

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-570-905]

**Certain Polyester Staple Fiber from the People's Republic of China: Extension of Preliminary Results of Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce ("Department") is extending the time limit for the preliminary results of the administrative review of certain polyester staple fiber from the People's Republic of China ("PRC"). This review covers the period June 1, 2008, through May 31, 2009.

**EFFECTIVE DATE:** February 9, 2010.

**FOR FURTHER INFORMATION CONTACT:** Jerry Huang or Bobby Wong, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-4047 or (202) 482-0409, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On July 29, 2009, the Department published a notice of initiation of the administrative review of the antidumping duty order on certain polyester staple fiber from the PRC. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Review*, 74 FR 37690 (July 29, 2009). The preliminary results of this review are currently due no later than March 2, 2010.

**Statutory Time Limits**

In antidumping duty administrative reviews, section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

**Extension of Time Limit for Preliminary Results of Review**

We determine that it is not practicable to complete the preliminary results of this administrative review within the original time limit because the Department requires additional time to analyze questionnaire responses, issue supplemental questionnaires, and evaluate surrogate value submissions for purposes of the preliminary results.

Therefore, the Department is extending the time limit for completion of the preliminary results of this administrative review by 101 days. The preliminary results will now be due no later than June 11, 2010. The final results continue to be due 120 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: February 3, 2010.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-475-818]

**Certain Pasta from Italy: Notice of Final Results of the Twelfth Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** On August 6, 2009, the Department of Commerce (the Department) published the preliminary results of the twelfth administrative review for the antidumping duty order on certain pasta from Italy. The review covers ten manufacturers/exporters: Domenico Paone fu Erasmo S.p.A. (Erasmo), Industria Alimentare Colavita, S.p.A. (Indalco), P.A.M. S.p.A. (PAM), Pasta Lenzi (Lenzi), Pastificio Fratelli Pagni S.p.A. (Pagani), Pastificio Labor S.r.l. (Labor), Pastificio Lucio Garofalo (Garofalo), Pastificio Riscossa F.lli Mastromauro S.r.l. (Riscossa), Rummo S.p.A. Molino e Pastificio (Rummo), and Rustichella d'Abruzzo S.p.A. (Rustichella). The period of review (POR) is July 1, 2007, through June 30, 2008. PAM and Garofalo were selected as mandatory respondents.<sup>1</sup>

<sup>1</sup> See Memorandum to James Terpstra, from the Team regarding Selection of Respondents for Individual Review, dated September 25, 2008.

As a result of our analysis of the comments received, the final results differ from the preliminary results for PAM and Garofalo. The final weighted-average dumping margins for these companies are listed below in the "Final Results of Review" section of this notice.

**EFFECTIVE DATE:** February 9, 2010.

**FOR FURTHER INFORMATION CONTACT:** Victoria Cho (Garofalo) and Christopher Hargett (PAM), AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5075 and (202) 482-4161, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On August 6, 2009, the Department published the preliminary results of the twelfth administrative review of the antidumping duty order on certain pasta from Italy. See *Certain Pasta from Italy: Notice of Preliminary Results of Twelfth Antidumping Duty Administrative Review*, 74 FR 39285 (August 6, 2009) (*Preliminary Results*).

Petitioners,<sup>2</sup> PAM, Garofalo, Riscossa and Rummo submitted case briefs on November 20, 2009. Petitioners, Pam and Garofalo submitted rebuttal briefs on December 4, 2009. On August 6, 2009, PAM requested a hearing. A public hearing was held on December 14, 2009.

**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 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 Istituto Mediterraneo Di Certificazione, by QC&I International Services, by Ecocert Italia, by Consorzio per il

<sup>2</sup> Petitioners are New World Pasta Company, Dakota Growers Pasta Company, and American Italian Pasta Company.

Controllo dei Prodotti Biologici, by Associazione Italiana per l'Agricoltura Biologica, by Codex S.r.L., by Bioagricert S.r.L., or by Istituto per la Certificazione Etica e Ambientale. Effective July 1, 2008, gluten free pasta is also excluded from this order. See *Certain Pasta from Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part*, 74 FR 41120 (August 14, 2009). The merchandise subject to this order is currently classifiable under items 1902.19.20 and 1901.90.9095 of the *Harmonized Tariff Schedule of the United States (HTSUS)*. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

#### Model Match Clarification

In the preliminary results we explained the basis for our clarification.

"In the eleventh review of pasta from Italy the Department stated that it would solicit comments from interested parties with respect to the appropriate standards and criteria to be applied in differentiating among wheat codes, and make any necessary changes and/or clarifications to the model match criteria for pasta to apply to all future respondents. See *Certain Pasta from Italy: Notice of Final Results of the Eleventh Administrative Review and Partial Rescission of Review*, 73 FR 75400 (December 11, 2008).

On January 9, 2009, we contacted interested parties and solicited comments on the following four factors: 1) industry standards, 2) measuring material cost differences, 3) defining commercial significance, and 4) physical characteristics. Parties submitted comments on February 23, 2009, and rebuttal comments on March 10, 2009.<sup>3</sup>

Because of a lack of consistency in the Department's treatment of separate wheat codes in model match decisions in previous determinations, we solicited comments in order to articulate a clearer statement of our policy. Our goal was to develop objective criteria that would apply in each review of this antidumping duty order. Petitioners and respondents in this review submitted factual information and comments. Based

on our analysis of these comments, and our review of prior determinations, we propose to clarify and modify our treatment of the wheat code physical characteristic. See memorandum from James Terpstra, Program Manager, to John M. Andersen, Acting Deputy Assistant Secretary, entitled Preliminary Model Match Clarification on Pasta Wheat Code Classifications, dated July 31, 2009. We propose replacing the existing single Wheat Code field with the following three fields: wheat species, form, and protein content. We note that the threshold set forth in Protein Content corresponds to the minimum protein content of 12.5 percent established by the Italian Commodity Exchanges. We are requesting that interested parties provide comments on the proposed model match changes included there in. We will evaluate comments on the proposed methodology. Any new model match criteria developed will be applicable in the 2008–2009 and subsequent administrative reviews of pasta from Italy." See the *Preliminary Results* at 39286.

Subsequently we conducted verification and received case and rebuttal comments by the parties. We have addressed the arguments raised by the parties in the Issues & Decision Memorandum accompanying this notice. We have concluded that no changes from the approach proposed in the preliminary results are warranted. Accordingly, in future reviews we intend to replace the existing wheat code field with three new fields.

#### Old Field

##### Field 3.2: Type of Wheat

- 1 = 100 percent durum semolina
- 2 = 100 percent whole wheat
- 3 – n = specify categories as required

#### New Fields

##### Field 3.2: Wheat Species

- 1 = Durum wheat
- 2 = Emmer wheat
- 3 = Other (specify wheat species)

##### Field 3.3 Milling Form

- 1 = Made from 97–100 percent semolina
- 2 = Made from whole wheat
- 3 = Blend of semolina and other (e.g., flour, with less than 97 percent semolina)

##### Field 3.4 Protein Content

- 1 = 12.5 percent or higher protein in finished pasta
- 2 = 10.00–12.49 percent protein in the finished pasta

#### 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*, dated concurrent with this notice and which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the *Issues and Decision Memorandum*, is attached to this notice as an Appendix. In addition, a complete version of the *Issues and Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov/firm/>, and is on file in the Central Records Unit, main Commerce Building, room 1117. The paper copy and electronic version of the *Issues and Decision Memorandum* are identical in content.

#### Final Results of Review

We determine that the following weighted-average margin exists for the period July 1, 2007, through June 30, 2008:

| Manufacturer/exporter | Margin (percent) |
|-----------------------|------------------|
| PAM .....             | 8.54             |
| Garofalo .....        | 16.26            |

For those companies not selected as mandatory respondents, we determine that the following simple average percentage margin<sup>4</sup> (based on the two reviewed companies) exists for the period July 1, 2006, through June 30, 2007:

| Manufacturer/exporter | Margin (percent) |
|-----------------------|------------------|
| Erasmus .....         | 12.40            |
| Indalco .....         | 12.40            |
| Lensi .....           | 12.40            |
| Pagani .....          | 12.40            |
| Labor .....           | 12.40            |
| Riscossa .....        | 12.40            |
| Rummo .....           | 12.40            |
| Rustichella .....     | 12.40            |

#### Duty Assessment

The Department shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. 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

<sup>4</sup> Because there are only two respondents for which a company-specific margin was calculated in this review, the Department has calculated a simple average margin to ensure that the total import quantity and value for each company is not inadvertently revealed.

<sup>3</sup> In addition, we sent a letter on June 4, 2009, soliciting additional information from PAM and Garafalo. PAM and Garafalo submitted responses on July 7, 2009.

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 dumping margins 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 dumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). 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 *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

#### Cash Deposit Requirements

The following antidumping duty deposit rates will be effective upon publication of the final results of this administrative review for all shipments of pasta from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Tariff Act of 1930, as amended (the Act): (1) for Erasmo, Indalco, PAM, Lensi, Pagani, Labor, Garofalo, Riscossa, Rummo, and Rustichella, the cash deposit rate will be the rate established in the final results of this review; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the

original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate will be 15.45 percent, the all-others rate established in the implementation of the findings of the WTO Panel in *US – Zeroing (EC)*. 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). These cash deposit requirements shall remain in effect until further notice.

#### Notification to Importers

This notice serves as a final 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 the Secretary's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

#### Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(5). 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 terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 2, 2010.

**Ronald K. Lorentzen,**  
Deputy Assistant Secretary for Import Administration.

#### Appendix I

*List of Comments in the Issues and Decision Memorandum*

#### General

*Comment 1:* Wheat Code Methodology  
*Comment 2:* Application of Review-Specific All Other Rate

#### Garofalo

*Comment 3:* Garofalo's Submitted Wheat Code  
*Comment 4:* Garofalo's Arms-Length Test

*Comment 5:* Cost Reporting Period

#### PAM

*Comment 6:* Collapsing of PAM's Wheat Code for Model Match  
*Comment 7:* Inclusion of Transport Recovery in the U.S. Sales Calculation  
*Comment 8:* Treatment of AGEA Performance Bond  
*Comment 9:* General Expenses  
*Comment 10:* Insurance Claim as an Offset to G&A Expense  
*Comment 11:* Over-reported Costs

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. 0907081109-0060-04]

RIN 0648-ZC10

### NOAA Great Lakes Habitat Restoration Program Project Grants under the Great Lakes Restoration Initiative; Correction

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice of funding availability; Date correction.

**SUMMARY:** This notice corrects an error contained in the notice published in the **Federal Register** on January 19, 2010. That notice announced the NOAA Great Lakes Habitat Restoration Program Project Grants competition and contained an incorrect date for postmark of hard copy applications.

**DATES:** Hard copy applications must be postmarked, or provided to a delivery service and documented with a receipt, by 11:59 p.m. EST on February 16, 2010. Hard copy applications postmarked or