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DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818]

Certain Pasta from Italy: Amended Final Results of Antidumping Duty Administrative Review; 2017-2018

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

SUMMARY: The Department of Commerce (Commerce) is amending the final results of the administrative review of the antidumping duty (AD) order on certain pasta from Italy to correct one ministerial error. The period of review (POR) is July 1, 2017 through June 30, 2018.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Joy Zhang (Ghigi/Zara) or George McMahon (Indalco), AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1168 or (202) 482-1167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 16, 2020, Commerce published its final results of the administrative review of the antidumping duty order on certain pasta from Italy, covering a 2017-2018 period of review.<sup>1</sup> On January 21, 2020, Industria Alimentare Colavita S.p.A. (Indalco) submitted a timely

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<sup>1</sup> See *Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review; 2017–2018*, 85 FR 2714 (January 16, 2020) (*Final Results*).

allegation that Commerce made two ministerial errors in the *Final Results*.<sup>2</sup> On January 23, 2020, Domestic Producers<sup>3</sup> filed a timely rebuttal to Indalco’s allegation.<sup>4</sup>

### Legal Framework

A ministerial error, as defined in section 751(h) of the Tariff Act of 1930, as amended (the Act), includes “errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.”<sup>5</sup> With respect to final results of an administrative review, 19 CFR 351.224(e) provides that Commerce “will analyze any comments received and, if appropriate, correct any ministerial error by amending...the final results of review....”

### Ministerial Error Allegations

In its ministerial error allegation, Indalco argues that Commerce failed to recalculate imputed credit expenses for certain home market sales in which Indalco reported no payment date. In addition, Indalco asserts that when Commerce plugged the missing payment date for certain home market sales, Commerce should have relied on the date of its last cost supplemental questionnaire response, rather than the date of the last section B supplemental questionnaire response, which is the date Commerce used in the *Final Results*.

We agree with Indalco that Commerce committed an inadvertent error within the meaning of section 735(e) of the Act and 19 CFR 351.224(f) with respect to imputed credit

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<sup>2</sup> See Indalco’s Letter, “Certain Pasta from Italy: 22nd POR Final Results: Request for Correction of Clerical Error,” dated January 21, 2020. This submission is timely filed within five days of the disclosure, as provided in 19 CFR 351.224(c)(2).

<sup>3</sup> The domestic producers are Dakota Growers Pasta Company, Riviana Foods and Treehouse Foods (collectively, Domestic Producers).

<sup>4</sup> See Domestic Producers’ Letter, “Administrative Review of Certain Pasta from Italy – Petitioners’ Response to Indalco’s Ministerial Error Comments,” dated January 23, 2020.

<sup>5</sup> See 19 CFR 351.224(f).

expenses in the home market. We intended to recalculate imputed credit expenses for certain home market sales in which Indalco reported no payment date. However, we inadvertently omitted that calculation from the dumping calculations used in the *Final Results*. Thus, we determine that, in accordance with section 751(h) of the Act and 19 CFR 351.224(f), we made an unintentional ministerial error in the *Final Results*. As to the date that Commerce should use when the payment date information is missing for certain home market sales, we find that Indalco's comments constitute a methodological argument that does not meet the definition of a ministerial error as defined under 19 CFR 351.224(f). As a result, we have not addressed Indalco's argument on this point for these amended final results.<sup>6</sup> For a detailed discussion of these ministerial error allegations, as well as Commerce's analysis, *see* the Ministerial Error Memorandum.<sup>7</sup>

#### Non-Examined Companies

Pursuant to 19 CFR 351.224(e), we are amending the *Final Results* to correct the ministerial error. The correction results in a revised weighted-average dumping margin for Indalco of zero percent. The weighted-average dumping margin for Ghigi 1870 S.p.A. and Pasta Zara S.p.A. (Ghigi/Zara) of 91.76 percent *ad valorem* remains unchanged from the *Final Results*.<sup>8</sup> As a result of these amended final results, Ghigi/Zara is the sole mandatory respondent with a weighted-average dumping margin which is not zero, *de minimis* or based entirely on facts available. Thus, consistent with section 735(c)(5)(A) of the Act, we have assigned the weighted-average dumping margin calculated for Ghigi/Zara to the following companies that were not

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<sup>6</sup> For further information, *see* Memorandum, "Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy; 2017-2018: Ministerial Error Memorandum," dated concurrently with these amended final results (Ministerial Error Memorandum).

<sup>7</sup> *Id.*

<sup>8</sup> *See Final Results*, 85 FR at 2714.

selected for individual examination in this review: Agritalia S.r.L. and Tesa S.r.L.

Amended Final Results

The amended final results are as follows:

<b>Producer or Exporter</b>	<b>Weighted-Average Dumping Margin (percent)</b>
Ghigi 1870 S.p.A. and Pasta Zara S.p.A. <sup>9</sup>	91.76
Industria Alimentare Colavita S.p.A.	0.00
Agritalia S.r.L.	91.76
Tesa SrL (Tesa)	91.76

Disclosure

We intend to disclose the calculation performed for these amended final results within five days of the publication of this notice in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Antidumping Duty Assessment

Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The ministerial error corrections resulted in a zero percent margin for Indalco. Accordingly, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

In accordance with Commerce’s “automatic assessment” practice, for entries of subject merchandise during the POR produced by each respondent for which it did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate, *i.e.*, 15.45 percent, from the less-than-fair-value investigation as

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<sup>9</sup> The margin calculated for Ghigi 1870 S.p.A. and Pasta Zara S.p.A. is unchanged from the *Final Results*.

modified by the section 129 determination,<sup>10</sup> if there is no rate for the intermediate company(ies) involved in the transaction.<sup>11</sup>

On January 30, 2020, the Court of International Trade issued preliminary injunctions prohibiting the assessment of duties on entries of subject merchandise produced and/or exported by: (1) Ghigi/Zara; (2) Tesa SrL; and (3) Agritalia S.r.L. starting January 30, 2020. Accordingly, Commerce will not order CBP to assess antidumping duties on entries of that merchandise while the preliminary injunctions are in place.

#### Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 16, 2020, the date of publication of the *Final Results* of this administrative review in the *Federal Register*, as provided by section 751(a)(2) of the Act: (1) the cash deposit rate for respondents noted above will be equal to the weighted-average dumping margin established in the amended final results of this administrative review, except when that rate is *de minimis* where the cash deposit rate will be zero; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior completed 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 producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this

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<sup>10</sup> See *Implementation of the Findings of the WTO Panel in US—Zeroing (EC): Notice of Determinations Under Section 129 of the Uruguay Round Agreements Act and Revocations and Partial Revocations of Certain Antidumping Duty Orders*, 72 FR 25261 (May 4, 2007).

<sup>11</sup> See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 15.45 percent, the all-others rate established in the less-than-fair-value investigation as modified 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 Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

#### Notification Regarding Administrative Protective Order

This notice also serves as a reminder to the 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.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.224(e).

Dated: February 20, 2020.

Jeffrey I. Kessler,  
Assistant Secretary  
for Enforcement and Compliance.  
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