

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Ismael Reta, Register Number: 78795–379, Federal Correctional Institution, P.O. Box 4200, Three Rivers, TX 78071; Order Denying Export Privileges

On June 15, 2015, in the U.S. District Court for the Southern District of Texas, Ismael Reta (“Reta”), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (“AECA”). Specifically, Reta intentionally and knowingly conspired and agreed together with other person or persons known and unknown to the Grand Jurors, to knowingly and willfully export, attempt to export, and cause to be exported into Mexico from the United States defense article, that is, to-wit: a Colt, Model M4, 5.56mm rifle; a Romarm, Model WASR–10, 7.62x39mm rifle; a Berretta, Model 92FS, 9mm pistol, two hundred sixty-two (262) rounds of 5.56mm ammunition; and fifty (50) rounds of 7.62x39mm ammunition, which were designated as defense articles on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Reta was sentenced 37 months of imprisonment, three years of supervised release, and a \$100 assessment.

Section 766.25 of the Export Administration Regulations (“EAR” or “Regulations”)¹ provides, in pertinent part, that “[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (“EAA”), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50

U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).” 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security’s Office of Exporter Services may revoke any Bureau of Industry and Security (“BIS”) licenses previously issued in which the person had an interest in at the time of his conviction.

BIS has received notice of Reta’s conviction for violating the AECA, and has provided notice and an opportunity for Reta to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Reta.

Based upon my review and consultations with BIS’s Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Reta’s export privileges under the Regulations for a period of 10 years from the date of Reta’s conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Reta had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until June 15, 2025, Ismael Reta, with a last known address of Register Number: 78795–379, Federal Correctional Institution, P.O. Box 4200, Three Rivers, TX 78071, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (the “Denied Person”), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported

or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Reta by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Reta may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to the Reta. This Order shall be published in the **Federal Register**.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2015). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at <http://uscode.house.gov>)). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2015 (80 FR 48,233 (Aug. 11, 2015)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

Sixth, this Order is effective immediately and shall remain in effect until June 15, 2025.

Issued this 15 day of June 2016.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818; C-475-819]

Certain Pasta From Italy: Initiation and Preliminary Results of Antidumping and Countervailing Duty Changed Circumstances Reviews

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

SUMMARY: The Department of Commerce (the Department) is self-initiating a changed circumstances review of the antidumping (AD) and countervailing (CVD) orders on certain pasta from Italy¹ (1) in furtherance of the purpose of the International Trade Data System (ITDS) initiative and U.S. Customs and Border Protection's (CBP) efforts to modernize the electronic submission of import documents using the Automated Commercial Environment (ACE), and (2) to align across the *AD/CVD Italy Pasta Orders* the scope language regarding certifications accompanying imports of organic pasta. Specifically, in conjunction with this initiation, the Department preliminarily determines to convert the certification submission requirement to a record-keeping requirement, to authorize electronic submission of the certification, to update the scope language relating to the organic pasta exclusion, and to align the certification language across the *AD/CVD Italy Pasta Orders*. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* June 22, 2016.

FOR FURTHER INFORMATION CONTACT: Jennifer Meek, Office I for AD/CVD Operations, at (202) 482-2778; George McMahon, Office III for AD/CVD Operations, at (202) 482-1167; or Sam Zengotitabengoa, Customs Liaison Unit for AD/CVD Operations, at (202) 482-4195, AD/CVD Operations, Enforcement

& Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

The ITDS is an electronic trade data interchange system authorized pursuant to section 405 of the Security and Accountability for Every (SAFE) Port Act of 2006, Public Law 109-347. The purpose of ITDS, as defined by Section 405 of the SAFE Port Act of 2006, "is to eliminate redundant information requirements, to efficiently regulate the flow of commerce, and to effectively enforce laws and regulations relating to international trade, by establishing a single portal system, operated by the United States Customs and Border Protection, for the collection and distribution of standard electronic import and export data required by all participating Federal agencies." On October 13, 2015, CBP issued an interim final rule to amend its regulations to provide that, as of November 1, 2015, ACE is a CBP-authorized Electronic Data Interchange System which may be used for the filing of entries and entry summaries.²

Scope of the AD/CVD Italy Pasta Orders

On July 24, 1996, the Department published the notice of the *AD/CVD Italy Pasta Orders* in the **Federal Register** with nearly identical language regarding the scope of the orders.³ In particular, the scope language covered:

Certain non-egg dry pasta in packages of five pounds (or 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 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 Associazione Marchigiana

Agricoltura Biologica (AMAB) or by Bioagricoop srl.

On July 9, 1996, after the date of our final antidumping duty determination, Euro-USA Trading Co., Inc., of Pawcatuck, CT, submitted materials to the Department supporting its request for an exclusion for pasta certified to be "organic pasta." Among the documents submitted are a decree from the Italian Ministry of Agriculture and Forestry authorizing Bioagricoop srl to certify foodstuffs as organic for the implementation of EEC Regulation 2029/91. Also submitted is a letter (with an accompanying translation into English) from the Director of Controls of Processing and Marketing Firms at Bioagricoop stating that the organization will take responsibility for its organic pasta certificates and will supply the necessary documentation to U.S. authorities. On this basis, imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by Bioagricoop srl are excluded from the scope of this order.⁴

The merchandise under order is currently classifiable under items 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

As noted in the language comprising the scope of the orders, our written description of the scope of the orders is dispositive. However, the notices published in connection with subsequent administrative reviews of the orders have contained minor differences in language regarding the identification of the authority that issues the organic certifications. Specifically, the most recent published final results in the CVD proceeding⁵ states, with regard to this exclusion and certification for organic pasta, "{a}lso excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, 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 Ambientale." By comparison, the most recent published final results in the AD proceeding⁶

⁴ Note that a modified version of this paragraph has appeared in the scope description in all subsequent administrative reviews, which has no material impact on the scope's coverage.

⁵ See *Certain Pasta From Italy: Final Results of Countervailing Duty Administrative Review*; 2012, 80 FR 11172 (March 2, 2015), and accompanying Issues and Decision Memorandum at "Scope of the Order."

⁶ *Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review*; 2012-2013, 80 FR 8604 (February 18, 2015), and accompanying Issues and Decision Memorandum at "Scope of the Order."

¹ 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); and *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") From Italy*, 61 FR 38544 (July 24, 1996) (collectively, *AD/CVD Italy Pasta Orders*).

² See *Automated Commercial Environment (ACE) Filings for Electronic Entry/Entry Summary (Cargo Release and Related Entry)*, 80 FR 61278 (October 13, 2015) (*Interim Final Rule*); and Notice Announcing the Automated Commercial Environment (ACE) as the Sole CBP-Authorized Electronic Data Interchange (EDI) System for Processing Certain Electronic Entry and Entry Summary Filings, 81 FR 10264 (February 29, 2016) (*General Notice*).

³ See *AD/CVD Italy Pasta Orders*.