>7</sup> See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review*, 76 FR 27005 (May 10, 2011); *Ball Bearings and Parts Thereof from Japan: Initiation and Preliminary Results of Changed-Circumstances Review*, 71 FR 14679 (March 23, 2006); *Fresh and Chilled Atlantic Salmon from Norway: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 63 FR 50880 (September 23, 1998).

<sup>8</sup> See, e.g., *Pressure Sensitive Plastic Tape from Italy: Preliminary Results of Antidumping Duty Changed Circumstances Review*, 75 FR 8925 (February 26, 2010), unchanged in *Pressure Sensitive Plastic Tape From Italy: Final Results of Antidumping Duty Changed Circumstances Review*, 75 FR 27706 (May 18, 2010); *Brake Rotors From the People's Republic of China: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 69941 (November 18, 2005), citing *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992); and *Structural Steel Beams from Korea: Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 66 FR 15834 (March 21, 2001).

<sup>9</sup> See, e.g., *PET Film from Korea* at 27006; *Industrial Phosphoric Acid from Israel: Final Results of Antidumping Duty Changed Circumstances Review*, 59 FR 6944, 6945 (February 14, 1994); *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992) at Comments 1 and 2; and

subject merchandise, the new company operates as essentially the same business entity as the predecessor company, the Department will treat the successor company the same as the predecessor for AD purposes and assign the new company the cash deposit rate of its predecessor.<sup>10</sup>

## **VI. Analysis**

### **A. Management**

As noted above, effective January 1, 2015, the company changed its legal form from an SNC, which is a form of legal partnership, to an SRL, which is a form of a limited-liability corporation. According to information in the CCR Request, an SRL company is a legal entity in which the liability of the members is limited to the contributions made, whereas an SNC company is not a legal entity and all partners are jointly and severally liable for the company.<sup>11</sup> The CCR Request also contains filings that PAP SRL and PAP SNC submitted to Italy's Chamber of Commerce that covers the years leading up to January 1, 2015, as well as from January 1, 2015. The filings to the Chamber of Commerce list the owners of the companies during the relevant time periods.<sup>12</sup> Additionally, the CCR Request contains organizational charts for the period December 2012 to January 1, 2015, as well as an organizational chart from January 1, 2015, up to the filing of the CCR Request.<sup>13</sup>

Based on this information, we preliminarily determine that the company's change from an SNC to an SRL did not, in and of itself, lead to a change in the ownership or operation of the firm.<sup>14</sup> Further, the information in the filings to the Chamber of Commerce indicate that the owners of the company remained unchanged in the years leading up and immediately following the company's change from an SNC to an SRL.<sup>15</sup> We also find that the continuity of the company's leadership structure is further reflected in the organizational charts contained in the CCR Request. The charts indicate that the management positions, specifically the positions for General Manager, Quality Control Head, Documents Manager, Pasta Production Manager, and Baker Manager, remained unchanged.<sup>16</sup>

Therefore, we preliminarily find that the management structure of PAP SRL remained the same as its predecessor, PAP SNC.

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*Certain Lined Paper Products From India: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 80 FR 183873 (April 6, 2015).

<sup>10</sup> See *Atlantic Salmon From Norway I*, 64 FR at 9980.

<sup>11</sup> See CCR Request at 2 and Exhibit 1.

<sup>12</sup> *Id.* at Exhibits 2 and 3.

<sup>13</sup> *Id.* at Exhibits 4 and 5.

<sup>14</sup> See CCR Request at Exhibit 1; see also *Final Results of Antidumping Duty Changed Circumstances Review: Fresh and Chilled Atlantic Salmon from Norway*, 75 FR 32370 (June 8, 2010) (*Salmon from Norway II*) and accompanying Decision Memorandum at Comment 3B, in which the Department made an affirmative changed circumstances determination with respect to a firm that changed its legal structure from an A/L to an A/S.

<sup>15</sup> *Id.* at Exhibits 2 and 3.

<sup>16</sup> *Id.* at Exhibits 4 and 5.

## **B. Production Facilities**

The CCR Request indicates that PAP SRL operates the same machinery as PAP SNC at its plant in San Severo (FG), Italy, continues to produce pasta under the Cara Nonna brand, and shares the same website.<sup>17</sup> The CCR Request also contains flowcharts illustrating the production process for PAP SNC during the period December 2012 up to January 1, 2015, as well as the production process for PAP SRL as of January 1, 2015. The flowcharts indicate no changes in the companies' respective production processes.<sup>18</sup> Further, filings to the Chamber of Commerce made by PAP SNC and PAP SRL both describe the companies' purpose as the production of pasta, couscous, and grain products.<sup>19</sup> The filings to the Chamber of Commerce also indicate that, just as with PAP SNC, PAP SRL continues to deal in traded goods, *i.e.*, finished goods that the company buys from other producers and sells to its customers.<sup>20</sup> Further, information in the Chamber of Commerce filings indicates that the number of individuals employed by PAP SNC and PAP SRL remained largely unchanged since December 2012.<sup>21</sup> We also note that the Execution Document for PAP SRL and the General Partnership Historical Execution Document for PAP SNC,<sup>22</sup> as issued by the Italian Chambers of Commerce, list the same legal office address, certified email address, Repertorio Economico Amministrativo number (identification code of the provincial Italian Business Register), and tax code numbers for PAP SNC and PAP SRL.<sup>23</sup>

Based on the information in the CCR Request, we preliminarily determine that the scope of the business and production process of PAP SRL remains essentially the same as PAP SNC.

## **C. Supplier Relationships**

The CCR Request indicates that the supplier base remained essentially the same before and after the change of company's legal form from an SNC to SRL, in terms of the suppliers of semolina, the major input of pasta, and the quantities supplied.<sup>24</sup> Specifically, the listing of principal suppliers of semolina/wheat and packing materials in the CCR Request indicates an overlap with respect to the suppliers and the corresponding value of purchases from each supplier during 2013 - 2014 (under PAP SNC) and the first quarter of 2015 (under PAP SRL).<sup>25</sup>

Based on this information, we preliminarily determine that the change of company's legal form from SNC to SRL did not result in material changes to supplier relationships with respect to the subject merchandise.

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<sup>17</sup> See CCR Request at 3.

<sup>18</sup> *Id.* at Exhibits 6 and 7.

<sup>19</sup> *Id.* at Exhibits 2 and 3.

<sup>20</sup> *Id.* at Exhibits 6 and 7.

<sup>21</sup> *Id.* at Exhibits 6 and 7.

<sup>22</sup> *Id.* at Exhibit 3 at page 11

<sup>23</sup> *Id.* at Exhibits 2 and 3.

<sup>24</sup> See CCR Request at 3-4 and Exhibit 8.

<sup>25</sup> *Id.* at Exhibit 8.

## D. Customer Base

The CCR Request contains a listing of the company's sales, by value and customer, for 2013, 2014, and the first quarter of 2015.<sup>26</sup> Despite the fact that PAP SRL was only able to provide sales data for the first quarter of 2015, the sales listing, nonetheless, indicates a continuity of sales with regard to a significant percentage of its U.S. customers, including the company's largest U.S. customer from 2013 through the first quarter of 2015.<sup>27</sup> Similarly, in the home market, as of the first quarter of 2015, PAP SRL had not made sales to several Italian customers to whom PAP SNC had sold pasta in 2013 and 2014. However, the information indicates that PAP SRL made sales to its largest home market customers during the first quarter of 2015.<sup>28</sup>

We preliminarily determine that despite the limited amount data available for 2015, the CCR Request indicates overlap for the company's largest U.S. and home market customers during calendar year 2013, 2014, and the first quarter of 2015.

## Recommendation

Based on the evidence reviewed, we preliminarily determine that the change in company's legal form from a partnership form (*i.e.*, SNC) to a limited-liability corporation form (*i.e.*, SRL) resulted in no significant changes to management, production facilities, and supplier relationships. Concerning customer base, we find the level of overlap between PAP SNC and PAP SRL was less pronounced. However, given that the information in the CCR Request reflects continued sales to the company's largest Italian and U.S. customers, we find it reasonable to conclude that the lack of greater continuity is largely attributable to the fact that at the time of the filing of the CCR Request, sales data were only available for the first quarter of 2015. We further note that the Department's practice is to rely on the totality of evidence when conducting CCRs and, thus, the lack of overlap with regard to certain customers does not preclude the Department from making a preliminary affirmative successor-in-interest determination.<sup>29</sup>

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<sup>26</sup> See CCR Request at Exhibit 9.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> See *Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 79 FR 56339 (September 19, 2014) and accompanying Decision Memorandum at Comment 1; see also *Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Polychloroprene Rubber From Japan*, 69 FR 61796 (October 21, 2004), unchanged in *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Polychloroprene Rubber from Japan*, 69 FR 67890 (November 22, 2004).

Accordingly, based on the totality of evidence on the record, we preliminarily determine that PAP SRL is the successor-in-interest to PAP SNC.

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Agree

\_\_\_\_\_  
Disagree

*Ronald K Lorentzen*

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

*June 5, 2015*

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Date