

Act and section 351.213(h)(2) of the Department's regulations allow the Department to extend the 245-day period to 365 days. We determine that it is not practicable to complete the preliminary results of this review within the original time limit because of the need to issue a supplemental questionnaire and analyze the response. Therefore, we are fully extending the deadline for completion of the preliminary results of this administrative review until no later than July 30, 2008. The deadline for the final results of the review continues to be 120 days after the publication of the preliminary results.

This notice is issued and published pursuant to sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 13, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8-3360 Filed 2-21-08; 8:45 am]

BILLING CODE 3510-DR-S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-825]

Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce

EFFECTIVE DATE: February 22, 2008.

FOR FURTHER INFORMATION CONTACT: Elfi Blum-Page, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-0197.

SUPPLEMENTARY INFORMATION:

Background

On August 24, 2007, in response to timely requests from MTZ Polyfilms, Ltd. (MTZ) and Jindal Poly Films Limited of India (Jindal), the Department of Commerce (the Department) initiated an administrative review of the countervailing duty order on polyethylene terephthalate (PET) film, sheet, and strip from India. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 72 FR 48613 (August 24, 2007). This administrative review covers the period January 1, 2006 through

December 31, 2006. The preliminary results of review are currently due no later than April 1, 2008.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) and section 351.213(h)(1) of the Department's regulations require the Department to issue the preliminary results of a review within 245 days after the last day of the anniversary month of the order for which the administrative review was requested, and final results of the review within 120 days after the date on which the notice of the preliminary results is published in the **Federal Register**. However, if the Department determines that it is not practicable to complete the review within the aforementioned specified time limits, section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations allow the Department to extend the 245-day period to 365 days and to extend the 120-day period to 180 days.

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Due to the large number of programs under review, the Department needs additional time to analyze the questionnaire responses and issue appropriate supplemental questionnaires. Therefore, the Department is extending the deadline for completion of the preliminary results of this administrative review of the countervailing duty order on PET film from India by 120 days from April 1, 2008 until no later than July 30, 2008.

This notice is issued and published pursuant to sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: February 13, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8-3391 Filed 2-21-08; 8:45 am]

BILLING CODE 3510-DR-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818]

Certain Pasta From Italy: Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review and Intent To Reinstate the Antidumping Duty Order

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

SUMMARY: The Department of Commerce (the Department) is conducting an antidumping changed circumstances review with respect to Pasta Lensi S.r.l. (Lensi), a producer/exporter of pasta from Italy, and American Italian Pasta Company (AIPC), Lensi's corporate parent and importer of subject merchandise produced by Lensi. The Department preliminarily determines that Lensi made sales at less than normal value (NV) during the 2002-2003 period of review (POR), that, consequently, Lensi no longer qualifies for revocation based upon three consecutive reviews resulting in *de minimis* margins, and that the order should be reinstated on certain pasta from Italy related to subject merchandise produced and exported by Lensi. We will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise produced and exported by Lensi entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 22, 2008.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-6071.

SUPPLEMENTARY INFORMATION:

Background

On November 19, 2007, pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), the Department initiated an antidumping changed circumstances review with respect to Lensi and AIPC. *See Certain Pasta from Italy: Notice of Initiation of Antidumping Duty Changed Circumstances Review*, 72 FR 65010 (November 19, 2007) (*Initiation of Pasta from Italy*). On December 3, 2007, AIPC and Pasta Lensi submitted comments regarding the antidumping changed circumstances review.

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 Bioagricoop Scrl, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, by Associazione Italiana per l'Agricoltura Biologica, or by Istituto per la Certificazione Etica e Ambientale (ICEA) are also excluded from this order.

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* subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Preliminary Results of Changed Circumstances Review

In their submissions, Lensi and AIPC acknowledge that, contrary to the *Notice of Final Results of the Seventh Antidumping Duty Order on Certain Pasta from Italy and Determination to Revoke in Part*, 70 FR 6832 (February 9, 2005) (*Seventh Review of Pasta from Italy*), Lensi did, in fact, make sales at less than NV during the 2002 through 2003 review period. As a result, Lensi was not entitled to the *de minimis* rate it received in the *Seventh Review of Pasta from Italy*. Nor was Lensi entitled to revocation from the order because it did not satisfy the criteria of having made sales at not less than NV for a period of at least three consecutive years. Therefore, we have sufficient information on the record to make a preliminary finding with respect to reinstatement of the order. We preliminarily determine that Lensi was not entitled to revocation from the order and, therefore, we are preliminarily reinstating the order with respect to certain pasta produced and exported by Lensi.

Section 776(a)(2) of the Act provides that, if an interested party or any other person withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act,

significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination.

As is clear from Lensi's and AIPC's submissions, during the course of the seventh administrative review of the antidumping duty order on pasta from Italy, Lensi withheld information requested by the administering authority, failed to provide such information by the deadlines for submission of the information and in the form or manner requested, and significantly impeded the proceeding. Therefore, consistent with section 776(a)(2) of the Act, we preliminarily determine to use facts otherwise available to determine the margin of dumping.

AIPC and Lensi note that they have made a full voluntary disclosure to the Department and argue that, on that basis, the Department should use Lensi's own "corrected" data to determine the appropriate cash deposit rate. In their December 3, 2007, submissions, AIPC and Lensi explain that AIPC has reviewed its 2002–2003 questionnaire responses, interviewed available company personnel, and worked with outside legal counsel of its internal audit committee to determine if the reporting discrepancy was a single occurrence or if there were other similarly misreported transactions. In addition, AIPC states that on September 7, 2007, it completed its internal preparation of its restated financial statements, which include the 2002–2003 period. According to AIPC, this process has led it to conclude that there are no other transactions or adjustments similar to that already reported to the Department. Therefore, Lensi and AIPC propose that for purposes of recalculating the dumping margin from the *Seventh Review of Pasta from Italy* and establishing a margin to be applied to Lensi, the Department should rely on the information originally withheld by AIPC. Specifically, AIPC suggests that the Department rely on the proposed programming language included in its December 3, 2007, submission to incorporate the information that was not reported during the course of the *Seventh Review of Pasta from Italy*.

In its submissions to the Department, AIPC did not disclose that in October 2005 it determined that its previously issued consolidated, audited statements for the 2002, 2003, 2004 fiscal years and its unaudited statements for each of the fiscal quarters in such years, should no

longer be relied upon.¹ Nor did AIPC disclose in its submissions to the Department that by June 9, 2006, it concluded that its financial statements for the 2000 and 2001 fiscal years should also be restated.² Thus, it appears that the problem with AIPC/Lensi's books and records involves more than a few minor adjustments.

We also do not agree with AIPC's claim that, as a result of its internal audit, it is reasonable to accept AIPC's conclusion that the data discrepancy in the *Seventh Review of Pasta from Italy* constitutes the only misreported transaction reported to the Department. We find that, as recently as January 2008, AIPC has not reissued the final version of its historical financial statements, nor has AIPC issued the final version of its July 1, 2005, quarterly report to the U.S. Securities and Exchange Commission (SEC), or any subsequent quarterly or annual reports. Though AIPC states in its December 3, 2007, submission that it has completed its internal preparation of its restated financial statements, including the 2002–2003 period examined in the *Seventh Review of Pasta from Italy*, information in AIPC's September 7, 2007, press release indicates that the financial statements for fiscal year 2004 and earlier periods are currently subject to review by AIPC's registered public accounting firm and the SEC. The press release further states that:

The statements by the Company regarding the status of the preparation of the Company's historical financial statements and the impairment charges for its fiscal year 2005 and for its fiscal year 2006 are forward-looking. Actual results or events could differ materially. The differences could be caused by a number of factors, including, but not limited to, the review and/or audit of the Company's financial statements by its independent registered public accounting firm, the SEC staff review, and the conclusions reached regarding financial reporting.³

Therefore, we preliminarily determine that AIPC's books and records leading up to and including the period covered by the *Seventh Review of Pasta from Italy* cannot be relied upon for purposes of this changed circumstances review.

¹ See *American Italian Pasta Company to Withdraw and Restate Historical Financial Statements*, AIPC press release dated October 27, 2005.

² See *American Italian Pasta Company Outlines Status of Audit Committee Investigation, Company Financial Statement Review and Pending Restatement*, AIPC press release dated June 9, 2006.

³ See *American Italian Pasta Company Announces Completion of Audit Committee Investigation, Announces Updated Impairment Charges, and Updates Restatement Process*, AIPC press release dated September 7, 2007.

Moreover, irrespective of the reliability of AIPC's revised data, we preliminarily determine that Lensi and AIPC should not be able to use this antidumping changed circumstances review as an opportunity to replace misreported data that AIPC should have accurately reported to the Department in the first instance as part of the seventh administrative review. Allowing Lensi and AIPC to revise misreported data over five years after Lensi was revoked from the antidumping duty order contradicts the Department's longstanding practice of requiring respondents to submit accurate and timely data in accordance with the deadlines of the relevant segment of the proceeding. *See, e.g., Tianjin Mach. Imp. & Exp. Corp. v. United States*, 353 F. Supp. 2d 1294, 1303–1306 (CIT 2005), where the Court found that a two-month delay in providing corrected information is sufficient for imposing an adverse facts available (AFA) rate. Furthermore, permitting Lensi and AIPC to revise the misreported data several years after the completion of the segment of the proceeding would establish a troubling precedent that could enable respondents to manipulate the results of a segment of proceeding and undermine the ability of the Department to conduct and complete a proceeding based on timely and accurate information. Under Lensi's proposed approach, future respondents could withhold information or submit false information to the Department and then, having viewed the Department's final decision, determine whether it is in their interest to seek a revision to the duty rate by providing the Department with revised information that they claim constitutes the definitive and accurate data set.

AIPC and Lensi note that they have made a full voluntary disclosure to the Department and argue that, on that basis, the application of an allegedly arbitrarily high cash deposit rate—such as the 11.26 percent all-others cash deposit rate or even 7.36 percent, the highest weighed-average margin calculated in the seventh review—would serve no purpose, would be a disincentive to other companies considering a possible voluntary disclosure, would not protect the integrity of the Department's proceedings, would be punitive, and violates basis fairness in that AIPC's innocent shareholders would be penalized multiple times for the same conduct.

We are aware that, as AIPC and Lensi note, other Federal agencies have policies and/or regulations related to

voluntary disclosure.⁴ For example, the Department's Bureau of Industry and Security views voluntary disclosure as a mitigating factor when considering what sanctions will be sought. However, the mitigating effect of voluntary disclosure is diminished, if not completely eliminated, where the disclosure does not occur before any other U.S. agency has learned the same or similar information from another source and has commenced an investigation or inquiry.⁵

According to AIPC's own admission, AIPC has been cooperating with an inquiry by the SEC since 2005.⁶ Therefore, Lensi/AIPC's voluntary disclosure to the Department in August 2006 comes more than one year after another U.S. agency had learned of the same or similar information. Therefore, we preliminarily determine that, given the circumstances, the facts of this case do not warrant treatment of Lensi and AIPC's voluntary disclosure as a mitigating factor in considering from among the facts otherwise available.

Section 776(b) of the Act provides that, if the administering authority finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information, in reaching the applicable determination, the administering authority may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Lensi and AIPC failed to act to the best of their ability to comply with a request for information. The disclosure by Lensi and AIPC did not occur in the context of any proceeding, thus it does not diminish Lensi's failure to act to the best of its ability during the seventh review. The Department's well established policy, as upheld by the courts, is to make an adverse inference when selecting among the facts

available for parties, such as Lensi, that failed to act to the best of their ability, regardless of whether the failure was caused by intent or by inattentiveness, carelessness, or inadequate record keeping. *See Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. Aug. 8, 2003).

For purposes of determining the margin of dumping in the seventh review and for establishing a cash deposit rate, the Department has selected as AFA the weighted-average margin of 45.59 percent *ad valorem*. The 45.49 percent margin is the margin assigned to Barilla during the first and fourth administrative reviews and to PAM in the sixth review. *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review, Partial Rescission of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Order in Part: Certain Pasta From Italy*, 67 FR 300 (January 3, 2002) (*Fourth Review of Pasta from Italy*); *see also Notice of Final Results of the Sixth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy and Determination Not to Revoke in Part*, 69 FR 6255 (February 10, 2004) (*Sixth Review of Pasta from Italy*).

Section 776(c) of the Act states that when the Department relies on secondary information for purposes of determining the dumping margin rather than on information obtained in the course of an investigation or review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonable.⁷ In accordance with section 776(c) of the Act, the Department may corroborate an AFA rate using a respondent's own transaction-specific margins or margins from other respondents. *See Ta Chen Pipe, Inc. v. United States*, 298 F.3d, 1330, 1339–40 (Fed. Cir. 2002) (*Ta Chen*); *see also NSK Ltd v. United States*, 346 F. Supp. 2d 1312, 1331–36 (Ct. Int'l Trade 2004) (*NSK Ltd.*) and *Shanghai Taoen International Trading Co. v. United States*, 360 F. Supp. 2d 1339, 1348 (Ct. Int'l Trade 2005) (*Shanghai Taoen*). However, as discussed above, we have determined that the information submitted by Lensi during the seventh review and the two prior review

⁴ *Export Administration Regulations: Enforcement and Protective Measures*, 15 CFR 764.5 (2005), *Voluntary Self-disclosure; Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*, 65 FR 19618 (April 11, 2000); *Foreign Assets Control Office: Economic Sanctions Enforcement Procedures for Banking Institutions*, 71 FR 1971 (Jan. 12, 2006); *Amendments to the International Traffic in Arms Regulations*, 71 FR 20534 (April 21, 2006); and SEC Administrative Proceedings File No. 3–12310 (May 31, 2006).

⁵ *Id.*, particularly, *Export Administration Regulations: Enforcement and Protective Measures*, 15 CFR 764.5 (2005), *Voluntary Self-disclosure; Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations*, 65 FR 19618 (April 11, 2000).

⁶ *See* December 7, 2006, letter to the Secretary from AIPC and Lensi. *See also, American Italian Pasta Company Delays Third Quarter Earnings Release and Filing of Form 10–Q*, AIPC press release dated August 9, 2005.

⁷ The Uruguay Round Agreements Act Statement of Administrative Action H.R. Doc. No. 103–316, vol. 1, (1994) (SAA) describes secondary information as “information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.” *See* SAA at 870.

segments in which it participated is unreliable and cannot serve as the basis for determining the actual margin of dumping.

Because we have determined that the information submitted by Lensi during the seventh review and prior reviews is not reliable, we looked to information submitted by other respondents during the seventh review for corroboration of the AFA rate. *See* February 12, 2008, Memorandum to the File, from Eric B. Greynolds, Program Manager, Office 3, Operations, RE: Corroboration of Adverse Facts Available Rate for Lensi, S.p.A. (AFA Corroboration Memorandum). The transaction-specific margins from other respondents from the seventh review represent “a reasonably accurate estimate” of Lensi’s dumping activity in the *Seventh Review of Pasta from Italy*, absent any other reliable data upon which to calculate Lensi’s margin. *See F.Ili de Cecco Di Filippo Fara S. Martino S.p.A. v. United States*, 216 F.3d 1027, 1032 (Fed. Cir. 2000) (*F.Ili de Cecco*); *see also* section 776(c) of the Act which states that, when relying on secondary information, the Department shall, “to the extent practicable, corroborate that information from independent sources that are reasonably at their disposal.” Thus, with respect to the reliability of secondary information, the standard established in the statute and interpreted by the Court is not one of perfection but rather one that requires reasonable accuracy. In any case, any potential inaccuracy in the information used to corroborate the AFA rate applied to Lensi is the result of Lensi’s own actions. Thus, the Department determines that the transaction-specific margins of other respondents from the seventh review corroborate to the extent practicable the 45.59 percent AFA margin. *See Ta Chen*, 298 F.3d at 1339; *see also NSK Ltd.*, 346 F. Supp. 2d at 1331–36; and *Shanghai Taoen*, 360 F. Supp. 2d at 1348 (affirming corroboration by using respondent’s own transaction-specific margins from prior reviews or transaction-specific margins from other respondents). As recognized by the Federal Circuit, so long as the data are corroborated, the Department has “discretion to choose which sources and facts it will rely on to support an adverse inference.” *See F.Ili de Cecco*, 216 F.3d at 1032. In this case, the Department has exercised this discretion in a reasonable manner by corroborating the respondent’s AFA rate with the transaction-specific margins of other respondents from the seventh review. *See Ta Chen*, 298 F.3d at 1278–79; *see also NSK Ltd.*, 346 F. Supp. 2d

at 1331–36; and *Shanghai Taoen*, 360 F. Supp. 2d at 1348.

Since we have preliminarily determined that Lensi made sales at less than NV during the 2002–2003 POR and was not entitled to revocation, the antidumping duty order is hereby provisionally reinstated, and we will instruct CBP to suspend liquidation of all entries of subject merchandise produced and exported by Lensi entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.⁸

Furthermore, a cash deposit requirement of 45.59 percent will be in effect for all shipments of the subject merchandise produced and exported by Lensi that are entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice. A cash deposit requirement shall remain in effect until publication of the final results of the next administrative review unless the Department finds that Lensi was entitled to revocation from the order in the final results of this changed circumstances review.

Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held no later than 44 days after the date of publication of this notice, or the first workday thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in those comments, may be filed not later than five days after the deadline for filing case briefs. *See* 19 CFR 531.309, 310. All written comments shall be submitted in accordance with 19 CFR 351.303. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments.

The Department will complete this review within 270 days of the date on which it initiated the changed circumstances review. In accordance with 19 CFR 351.216(e), the final results of the changed circumstances review will set forth the factual and legal conclusions upon which our results are based and a description of any action proposed based on those results.

⁸ We note that over five years has passed since Lensi was revoked from the antidumping duty order. During this time, Lensi’s entries have not been subject to suspension by the CBP and have not been subject to a cash deposit rate.

This notice is in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216 and 351.222.

Dated: February 12, 2008.

David M. Spooner,
Assistant Secretary for Import
Administration.

[FR Doc. E8–3387 Filed 2–21–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–822]

Stainless Steel Sheet and Strip in Coils From Mexico; Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: February 22, 2008.

FOR FURTHER INFORMATION CONTACT: Maryanne Burke or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5604 or (202) 482–0649, respectively.

Background

On July 30, 2007, the Department of Commerce (the Department) received a timely request from Allegheny Ludlum Corporation, AK Steel Corporation, North American Stainless, United Auto Workers Local 3303, Zanesville Armco Independent Organization, Inc. and the United Steelworkers (collectively, petitioners) to conduct an administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Mexico. On August 24, 2007, the Department published a notice of initiation of this administrative review, covering the period of July 1, 2006 to June 30, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 48613 (August 24, 2007). The current deadline for the preliminary results of this review is April 1, 2008.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Tariff Act), requires the Department to complete the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for