



DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818]

Certain Pasta from Italy: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018-2019

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Ghigi 1870 S.p.A. (Ghigi) and Pasta Zara S.p.A. (Pasta Zara) (collectively, Ghigi/Zara) and La Molisana SpA (La Molisana) sold certain pasta (pasta) from Italy at less than normal value (NV) during the period of review (POR) July 1, 2018 through June 30, 2019. We further preliminarily determine that Pasta Berruto had no shipments of subject merchandise during the POR.

Interested parties are invited to comment on these preliminary results.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.]

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SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996 Commerce published the *Order* in the *Federal Register*.¹ On September 9, 2019, pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), Commerce initiated an administrative review of the *Order* covering the following companies: Aldino S.r.L. (Aldino), F. Divella S.p.A., Ghigi/Zara, Industria Alimentare Colavita

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) (*Order*).

S.p.A. (Indalco), La Molisana, Liguori Pastificio dal 1820 S.p.A., Newlat Food S.p.A., Pasta Berruto S.p.A., Pasta Lensi S.r.L. (Pasta Lensi), Pastificio Di Martino Gaetano e Flli S.p.A., Pastificio Rey S.r.L., Rummo S.p.A., San Remo Macaroni Company, Tesa S.r.L., and Valdigrano di Flavio Pagani S.r.L.² On December 20, 2019, Commerce rescinded the review of Pasta Lensi, Indalco, and Aldino.³

On March 2, 2020, Commerce extended the deadline for the preliminary results to July 30, 2020.⁴ On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.⁵ On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.⁶ The deadline for the preliminary results of this review is now November 17, 2020.

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.⁷

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 merchandise subject to this order 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 HTSUS subheadings are provided

² *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84FR 47242 (September 9, 2019).

³ *See Certain Pasta from Italy: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 84 FR 70149 (December 20, 2019).

⁴ *See* Memorandum, “Certain Pasta: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review; 2018/2019,” dated March 2, 2020.

⁵ *See* Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19,” dated April 24, 2020.

⁶ *See* Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,” dated July 21, 2020.

⁷ *See* Memorandum, “Issues and Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Certain Pasta from Italy; 2018-2019,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

for convenience and Customs purposes, the written description of the merchandise subject to the order is dispositive. A full description of the scope of the *Order* is contained in the Preliminary Decision Memorandum.

Preliminary Determination of No Shipments

On September 23, 2019, Pasta Berruto S.p.A. (Pasta Berruto) reported that it had no exports or sales of subject merchandise into the United States during the POR.⁸ To confirm Pasta Berruto's no-shipment claim, Commerce issued a no-shipment inquiry to U.S. Customs and Border Protection (CBP) requesting that it review Pasta Berruto's no-shipment claims.⁹ CBP reported that it had no information to contradict Pasta Berruto's claims of no shipments.

Given that Pasta Berruto reported that it made no shipments of subject merchandise to the United States during the POR, and there is no information calling this claim into question, we preliminarily determine that Pasta Berruto made no shipments of subject merchandise during the POR. Consistent with Commerce's practice, we will not rescind the review with respect to Pasta Berruto but, rather, we will complete the review and issue instructions to CBP based on the final results.¹⁰

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act. Export and constructed export price were calculated in accordance with section 772 of the Act. Normal value was calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized

⁸ *See* Pasta Berruto's Letter, "Pasta Berruto S.p.A.: "No Shipments" Letter for Certain Pasta from Italy (7/01/2018-6/30/2019)," dated September 13, 2019.

⁹ *See* "No shipments inquiry for certain pasta from Italy produced and/or exported by Pasta Berruto S.p.A (A-475-818)," Message Number 9273310, dated September 30, 2019.

¹⁰ *See e.g.*, "*Certain Lined Paper Products from India: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2016-2017*," 83 FR 50886 (October 10, 2018), unchanged in "*Certain Lined Paper Products from India: Final Results of Antidumping Duty Administrative Review; 2016-2017*," 84 FR 23017 (May 21, 2019).

Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content. A list of topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

Application of Adverse Facts Available

Pursuant to section 776(a) of the Act, Commerce is preliminarily relying upon facts otherwise available to assign a weighted-average dumping margin to Ghigi/Zara in this review. Preliminarily, Commerce finds that Ghigi/Zara withheld necessary information that was requested by Commerce, significantly impeded the review, and provided information that could not be verified, warranting a determination on the basis of the facts available under section 776(a) of the Act. Further, Commerce preliminarily determines that Ghigi/Zara failed to cooperate by not acting to the best of its ability to comply with requests for information and, thus, Commerce is applying adverse facts available (AFA) to Ghigi/Zara, in accordance with section 776(b) of the Act. For a full description of the methodology underlying our conclusions regarding the application of AFA, *see* the Preliminary Decision Memorandum.

Rate for Non-Selected Companies

We are applying to the non-selected companies the rate preliminarily applied to La Molisana in this administrative review, which is the only calculated rate in this administrative review that is not zero, *de minimis* or based entirely on section 776 of the Act. For a detailed discussion, *see* the Preliminary Decision Memorandum.

Preliminary Results of the Review

As a result of this review, we preliminarily determine the following weighted-average dumping margins exist for the POR:

Exporter or Producer	Weighted-Average Dumping Margin (percent)
Ghigi 1870 S.p.A. (Ghigi) and Pasta Zara S.p.A. (Pasta Zara)	91.76
La Molisana SpA	18.51

Review-Specific Average Rate Applicable to the Following Companies:

F. Divella S.p.A.	18.51
Liguori Pastificio dal 1820 S.p.A.	18.51
Newlat Food S.p.A.	18.51
Pasta Berruto S.p.A.	18.51
Pastificio Di Martino Gaetano e Flli S.p.A.	18.51
Pastificio Fratelli DeLuca S.r.l.	18.51
Pastificio Rey S.r.L.	18.51
Rummo S.p.A.	18.51
Tesa S.r.L.	18.51
Valdigrano di Flavio Pagani S.r.L.	18.51

Assessment Rates

Upon issuance of the final results, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.

Pursuant to 19 CFR 351.212(b)(1), for La Molisana we calculated importer-specific *ad valorem* antidumping duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales. Where a respondent did not report entered value, we calculated the entered value in order to calculate the assessment rate.

Where either the respondent's weighted-average dumping margin is zero or *de minimis*, or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. For Ghigi/Zara and the companies listed above which were not selected for individual examination, we will direct CBP to assess antidumping duties at an *ad valorem* rate equal to each company's weighted-average dumping margin.

In accordance with Commerce's reseller policy, for entries of subject merchandise during the POR produced or exported by Pasta Berruto, or produced by La Molisana which did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate entries not reviewed at the all-others rate of 15.45 percent, the all-others rate established in the less-than-fair-value investigation as modified by the section 129 determination.¹¹ We intend to issue instructions to CBP 15 days after publication of the final results of this review.¹²

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 pasta from Italy entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results, as provided by section 751(a)(2) of the Act: (1) the cash deposit rate for each of the firms listed above will be equal to each company's weighted-average dumping margin as established in the final results of this review, except if the ultimate rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise produced or exported by a company 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 in

¹¹ 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).

¹² See 19 CFR 356.8(a).

which the producer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of the proceeding for the producer of the 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 section 129 review subsequent to the less-than-fair-value investigation.¹³

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed in these preliminary results to parties in this proceeding within five days of the date of publication of this notice.¹⁴

Public Comment

Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the date for filing case briefs.¹⁵

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁶ All briefs must be filed electronically using ACCESS.¹⁷ An electronically filed document must be received successfully in its entirety by the established deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁸

¹³ See Order.

¹⁴ See 19 CFR 351.224(b).

¹⁵ See 19 CFR 351.309(d)(1) and (2); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (collectively, *Temporary Rule*).

¹⁶ See 19 CFR 351.309(c)(2) and (d)(2) and 19 CFR 351.303 (for general filing requirements).

¹⁷ See generally 19 CFR 351.303.

¹⁸ See *Temporary Rule*.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location hearing two days before the scheduled date.

We intend to issue the final results of this administrative review, including the results of our analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. 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 to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h)(1).

Dated: November 17, 2020.

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

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Preliminary Determination of No Shipments
- V. Application of Facts Available and Use of Adverse Inferences
- VI. Discussion of the Methodology
- VII. Rate for Non-Selected Companies
- VIII. Recommendation

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