

Comment 5: Use of Revised Data in the Final Results of Review
 Comment 6: Failure to Report End-User Customer Codes
 VII. Recommendation

[FR Doc. 2018-27120 Filed 12-13-18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-475-819]

Pasta From Italy: Final Results of Countervailing Duty Administrative Review; 2016

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

SUMMARY: The Department of Commerce (Commerce) has completed its administrative review of the countervailing duty (CVD) order on pasta from Italy. We have determined that GR.A.M.M. S.r.l. (GR.A.M.M.), the only mandatory respondent, received countervailable subsidies during the period of review (POR) January 1, 2016, through December 31, 2016.

DATES: Applicable December 14, 2018.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1785.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, Commerce published in the **Federal Register** a CVD Order on pasta from Italy.¹ On August 9, 2018, Commerce published the *Preliminary Results* of this CVD administrative review in the **Federal Register**.² Commerce gave interested parties an opportunity to comment on the *Preliminary Results*. On September 11, 2018, we received a case brief from GR.A.M.M. No rebuttal comments were received.

Scope of the Order

The merchandise covered by this order is certain non-egg dry pasta from Italy. 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 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 Issues and Decision Memorandum, which is hereby adopted in this notice.³

Analysis of Comments Received

All issues raised in the respondent's case brief are listed in the Appendix to this notice and are addressed in the Issues and Decision Memorandum accompanying this notice. The Issues and Decision Memorandum is a public document and 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, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

For the final results, we changed the calculation of the countervailable subsidy rate for Action 6.1.4, Aid on Investment Program Promoted by Micro and Small Businesses, based on additional information provided regarding the specificity of the program and no longer find the portion of the program funded by the Regional Government of Puglia to be countervailable.

Methodology

We conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable during the POR, we find that there is a subsidy, *i.e.*, a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.⁴ For a full description of the methodology underlying our

conclusions, *see* the Issues and Decision Memorandum.

Final Results of Review

We determine the following net countervailable subsidy rate for GR.A.M.M., for the period, January 1, 2016, through December 31, 2016:

Producer/exporter	Net subsidy rate (percent)
GR.A.M.M. S.r.l.	1.18

Disclosure

We intend to disclose to the parties in this proceeding the calculations performed for these final results within five days of the date of publication of this notice in the **Federal Register**.⁵

Assessment Rates

In accordance with 19 CFR 351.212(b)(2), Commerce intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these final results to liquidate shipments of subject merchandise entered, or withdrawn from warehouse, for consumption, on or after January 1, 2016 through December 31, 2016, at the *ad valorem* rate listed above.

Cash Deposit Instructions

In accordance with section 751(a)(2)(C) of the Act, we intend to instruct CBP to collect cash deposits of estimated countervailing duties in the amount shown above for shipments of subject merchandise by GR.A.M.M.. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the 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.

We are issuing and publishing these results in accordance with sections

¹ See *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") from Italy*, 61 FR 38544 (July 24, 1996) (Order).

² See *Certain Pasta from Italy: Preliminary Results of Countervailing Duty Administrative Review and Partial Rescission; 2016*, 83 FR 39418 (August 9, 2018) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

³ See Memorandum, "Issues and Decision Memorandum for the Final Results of Countervailing Duty Administrative Review: Certain Pasta from Italy; 2016," dated concurrently with this notice (Issues and Decision Memorandum).

⁴ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and, section 771(5A) of the Act regarding specificity.

⁵ See 19 CFR 351.224(b).

751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: December 7, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. List of Interested Party Comments
- IV. Scope of the Order
- V. Changes Since the Preliminary Results
- VI. Subsidy Valuation Information
- VII. Analysis of Programs
- VIII. Discussion of the Issues
 - Comment 1: Commerce Should Not Make Any Changes to the Results Other Than Those Raised in Parties' Briefs
 - Comment 2: Commerce Should Exclude the Action 6.1.4. Program from the Final Results
 - Commerce 3: Commerce Should Recalculate the Benefit for the ERDF Action 4.1 Program
- IX. Conclusion

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-905]

Certain Polyester Staple Fiber From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Antidumping Duty Administrative Review and Notice of Amended Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On November 30, 2018, the United States Court of International Trade (CIT or the Court) sustained the final results of redetermination pertaining to the antidumping duty (AD) administrative review of certain polyester staple fiber (PSF) from the People's Republic of China (China) for the period of review (POR) June 1, 2010, through May 31, 2011. The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with the final results of the AD administrative review of the antidumping duty order on PSF from China and that Commerce is amending the final results with respect to the AD cash deposit rate assigned to

Zhaoqing Tifo New Fibre Co., Ltd (Zhaoqing Tifo).

DATES: Applicable December 10, 2018.

FOR FURTHER INFORMATION CONTACT: Jerry Huang, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482-4047.

SUPPLEMENTARY INFORMATION:

Background

On January 11, 2013, Commerce published its *Final Results* of the 2010–2011 AD administrative review of PSF from China.¹ On April 7, 2015, the CIT remanded the *Final Results* to Commerce to reconsider the dumping margin calculation for Zhaoqing Tifo and to consider any potential for double counting of energy inputs by the inclusion of coal as a factor of production (FOP), as alleged by Zhaoqing Tifo.² In its First Remand Redetermination, Commerce relied upon a different set of financial statements that allowed Commerce to more accurately calculate Zhaoqing Tifo's dumping margin while also addressing any concerns of double counting of energy inputs.³ On August 30, 2017, the Court remanded this issue to Commerce a second time, finding that Commerce's selection of financial statements was not timely challenged by any party and was, thus, beyond the scope of the remand in *Zhaoqing Tifo I*.⁴ Therefore, the Court instructed Commerce to reconsider how the surrogate financial ratios originally used in *Final Results* account for energy sources and whether the inclusion of coal in the FOP database results in double-counting.⁵ In its Second Remand Redetermination, under respectful protest,⁶ Commerce relied on the financial statements used in the *Final Results*,⁷ and removed coal as a factor of

¹ See *Certain Polyester Staple Fiber from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010–2011*, 78 FR 2366 (January 11, 2013) (*Final Results*) and accompanying Issues and Decision Memorandum (IDM).

² See *Zhaoqing Tifo New Fibre Co., Ltd. v. United States*, 60 F. Supp. 3d 1328 (CIT 2015) (*Zhaoqing Tifo I*).

³ See *Final Results of Redetermination Pursuant to Zhaoqing Tifo New Fibre Co., Ltd. v. United States*, Court No. 13-00044, Slip Op. 15-31 (April 9, 2015), dated July 9, 2015 (First Remand Redetermination).

⁴ See *Zhaoqing Tifo New Fibre Co., Ltd. v. United States*, 256 F. Supp. 3d 1314, 1334 (CIT 2017) (*Zhaoqing II*).

⁵ *Id.*, 256 F. Supp. 3d at 1337.

⁶ See *Viraj Grp, Ltd. v. United States*, 343 F.3d 1371, 1376 (Fed. Cir. 2003).

⁷ *Final Results*, 78 FR at 2368, and accompanying IDM at Comment 2.

production from the dumping margin calculation to address the Court's concern over potential double counting of energy inputs.⁸ On November 30, 2018, the CIT sustained Commerce's Second Remand Redetermination.⁹

Timken Notice

In its decision in *Timken*,¹⁰ as clarified by *Diamond Sawblades*,¹¹ the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision.¹² The CIT's November 30, 2018, final judgment affirming the Second Remand Redetermination constitutes a final decision of the Court that is not in harmony with Commerce's *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken* and section 516A of the Act.

Amended Final Results

Because there is now a final court decision, Commerce is amending its *Final Results*. Commerce finds that the revised AD dumping margin for Zhaoqing Tifo is as follows:

Producer/exporter	Weighted-average dumping margin (percent)
Zhaoqing Tifo New Fiber Co., Ltd	0.00

Accordingly, Commerce will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the Court's ruling is not appealed or, if appealed, upheld by the CAFC, Commerce will instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise exported

⁸ See *Final Results of Redetermination Pursuant to Court Remand Zhaoqing Tifo New Fibre Co., Ltd. v. United States*, Court No. 13-00044, Slip Op. 17-118 (CIT August 30, 2017), dated November 6, 2017 (Second Remand Redetermination).

⁹ See *Zhaoqing Tifo New Fibre Co., Ltd. v. United States*, Court No. 13-00044, Slip Op. 18-168 (CIT November 30, 2018).

¹⁰ See *Timken Co., v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹¹ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹² See Sections 516A(c) and (e) of the Act.