



DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-845]

Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico: Final Results of the 2020-2021 Administrative Review

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico, as amended (AD Agreement) met the statutory requirements during the period of review (POR) from December 1, 2020, through November 30, 2021. Commerce also determines that the respondents selected for individual examination, Ingenio Tala S.A. de C.V. and its affiliates (collectively, GAM Group) and Ingenio Tamazula S.A. de C.V. and its affiliates (Tamazula) (collectively, respondents) were in compliance with the terms of the AD Agreement during the POR. However, we determine that the respondents did not comply with the requirement to eliminate at least 85 percent of the dumping found in the investigation during the POR. Furthermore, we consider the respondents' noncompliant behavior to be serious and in need of remediation, and we will implement certain steps to address their noncompliance.

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

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or Jill Buckles, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0162 or (202) 482-6230, respectively.

SUPPLEMENTARY INFORMATION:

[Background](#)

On January 4, 2023, Commerce published the preliminary results of this administrative review.¹ Subsequent to the *Preliminary Results*, Tamazula submitted its response to Commerce’s third supplemental questionnaire on January 11, 2023.² On January 18, 2023, the GAM Group submitted its third supplemental questionnaire response.³ On March 29, 2023, Commerce issued post-preliminary results.⁴ Commerce conducted verification from May 8 through 11, 2023.⁵

On June 13, 2023, respondents and Cámara Nacional de Las Industrias Azucarera y Alcohólica (Cámara) filed a case brief,⁶ and the American Sugar Coalition and its members (petitioners)⁷ filed a case brief.⁸ On June 20, 2023, petitioners filed a rebuttal brief,⁹ and respondents filed a letter in lieu of rebuttal brief.¹⁰

Scope of the AD Agreement

The product covered by this AD Agreement is raw and refined sugar of all polarimeter readings derived from sugar cane or sugar beets. Merchandise covered by this AD Agreement is typically imported under the following headings of the HTSUS: 1701.12.1000, 1701.12.5000, 1701.13.1000, 1701.13.5000, 1701.14.1020, 1701.14.1040, 1701.14.5000, 1701.91.1000, 1701.91.3000, 1701.99.1015, 1701.99.1017, 1701.99.1025, 1701.99.1050, 1701.99.5015, 1701.99.5017, 1701.99.5025, 1701.99.5050, and 1702.90.4000.¹¹ The tariff classification is

¹ See *Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico; Preliminary Results of the 2020-2021 Administrative Review*, 88 FR 339 (January 4, 2023) (*Preliminary Results*).

² See Tamazula’s Letter, “Third Supplemental Questionnaire Response,” dated January 11, 2023.

³ See GAM Group’s Letter, “Third Supplemental Questionnaire Response,” dated January 18, 2023.

⁴ See Memorandum, “Decision Memorandum for the Post-Preliminary Results of the 2020-2021 Administrative Review: Sugar from Mexico,” dated March 29, 2023 (Post-Preliminary Results).

⁵ See Memorandum, “Verification of the Responses of Ingenio Tala S.A. de C.V. and its Affiliates in the Administrative Review of Sugar from Mexico,” dated May 31, 2023; see also Memorandum, “Verification of the Responses of Ingenio Tamazula S.A. de C.V. and its Affiliates in the Administrative Review of Sugar from Mexico,” dated May 31, 2023.

⁶ See Respondents’ Letter, “Case Brief,” dated June 13, 2023.

⁷ The members of the American Sugar Coalition are as follows: American Sugar Cane League; American Sugarbeet Growers Association; American Sugar Refining, Inc.; Florida Sugar Cane League; Rio Grande Valley Sugar Growers, Inc.; Sugar Cane Growers Cooperative of Florida; and the United States Beet Sugar Association.

⁸ See Petitioners’ Letter, “Case Brief on Behalf of the American Sugar Coalition,” dated June 13, 2023.

⁹ See Petitioners’ Letter, “Rebuttal Brief on Behalf of the American Sugar Coalition,” dated June 20, 2023.

¹⁰ See Respondents’ Letter, “Letter in Lieu of Rebuttal Brief,” dated June 20, 2023.

¹¹ Prior to July 1, 2016, merchandise covered by the AD Agreement was classified in the HTSUS under subheading 1701.99.1010. Prior to January 1, 2020, merchandise covered by the AD Agreement was classified in the HTSUS under subheadings 1701.14.1000 and 1701.99.5010.

provided for convenience and customs purposes; however, the written description of the scope of this AD Agreement is dispositive.

A full description of the scope of the AD Agreement is contained in the Issues and Decision Memorandum.¹²

Analysis

Commerce continues to find, based on record evidence, that respondents, the GAM Group and Tamazula, were generally in compliance with the terms of the AD Agreement during the POR. However, we continue to find that respondents did not comply with the requirement to eliminate at least 85 percent of the dumping during the POR. We also determine that the AD Agreement met the statutory requirements under sections 734(c) and (d) of the Tariff Act of 1930, as amended (the Act), during the POR.

We intend to address what we have found to be serious noncompliance by respondents with an “action plan” first outlined in the Post-Preliminary Results, with the exception of verification of the respondents’ questionnaire responses which has been completed. Commerce’s next steps will include: formal consultations with the Signatories to the AD Agreement under Section VII.E.2 (Operations Consultations); additional monitoring of the respondents; and consideration of the selection of the respondents in a future administrative review. These measures are necessary to ensure compliance with the AD Agreement and that any potential administrative challenges to effective monitoring are diminished.

The issues raised in the case and rebuttal briefs are addressed in the accompanying Issues and Decision Memorandum and business proprietary memoranda.¹³ The issues are identified in the appendix to this notice. The Issues and Decision Memorandum is a public document and is

¹² See Memorandum, “Issues and Decision Memorandum for the Final Results of the 2020-2021 Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico, as Amended,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

¹³ *Id.*; see also Memorandum, “Proprietary Analysis Memorandum for the Final Results: Ingenio Tala S.A. de C.V. and its affiliates,” dated concurrently with, and hereby adopted by, this notice; and Memorandum, “Proprietary Analysis Memorandum for the Final Results: Ingenio Tamazula S.A. de C.V. and its affiliates,” dated concurrently with, and hereby adopted by, this notice.

on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 19 CFR 351.221(b)(5).

Dated: July 3, 2023.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Agreement
- IV. Discussion of the Issues
 - Comment 1: Whether Commerce Should Use Average-to-Average Methodology for Analysis of Elimination of 85 Percent of Dumping
 - Comment 2: Whether Commerce Should Apply the Sales-Below-Cost Test
 - Comment 3: Whether Commerce Should Use Market-Based Costs for Sugar Cane
 - Comment 4: Whether Commerce Should Use Third-Country Sales as the Basis for Normal Value for the GAM Group
 - Comment 5: Whether the GAM Group's Noncompliance was Unintentional
 - Comment 6: Whether swap Transactions Present Monitoring and Record-Keeping Challenges
 - Comment 7: Whether Commerce Incorrectly Applied the Knowledge Test to Certain of the GAM Group's U.S. Sales
- V. Recommendation

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