



UNITED STATES DEPARTMENT OF COMMERCE  
International Trade Administration  
Washington, D.C. 20230

A-475-818  
Administrative Review  
POR: 7/1/12-6/30/13  
Public Document  
E&C: AD/CVD Ops: III: SM/CR

August 18, 2014

**MEMORANDUM TO:** Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

**FROM:** Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**RE:** Decision Memorandum for the Preliminary Results of  
Antidumping Duty Administrative Review and Partial Rescission:  
Certain Pasta from Italy; 2012-2013

---

### Summary

In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain pasta (pasta) from Italy for the period of review (POR) of July 1, 2012, through June 30, 2013. The Department preliminarily determines that Molino e Pastificio Tomasello S.p.A. (Tomasello), and Rummo S.p.A. Molino e Pastificio (Rummo) and its affiliates Rummo S.p.A., Lenta Lavorazione, and Pasta Castiglioni (collectively, the Rummo Group)<sup>1</sup> made sales of subject merchandise at less than normal value (NV) during the POR. We also preliminarily determine that Tomasello did not make sales of subject merchandise at less than NV during the POR.

We invite interested parties to comment on these preliminary results. We intend to issue the final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act). Once we issue the final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR.

---

<sup>1</sup> In this review, we found that the facts have not changed with respect to Rummo and its affiliates and therefore, we followed the same methodology as we did in the most recent completed review (AR 16) by collapsing the companies as the Rummo Group. See *Certain Pasta From Italy: Notice of Final Results of 16th Antidumping Duty Administrative Review; 2011-2012*, 79 FR 11409 (February 28, 2014) (AR 16).



## Background

On July 24, 1996, the Department published in the *Federal Register* the *AD Order*<sup>2</sup> on pasta from Italy. On July 2, 2013, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on pasta from Italy.<sup>3</sup> Pursuant to requests from interested parties, on August 28, 2013, the Department published in the *Federal Register* the *Initiation Notice*.<sup>4</sup> The Department initiated this administrative review covering the following 10 companies: Tomaselto; the Rummo Group; Alica srl (Alica); Dalla Costa Alimentare srl; Delverde Industrie Alimentari S.p.A.; Ghigi Industria Agroalimentare in San Clemente srl; Pasta Lensi S.r.l (Lensi); Pasta Zara S.p.A.; Pastificio Toscano srl; and Valdigrano di Flavio Pagani S.r.L.

On August 28, 2013, the Department announced its intention to select mandatory respondents based on CBP data.<sup>5</sup> On September 16, 2013, the Department selected Rummo and Tomaselto as mandatory respondents, and issued initial questionnaires to both companies on the same date.<sup>6</sup> On November 26, 2013, Lensi timely withdrew its request for a review. On December 10, 2013, Alica timely withdrew its request for a review.

### Rummo Group

In response to the Department's initial questionnaire dated September 16, 2013, the Rummo Group submitted its section A response on November 13, 2013, and its sections B through D responses on November 27, 2013, respectively.

On December 18, 2013, petitioners<sup>7</sup> submitted comments on the Rummo Group's sections C and D responses. On February 20, 2014, the Department issued its first sections A through D supplemental questionnaire, to which the Rummo Group provided its responses on March 20, 2014. On June 6, 2014, the Department issued its second sections A through D supplemental questionnaire, to which the Rummo Group provided its responses on June 23, 2014.

### Tomasello

Tomasello submitted its initial questionnaire response for section A on November 6, 2013.<sup>8</sup> After the Department granted two extension requests on October 25, 2013, and November 21,

---

<sup>2</sup> 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) (*AD Order*).

<sup>3</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 78 FR 39710 (July 2, 2013).

<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 53129 (August 28, 2013) (*Initiation Notice*).

<sup>5</sup> See Memorandum from George McMahon through Eric B. Greynolds to Melissa Skinner titled, "Customs and Border Protection Data for Selection of Respondents for Individual Review," dated August 28, 2013.

<sup>6</sup> See Memorandum from George McMahon through Eric B. Greynolds to Melissa Skinner titled, "Selection of Respondents for Individual Review," dated September 16, 2013 (Respondent Selection Memo).

<sup>7</sup> Petitioners consist of New World Pasta Company, American Italian Pasta Company and Dakota Growers Pasta Company.

<sup>8</sup> See Tomaselto's Initial Questionnaire Response (IQR) section A, dated November 6, 2013 (Tomasello's AQR).

2013, Tomasello submitted its questionnaire response to the Department's sections B through D initial questionnaire on December 6, 2013.<sup>9</sup>

On January 13, 2014, petitioners submitted comments on Tomasello's response to the Department's sections A through D of the initial questionnaire.

On February 10, 2014, the Department issued a supplemental questionnaire for sections A through D to Tomasello. On February 21, 2014, Tomasello requested a three-week extension of time to file its response to the supplemental questionnaire sections A through D, which was granted. On March 17, 2014, Tomasello submitted its supplemental questionnaire response for sections A through D.<sup>10</sup> On May 2, 2014, the Department issued a supplemental questionnaire, and Tomasello timely responded on May 10, 2014.

#### Extension of Preliminary Results

On April 2, 2014, the Department issued a memorandum extending the time period for issuing the preliminary results of the instant administrative review from April 18, 2014, to August 18, 2014.<sup>11</sup>

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013. Thus, all deadlines in this segment of the proceeding were extended by 16 days.<sup>12</sup>

#### 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 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 certified by a European Union

---

<sup>9</sup>See Tomasello's IQR at sections B through D (BQR, CQR and DQR), dated December 6, 2013.

<sup>10</sup>See Tomasello's supplemental questionnaire response (SQR), dated March 17, 2014.

<sup>11</sup>See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Through Melissa Skinner, Director, AD/CVD Operations Office III, from Stephanie Moore, Case Analyst, AD/CVD Operations Office III, titled "Certain Pasta from Italy: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review" (April 2, 2014).

<sup>12</sup>See Memorandum to the File through Eric Greynolds from Stephanie Moore titled "Certain Pasta from Italy: Tolling of Deadlines for Questionnaire Responses," dated October 21, 2013; *see also* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013).

(EU) authorized body and accompanied by a National Organic Program import certificate for organic products.<sup>13</sup> Effective July 1, 2008, gluten free pasta is also excluded from this order.<sup>14</sup>

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 *AD Order* is dispositive.

#### Partial Rescission of the 2012-2013 Administrative Review

As noted above, on November 26, 2013, Lenzi timely withdrew its request for a review. On December 10, 2013, Alica timely withdrew its request for a review. In accordance with 19 CFR 351.213(d)(1), the Department will rescind an administrative review “if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.” The instant review was initiated on August 28, 2013.<sup>15</sup> Therefore, the deadline to withdraw review requests was December 12, 2013. Both Lenzi’s and Alica’s withdrawal of its request for review falls within the deadline. No other party requested review of Lenzi or Alica. Therefore, in accordance with 19 CFR 351.213(d)(1), and consistent with our practice,<sup>16</sup> we are rescinding this review with respect to Lenzi and Alica.

#### **DISCUSSION OF METHODOLOGY**

##### Date of Sale

As stated at 19 CFR 351.401(i), the Department will use the respondent’s invoice date as the date of sale unless another date better reflects the date upon which the exporter or producer established the essential terms of sale.

The Rummo Group reported the invoice date as the date of sale for the home market because the date of invoice reflects the date on which the material terms of sale were finalized. With respect to U.S. sales, the Rummo Group reported the invoice date as the date of sales in all channels except for sales where shipment date preceded invoice date, in which case the Rummo Group reported date of shipment as date of sale,<sup>17</sup> in accordance with the Department’s practice.<sup>18</sup>

---

<sup>13</sup> On October 10, 2012, the Department revised the “Scope of the Order” to recognize the EU-authorized Italian agents for purposes of the antidumping and countervailing duty orders on pasta from Italy. See Memorandum from Yasmin Nair to Susan Kuhbach, titled “Recognition of EU Organic Certifying Agents for Certifying Organic Pasta from Italy,” dated October 10, 2012, which is on file in the Department’s Central Records Unit.

<sup>14</sup> 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).

<sup>15</sup> See *Initiation Notice*.

<sup>16</sup> See, e.g., *Brass Sheet and Strip from Germany: Notice of Rescission of Antidumping Duty Administrative Review*, 73 FR 49170 (August 20, 2008); see also *Certain Lined Paper Products from India: Notice of Partial Rescission of Antidumping Duty Administrative Review and Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 21781 (May 11, 2009).

<sup>17</sup> See Memorandum from Cindy Robinson to the File titled “Sales and Cost Analysis Memorandum for the Preliminary Results – the Rummo Group” (“Rummo Preliminary Results Sales and Cost Analysis Memorandum”), dated concurrently with this memorandum; see also Rummo Group’s section A response dated November 13, 2013 at pages A-29-30, and section C response dated November 27, 2013 at 9.

Tomasello reported the date of invoice as the date of sale for its home market and U.S. sales.

### Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), we compared constructed export price (CEP) or exported price (EP) to NV, as described in the “Constructed Export Price,” “Export Price,” and “Normal Value” sections of this decision memorandum, to determine whether sales of subject merchandise to the United States were made at less than NV.

### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents that are covered by the description contained in the “Scope of the Order” section above and were sold in the home market during the POR, to be foreign like product for purposes of determining appropriate product on which to base NVs for comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product on the basis of the hierarchy of reported physical characteristics: (1) product shape, (2) wheat species, (3) milling form, (4) protein content, (5) additives, and (6) enrichment.

#### A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average CEPs or EPs (the average-to-average or A-to-A method), unless the Secretary determines that another method is appropriate in a particular situation. In antidumping duty investigations, the Department examines whether to compare weighted-average NVs to transaction-specific CEPs or EPs (the average-to-transaction, or A-to-T, method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department’s examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping duty investigations.<sup>19</sup> In recent investigations, the Department applied a “differential pricing” (DP) analysis for determining whether application of A-to-T comparisons is appropriate pursuant to 19 CFR

---

<sup>18</sup> For additional detail, see Rummo Group Preliminary Results Sales Analysis Memorandum; see, e.g., *Solid Urea From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 35405 (June 17, 2011), unchanged in *Solid Urea From the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 76 FR 66690 (October 27, 2011).

<sup>19</sup> See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Review*; 2010-2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.<sup>20</sup> The Department finds that the DP analysis used in these and other recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.<sup>21</sup> The Department intends to continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-to-A method in calculating weighted-average dumping margins.

The DP analysis used in these preliminary results requires a finding of a pattern of prices for comparable merchandise that differs significantly among purchasers, regions, or time periods.<sup>22</sup> If such a pattern is found, then the DP analysis evaluates whether such differences can be taken into account when using the A-to-A method to calculate the weighted-average dumping margin. The DP analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. For the Rummo Group, purchasers are based on the reported consolidated customer codes, and for Tomasello, the purchasers are based on the unconsolidated customer codes as reported. For both Rummo and Tomasello, regions are defined using the reported destination zip codes, which are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the DP analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean

---

<sup>20</sup> See Memoranda to Paul Piquado, Assistant Secretary for Import Administration, from Abdelali Elouaradia, Director of AD/CVD Operations Office 4, entitled "Less Than Fair Value Investigation of Xanthan Gum from Austria: Post-Preliminary Analysis and Calculation Memorandum," "Less than Fair Value Investigation of Xanthan Gum from the People's Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Neimenggu Fufeng Biotechnologies Co., Ltd, (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd) and Shandong Fufeng Fermentation Co., Ltd," and "Less than Fair Value Investigation of Xanthan Gum from the People's Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Deosen Biochemical Ltd," all dated March 4, 2013.

<sup>21</sup> See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2011-2012*, 78 FR 40692 (July 8, 2013); *Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 26748 (May 8, 2013); *Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21101 (April 9, 2013) (*Steel Threaded Rod*); *Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 17637 (March 22, 2013) (*Polyester Staple Fiber*).

<sup>22</sup> As noted above, the DP analysis has been utilized in recent investigations to determine the appropriate comparison methodology. It has also been used in several recent antidumping duty administrative reviews. See, e.g., *Steel Threaded Rod; Circular Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21105 (April 9, 2013); *Polyvinyl Alcohol From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2010-2012*, 78 FR 20890 (April 8, 2013); and *Polyester Staple Fiber*.

of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold (*i.e.*, 0.8) provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that passes the Cohen's *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the A-to-T method to all sales as an alternative to the A-to-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-to-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-to-A method, and application of the A-to-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-to-A method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the DP analysis, we examine whether using only the A-to-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-to-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-to-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: 1) there is a 25 percent relative change in the weighted-average dumping margin between the A-to-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments in relation to the above-described DP approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

## Results of the DP Analysis

For the Rummo Group, based on the results of the differential pricing analysis, the Department finds that 41.34 percent of the Rummo Group's U.S. sales passed the Cohen's *d* test, and confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods. Further, the Department determines that the A-to-A method cannot appropriately account for such differences because there is a greater than 25 percent relative change in the weighted-average dumping margins when calculated using the A-to-A method and an alternative method based on the A-to-T method applied to the U.S. sales which pass the Cohen's *d* test. Accordingly, the Department determines to use the A-to-T method for the U.S. sales passing the Cohen's *d* test and the A-to-A method for the U.S. sales not passing the Cohen's *d* test to calculate the weighted-average dumping margin for the Rummo Group.<sup>23</sup>

For Tomasello, based on the results of the differential pricing analysis, the Department finds that 28.79 percent of Tomasello's U.S. sales passed the Cohen's *d* test, and does not confirm the existence of a pattern of prices that differ significantly by purchasers, regions, or time periods. Therefore, the Department has not considered whether the A-to-A method can account for such differences, and no additional argument to the contrary has been placed on the record. Accordingly, the Department has determined to use the A-to-A method for all U.S. sales to calculate Tomasello's weighted-average dumping margin.<sup>24</sup>

## Export Price

For some of the Rummo Group's U.S. sales and all of Tomasello's U.S. sales, we used the EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer or exporter of subject merchandise outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation. We based EP on packed prices to the first unaffiliated purchaser in the United States. When appropriate, we adjusted the EP prices to reflect discounts, rebates, and billing adjustments.

For the Rummo Group and for Tomasello, in accordance with section 772(c)(2)(A) of the Act, we made deductions, where appropriate, for movement expenses incurred at the production facility, U.S. warehouse expense, inland freight, brokerage and handling, international freight, freight rebate revenue, and U.S. customs duties in accordance with section 772(c)(2)(A) of the Act. In addition, when appropriate, we increased EP by an amount equal to the countervailing duty (CVD) rate attributed to export subsidies in the most recently completed CVD administrative review, in accordance with section 772(c)(1)(C) of the Act.

## Constructed Export Price

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by

---

<sup>23</sup> See Rummo Preliminary Results Sales and Cost Analysis Memorandum for further details.

<sup>24</sup> See Memorandum from Stephanie Moore to the File titled "Sales Analysis Memorandum for the Preliminary Results -Tomasello ("Tomasello Preliminary Results Sales Analysis Memorandum") for further details.

or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

For purposes of this review, the Rummo Group classified certain export sales of pasta to the United States as CEP sales. Specifically, during the POR, the Rummo Group reported sales, through its U.S. affiliate (Rummo USA) via three channels of distribution (Rummo USA warehouse sales, Rummo USA direct sales and Rummo S.p.A. direct sales), to unaffiliated U.S. customers (including retailers and distributors).

The Department calculated CEP based on packed prices to customers in the United States. We made deductions from the starting price, net of discounts and rebates, for movement expenses (foreign and U.S. movement, U.S. customs duty and brokerage, and warehousing) in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e). In addition, because the Rummo Group reported CEP sales, in accordance with section 772(d)(1) of the Act, we deducted from the starting price, credit expenses, warranty and other U.S. direct expenses, and indirect selling expenses, including inventory carrying costs, incurred in Italy and the United States and associated with economic activities in the United States.

## Normal Value

### A. Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the Rummo Group or Tomasello's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.404(b), because both the Rummo Group and Tomasello's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable. Moreover, there is no evidence on the record supporting a particular market situation in the exporting company's country that would not permit a proper comparison of home market and U.S. prices.

### B. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).<sup>25</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>26</sup> In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling

---

<sup>25</sup> See 19 CFR 351.412(c)(2).

<sup>26</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Plate from South Africa*).

functions, class of customer (*i.e.*, customer category), and the level of selling expenses for each type of sale.

Pursuant to 19 CFR 351.412(c)(1), in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third-country prices), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act.<sup>27</sup> Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative (SG&A) expenses, and profit for CV, where possible.

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sales to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>28</sup>

In this administrative review, we obtained information from the respondents, the Rummo Group and Tomasello, regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution.

The Rummo Group reported that there was a single LOT for its sales in the home market and claimed two LOTs in the U.S. market. The Rummo Group provided information regarding channels of distribution and selling activities performed for different categories of customers.<sup>29</sup> The charts of specific selling functions submitted by The Rummo Group and its affiliate Pasta Castiglione indicate the selling functions performed for sales in both markets, and demonstrate that there are greater sales activities performed in the home market as compared to The Rummo Group's U.S. CEP sales.<sup>30</sup> We preliminarily determine that these differences support a finding that the home market sales are made at a different and more advanced stage of marketing than the LOT of Rummo Group's CEP sales. Further, we are unable to quantify a LOT adjustment between the different LOTs existing in the U.S. and home markets. Accordingly, we made a CEP offset to NV pursuant to section 773(a)(7)(B) of the Act.<sup>31</sup>

---

<sup>27</sup> See *Micron Technology Inc. v. United States*, 243 F.3d 1301, 1314-1315 (Fed. Cir. 2001).

<sup>28</sup> See *Plate from South Africa*, 62 FR at 61732-33.

<sup>29</sup> See Rummo Group's November 13, 2013, Section A responses ("AQR"), at Exhibits A-7, A-8, and A-9; see also Pasta Castiglione's November 13, 2013, Section A responses, at Exhibits A-3 and A-4.

<sup>30</sup> See Rummo Group's AQR at page 38 and Exhibit A-10, and its March 20, 2014 ("SQR1"), Section A-D supplemental response, at 15.

<sup>31</sup> For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, see Rummo Preliminary Results Sales and Cost Analysis Memorandum; see also Tomasello Preliminary Results Sales Analysis Memorandum.

With respect to the Rummo Group's EP sales through channel 3 (Rummo Group S.p.A. Direct Sales), the Rummo Group reported that all such sales were made at LOT 1. Based on our analysis of the Rummo Group's selling activities, we preliminarily find that its home market sales were made at LOT 1, *i.e.*, at an equivalent level of trade as US LOT 1.

Tomasello reported one LOT and three channels of distribution in the home market.<sup>32</sup> Tomasello also reported six customer categories: (1) large distribution organizations (GDO) (2) distributors and wholesalers (3) large independent retailers (4) restaurants (5) small retailers, and (6) manufacturers.<sup>33</sup> In the U.S. market, Tomasello reported one LOT and one channel of distribution.<sup>34</sup> Tomasello reported exclusively EP sales to unaffiliated U.S. customers in two customer categories.<sup>35</sup>

Tomasello's chart of selling functions indicates the selling functions performed for sales in both markets are similar, with no significant variation across the broader categories of sales process/marketing support, freight and delivery and warehousing. Consequently, for Tomasello we preliminarily determine that there is one LOT that is the same for sales in both the home market and the U.S. market and, therefore, that no basis exists for a LOT adjustment.

### C. Cost of Production

For the Rummo Group and Tomasello, the Department disregarded certain home market sales priced below the cost of production (COP) in the last administrative review of the order, in which the company participated, that was completed prior to the initiation of this review.<sup>36</sup> Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that the Rummo Group and Tomasello made sales of the subject merchandise in its home market at prices below the COP in the current POR. Pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Tomasello and the Rummo Group.

We examined the cost data for the Rummo Group and Tomasello, and determined that the quarterly cost methodology is not warranted in this review. Accordingly, we are applying our standard methodology of using annual costs based on the reported data of the Rummo Group and Tomasello.

---

<sup>32</sup> See Tomasello's Initial Questionnaire Response Section A (AQR), dated November 6, 2013 at page 11, and Exhibit 4. See also Sections B–D (B-DQR), dated December 6, 2013, at 15.

<sup>33</sup> See *id.*

<sup>34</sup> See *id.*, at AQR 10 and Exhibit 4.

<sup>35</sup> See B-DQR at 53 – 54.

<sup>36</sup> The most recent completed antidumping duty administrative review prior to the initiation of this review with respect to the Rummo Group was AR 15, and the most recent completed antidumping duty administrative review with respect to Tomasello was AR 14. See *Certain Pasta From Italy: Notice of Final Results of 15th Antidumping Duty Administrative Review, Final No Shipment Determination and Revocation of Order, in Part; 2010-2011*, 78 FR 9364 (February 8, 2013) (AR 15) for the Rummo Group, and *Certain Pasta From Italy: Notice of Final Results of the Fourteenth Antidumping Duty Administrative Review*, 76 FR 76937 (December 9, 2011) (AR 14) for Tomasello.

#### D. Calculation of Cost of Production

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative and financial expense, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by the Rummo Group and Tomasello in their questionnaire responses for the COP calculation except the following adjustments.

#### E. Test of Home Market Prices

As required under 773(b)(2) of the Act, we compared the weighted-average of the COP for the POR to the per-unit price of the home market sales of the foreign like product, to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net home market prices for the below cost test by subtracting from the gross unit price all applicable movement charges, direct and indirect selling expenses, and packing expenses.

#### F. Results of COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard the below-cost sales of that product because we determine that the below-cost sales were not made in substantial quantities. Where 20 percent or more of a respondent's home market sales of a model are at prices less than the COP, we disregard the below cost sales because (1) they are made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act and (2) based on our comparison of prices to the weighted average of their COP, they are at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

Our cost test indicated that the Rummo Group and Tomasello had certain home market sales that were sold at prices below the COP within an extended period of time in substantial quantities and were at prices which would not permit the recovery of all costs within a reasonable period of time.<sup>37</sup> Thus, we disregarded certain below-cost sales and used the remaining sales as the basis for NV, in accordance with section 773(b)(1) of the Act.

#### Margins for Companies Not Selected for Individual Examination

Generally, when calculating the margin for non-selected respondents, the Department looks to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others margin in an investigation. Section 735(c)(5)(A) of the Act provides that when calculating the all-others margin, the Department will exclude any zero and *de minimis* weighted-average dumping margins, as well as any weighted-average dumping margins based on total facts available. Accordingly, the Department's usual practice has been to average the

---

<sup>37</sup> See Rummo Group and Tomasello's Preliminary Results Sales Analysis Memorandum.

margins for selected respondents, excluding margins that are zero, *de minimis*, or based entirely on facts available.<sup>38</sup>

In this review, we calculated a weighted-average dumping margin of 8.33 percent for the Rummo Group and a *de minimis* weighted-average dumping margin for Tomasello. Therefore, in accordance with section 735(c)(5)(A) of the Act, the Department assigned the sole calculated weighted-average dumping margin that is above *de minimis* for the Rummo Group, 8.33 percent, to the non-selected companies in these preliminary results: Dalla Costa Alimentare srl; Delverde Industrie Alimentari S.p.A.; Ghigi Industria Agroalimentare in San Clemente srl; Pasta Zara S.p.A.; Pastificio Toscano srl; and Valdigrano di Flavio Pagani S.r.L.<sup>39</sup>

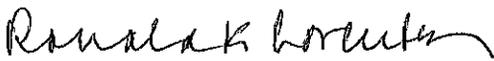
#### Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank.<sup>40</sup>

#### **Recommendation**

We recommend applying the above methodology for these preliminary results.

Agree  \_\_\_\_\_ Disagree  \_\_\_\_\_



\_\_\_\_\_  
Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

August 18, 2014  
(Date)

---

<sup>38</sup> See *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

<sup>39</sup> See Respondent Selection Memo.

<sup>40</sup> See *id.*