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DEPARTMENT OF COMMERCE

International Trade Administration

[C-475-819]

Certain Pasta from Italy; Final Results of Countervailing Duty Administrative Review; 2011

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

SUMMARY: The Department of Commerce (the “Department”) is conducting an administrative review of the countervailing duty order on certain pasta from Italy. The period of review (POR) is January 1, 2011 through December 31, 2011. We find that Molino e Pastificio Tomasello S.p.A. (Tomasello) received countervailable subsidies during the POR, and find that Delverde Industrie Alimentari S.p.A. (Delverde) and Valdigrano di Flavio Pagani S.r.L. (Valdigrano) received *de minimis* countervailable subsidies during the POR.

EFFECTIVE DATE: (Insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Joseph Shuler or Christopher Siepmann, AD/CVD Operations, Office I, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-1293 or (202) 482-7958, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 2013, the Department published in the *Federal Register* its *Preliminary Results* of administrative review of the countervailing duty order on certain pasta from Italy for

the POR of January 1, 2011, through December 31, 2011.¹ We deferred our analysis of some programs to a post-preliminary analysis in order to gather more information regarding those programs. On December 2, 2013, the Department issued its Post-Preliminary Analysis.²

We invited interested parties to file comments following the release of the Post-Preliminary Analysis. No comments were received.

Scope of the Order

The scope of the order consists of certain pasta from Italy. The merchandise subject to the 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 is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.

Methodology

The Department 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 countervailable, we determine 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.³ In making these findings, we relied, in part, on an adverse inference in selecting from among the facts otherwise available because the Government of Italy (GOI) did not act to the best of its

¹ See *Certain Pasta From Italy: Preliminary Results of the Countervailing Duty Administrative Review; 2011*, 78 FR 49256 (August 13, 2013) (*Preliminary Results*).

² See Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Post-Preliminary Analysis of Countervailing Duty Administrative Review: Certain Pasta (“Pasta”) from Italy,” dated December 2, 2013 (Post-Preliminary Analysis).

³ 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. For a full description of the methodology underlying our conclusions, see *Preliminary Results* and Post-Preliminary Analysis.

ability to respond to the Department’s requests for information regarding certain programs.⁴ For further discussion, *see Preliminary Results*, and accompanying Preliminary Decision Memorandum at “Use of Facts Otherwise Available and Adverse Inferences.”

Developments since the Preliminary Results:

Post-Preliminary Results

Law 56/87

Delverde reported that it enjoyed reduced social security payments “pursuant to Italy’s apprenticeship laws 25/55 and 56/87 as modified by Legislative Decree 276/03.”⁵ Law 25/55 and Legislative Decree 276/03 were previously found to be noncountervailable in the *Twelfth Administrative Review*.⁶ In the instant review, we reviewed relevant excerpts of Law 56/87 provided by the GOI and, in the Post-Preliminary Analysis, we found that Law 56/87 does not, in and of itself, establish a subsidy program or provide for subsidy benefits beyond those already authorized by Law 25/55.⁷ Because Law 56/87 merely modifies some provisions of Law 25/55, and because Law 25/55 and Legislative Decree 276/03 were previously found to be noncountervailable, we found in the Post-Preliminary Analysis that Law 56/87 is similarly noncountervailable.⁸ No information has been submitted causing us to make a different determination. Therefore, we continue to do so for these final results.

⁴ See sections 776(a) and (b) of the Act.

⁵ See Letter from Delverde, “Certain Pasta from Italy: CVD Questionnaire Response of Delverde Industrie Alimentari S.p.A.” (November 19, 2012) at 15-17.

⁶ See *Certain Pasta from Italy: Preliminary Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 25489, 25495-96 (May 28, 2009), unchanged in *Certain Pasta from Italy: Final Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 47204 (September 15, 2009) (collectively, “*Twelfth Administrative Review*”).

⁷ See Post-Preliminary Analysis at 3.

⁸ *Id.*

PON Program

In the *Preliminary Results*, we stated that we intended to seek additional information from the GOI to confirm whether Tomasello received funds under Piano Operativo Nazionale (National Operating Plan) (PON Program) in the POR, and would address this program in a post-preliminary analysis. As noted in the Post-Preliminary Analysis, the GOI confirmed that Tomasello did not receive funding under this program during the POR.⁹ Therefore, we found that Tomasello did not use this program during the POR.¹⁰ We continue to do so for these final results.

Training Grants from the Fondo Impresa

While Delverde received grants from the Fondo Impresa during 2011 and 2012,¹¹ we found that this program did not result in a measurable benefit during the POR.¹² Accordingly, it was not necessary to analyze whether the program satisfies the other elements of a countervailable subsidy under section 771(5) of the Act.¹³ We continue to reach the same conclusion for these final results.

Changes Since the Preliminary Results

Law 46/82

In preliminarily calculating the benefit for this program, we did not adjust our calculation methodology to reflect the number of days of the interest payment period Tomasello reported because we were not certain that the information requested had been properly reported.

However, after we issued the *Preliminary Results*, Tomasello confirmed that it had correctly

⁹ See Letter from the GOI, “Sixteenth Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy (January 1, 2011 - December 31, 2011). Fourth Supplemental Questionnaire,” (September 6, 2013) at 11.

¹⁰ See Post-Preliminary Analysis at 3-4.

¹¹ See Letter from Delverde, “Certain Pasta from Italy: Second Supplemental CVD Questionnaire Response of Delverde Industrie Alimentari S.p.A.” (June 26, 2013) at 5.

¹² See Post-Preliminary Analysis at 4.

¹³ *Id.*

reported the number of days between interest payments for this loan.¹⁴ We have modified the calculation to properly account for the number of days between interest payments confirmed by Tomasello, thereby changing the subsidy rate for this program from 0.12 percent to 0.13 percent.¹⁵

Final Results of Review

For the period January 1, 2011, through December 31, 2011, we find the *ad valorem* net subsidy rate for Delverde, Tomasello, and Valdigrano to be:

Producer/Exporter	Net Subsidy Rate
Delverde Industrie Alimentari S.p.A.	0.42 (<i>de minimis</i>)
Molino e Pastificio Tomasello S.p.A.	1.83
Valdigrano di Flavio Pagani S.r.L.	0.35 (<i>de minimis</i>)

Assessment Rates

Consistent with 19 CFR 351.212(b), the Department intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) fifteen days after the date of publication of these final results. The Department will instruct CBP to assess countervailing duties on POR entries in the amounts shown above, except that entries of merchandise produced and/or exported by both Delverde and Valigrano will be liquidated without regard to countervailing duties because their subsidy rates are *de minimis*.

¹⁴ See Letter from Tomasello, “Pasta From Italy; Tomasello supplemental questionnaire response” (September 6, 2013) at 1.

¹⁵ See Memorandum from Joseph Shuler, International Trade Compliance Analyst, to Nancy Decker, Program Manager, “Final Results Calculation Memorandum for Molino e Pastificio Tomasello S.p.A.,” dated concurrently with the signature of this notice.

Cash Deposit Instructions

The Department intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown above on shipments of the subject merchandise entered or withdrawn from warehouse for consumption on or after the date of publication of these final results in the amounts shown above, except that cash deposits of zero percent will be required for entries from Delverde and Valdigrano because their subsidy rates are *de minimis*.

For all non-reviewed firms (except Barilla G. e R. F.lli S.p.A. and Gruppo Agricoltura Sana S.r.l., which are excluded from the order,¹⁶ and Pasta Lensi S.r.l. which was revoked from the order),¹⁷ 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 shall remain in effect until further notice.

Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or 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.

¹⁶ See *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") From Italy*, 61 FR 38544, 38545 (July 24, 1996).

¹⁷ See *Certain Pasta from Italy: Final Results of the Ninth Countervailing Duty Administrative Review and Notice of Revocation of Order, in Part*, 71 FR 36318, 36319-36320 (June 26, 2006).

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

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

February 25, 2014
Date

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