

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818]

Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review; 2012-2013

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

SUMMARY: On August 25, 2014, the Department of Commerce (the Department) published the *Preliminary Results* of the antidumping duty administrative review of certain pasta from Italy and provided interested parties an opportunity to comment.¹ The review initially covered two mandatory respondents, Molino e Pastificio Tomasello S.p.A. (Tomasello), and Rummo,² and eight non-selected companies.³ We rescinded the review with respect to Alica and Lensi in the *Preliminary Results*.⁴ The period of review (POR) is July 1, 2012, through June 30, 2013. As a result of our analysis of the comments and information received, these final results differ from the *Preliminary Results*. For the final weighted-average dumping margin, *see* the “Final Results of Review” section below.

DATES: EFFECTIVE DATE: (INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*).

¹ *See Certain Pasta From Italy: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission*; 2012–2013, 79 FR 50614 (August 25, 2014) (*Preliminary Results*).

² The “Rummo Group” consists of Rummo S.p.A., a producer and seller of subject merchandise, Lenta Lavorazione, a seller of subject merchandise, Pasta Castiglioni, a producer and seller of subject merchandise, and the ultimate holding company (with no operations), Rummo S.p.A. Molino e Pastificio (collectively, “Rummo”).

³ The non-selected companies are: Alica srl (Alica); Dalla Costa Alimentare srl; Delverde Industrie Alimentari S.p.A.; Ghigi Industria Agroalimentare in San Clemente srl; Pasta Lensi S.r.l (Lensi); Pasta Zara S.p.A.; Pastificio Toscano srl; Valdigrano di Flavio Pagani S.r.L. We rescinded, in part, this administrative review with respect to Alica and Lensi.

⁴ *See Preliminary Results*.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore (Tomasello) or Cindy Robinson (Rummo), AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482-3692 or (202) 482-3797, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 2014, the Department published the *Preliminary Results*. In accordance with 19 CFR 351.309(c)(1)(ii), we invited parties to comment on our *Preliminary Results*.⁵ On September 24, 2014, Rummo and Tomasello submitted case briefs. On September 24, 2014, Rummo also requested a hearing. On October 3, 2014, Petitioners⁶ filed a rebuttal brief with respect to Rummo. On November 13, 2014, the Department held a public hearing.⁷ On December 19, 2014, the Department issued a memorandum extending the time period for issuing the final results of this administrative review from December 23, 2013 to February 21, 2014.⁸

Scope of the Order

Imports covered by the order are shipments of certain non-egg dry pasta. The merchandise subject to review 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

⁵ The Department issued the briefing schedule in a Memorandum to the File, dated January 7, 2014. This briefing schedule indicated that the case and rebuttal briefs were due by close of business January 15, 2014 and January 22, 2014, respectively.

⁶ The Petitioners are New World Pasta Company and Dakota Growers Pasta Company.

⁷ See the hearing transcript dated November 13, 2014, which is on-file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building.

⁸ Because February 21, 2015, is a Saturday, the deadline for the final results will be Monday, February 23, 2015.

HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.⁹

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum.¹⁰ A list of the issues that parties raised and to which we responded is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on-file electronically via ACCESS. ACCESS is available to registered users at <http://access.trade.gov> and in the CRU. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://enforcement.ita.doc.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, we recalculated Rummo's and Tomasello's weighted-average dumping margins for these final results.

For Rummo, we revised our margin program by utilizing the non-consolidated customer code for one of Rummo's consolidated customers.¹¹ As a result of this change, we applied the average-to-average (A-to-A) comparison to calculate Rummo's weighted-average dumping

⁹ For a full description of the scope of the order, see the "Issues and Decision Memorandum for the Final Results of the 17th Antidumping Duty Administrative Review: Certain Pasta from Italy; 2012-2013" from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice (Issues and Decision Memorandum).

¹⁰ *Id.*

¹¹ See Issues and Decision Memorandum at comment 4; see also Memorandum to the File, Through Eric B. Greynolds, Program Manager, Office III, from Cindy Robinson, Case Analyst, Office III, titled "Certain Pasta from Italy: Calculation Memorandum – the Rummo Group," dated December 23, 2014 (Rummo Calc. Memo), for details.

margin. In addition, we made a correction to our margin program for Rummo’s U.S. direct selling expenses which were inadvertently double counted in the *Preliminary Results*.¹²

We made a change to our margin program for Tomasello with respect to certain billing adjustments. As a result of this revision, we applied the average-to-transaction (A-to-T) method for the U.S. sales passing the Cohen’s *d* test and the A-to-A method for the U.S. sales not passing the Cohen’s *d* test to calculate the weighted-average dumping margin for Tomasello.¹³

As a result of the aforementioned recalculations of Tomasello’s and Rummo’s rates, the weighted-average dumping margin for the six non-selected companies changed.

Final Results of the Review

As a result of this review, the Department determines the following weighted-average dumping margins¹⁴ for the period July 1, 2012, through June 30, 2013, are as follows:

Producer and/or Exporter	Weighted-Average Dumping Margin (percent)
Rummo S.p.A. Molino e Pastificio, Rummo S.p.A., Lenta Lavorazione, and Pasta Castiglioni (collectively the Rummo Group)	4.26
Molino e Pastificio Tomasello S.p.A.	1.71
Dalla Costa Alimentare srl	2.36
Delverde Industrie Alimentari S.p.A	2.36
Ghigi Industria Agroalimentare in San Clemente srl	2.36
Valdigrano di Flavio Pagani S.r.L	2.36
Pasta Zara S.p.A	2.36
Pastificio Toscano srl;	2.36

¹² See Issues and Decision Memorandum at comment 5 and Rummo Calc. Memo for details.

¹³ See Sales Analysis Memorandum for the Final Results for Molino e Pastificio Tomasello S.p.A. (Tomasello).

¹⁴ The rate applied to the non-selected companies is a weighted-average percentage margin calculated based on the publicly-ranged U.S. volumes of the two reviewed companies with an affirmative dumping margin, for the period July 1, 2012, through June 30, 2013. See Memorandum to the File, titled, “Certain Pasta from Italy: Margin for Respondents Not Selected for Individual Examination,” from Stephanie Moore, Case Analyst, through Eric B. Greynolds, Program Manager, dated concurrently with this notice.

Duty Assessment

The Department shall determine and the CBP shall assess antidumping duties on all appropriate entries.¹⁵ For any individually examined respondents whose weighted-average dumping margin is above *de minimis*, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.*, at or above 0.5 percent), the Department will issue appraisement instructions directly to CBP to assess antidumping duties on appropriate entries.

To determine whether the duty assessment rates covering the period were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), for each respondent we calculated importer (or customer)-specific *ad valorem* rates by aggregating the amount of dumping calculated for all U.S. sales to that importer or customer and dividing this amount by the total entered value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, and the respondent has reported reliable entered values, we apply the assessment rate to the entered value of the importer's/customer's entries during the review period. Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis* and we do not have reliable entered values, we calculate a per-unit assessment rate by aggregating the amount of dumping for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).

¹⁵ In these final results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012).

The Department clarified its “automatic assessment” regulation on May 6, 2003.¹⁶ This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see the Automatic Assessment Clarification.*

We intend to issue assessment instructions directly to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2) of the Act: (1) the cash deposit rate for respondents noted above will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 15.45 percent, the all-others rate established in the antidumping investigation as modified

¹⁶ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68FR 23954 (May 6, 2003) (*Automatic Assessment Clarification*).

by the section 129 determination. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/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 this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: February 10, 2015.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Final Issues and Decision Memorandum

I. Summary

II. Background

III. Scope

IV. List of Comments

Comment 1: Consideration of an Alternative Comparison Method in Administrative Reviews

Comment 2: The Utilization of the Cohen's d Test in Differential Pricing Analysis

Comment 3: Application of the Average-to-Transaction Method to Non-dumped U.S. Sales

Comment 4: Definition of "Purchaser" in the Differential Pricing Analysis

Comment 5: Correction for Rummo's U.S. Direct Selling Expenses

Comment 6: The Commission Offset for Rummo's Constructed Export Price (CEP) Sales

Comment 7: Treatment of Tomasello's Billing Adjustments

V. Analysis

VI. Recommendation

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