

In the current review, petitioners have provided no new information or argument on the relationship between Garofalo and Amato, nor has the Department discovered new information during the course of this review. Consequently, the Department's analysis from the previous review, which is contained in the Garofalo Collapsing Memo that the petitioners placed on the record in this review, is adopted in its entirety. For the reasons set forth in the Garofalo Collapsing Memo, the Department determines that Garofalo and Amato are affiliated pursuant to section 771(33) of the Act and 19 CFR 351.102(a), but lack common control, so that a significant potential to manipulate products or prices does not exist and it is not appropriate to collapse the two companies under section 351.401(f) of the Department's regulations.

In Indalco's April 30, 2003, second supplemental questionnaire response, Indalco presented the Department with evidence that Indalco and Fusco are affiliated by means of common ownership and common board of directors, and therefore should be collapsed. Because both companies have production facilities which would not require substantial retooling for producing similar or identical products, and there is a significant potential for the manipulation of prices or production, as demonstrated by the level of common ownership, the commonality of the board of directors and the intertwined operations of the companies, there is sufficient record evidence supporting a finding that Indalco and Fusco should be collapsed in the preliminary results.

On the basis of this information, and because nothing we reviewed at the verification of these companies caused us to revise our position, the Department has preliminarily determined to collapse Indalco and Fusco pursuant to section 351.401(f)(1) of the Department's regulations. For a more detailed discussion on the Department's decision to collapse Indalco and Fusco, see the May 14, 2003, Memorandum to Melissa Skinner from Eric Greynolds, Re: Whether to Collapse Industri Alimentare Colavita S.p.A. ("Indalco") and Fusco S.r.l. ("Fusco"), in the case file in the CRU.

On December 19, 2002, petitioners alleged that Rummo and one of its U.S. customers were affiliated under section 771(33) of the Act and section 351.102(b) of the Department's regulations. As noted above, the Act and the Department's regulations direct the Department to find affiliation between two parties when one party is able to

control another party. The statute provides that control can be established if one person is legally or operationally able to "exercise restraint or direction" over the other. Section 351.102(b) of the regulations contains a list of factors to be considered by the Department in determining whether control exists: corporate or family groupings, a franchise or joint venture agreement, debt financing, or a close-supplier relationship. The Department, however, may not find control based on these factors unless the relationship has the potential to impact decisions concerning the production, pricing or cost of the subject merchandise.

Specifically, petitioners cite four factors as evidence that Rummo is affiliated with its U.S. customer: (1) Warehouse and distribution arrangements; (2) sales process and sample U.S. sales documents demonstrating joint sales operations and common control over inventories; (3) Rummo's financial statements including an amount for a note receivable; and (4) a product brochure submitted in the questionnaire response providing information connecting the customer and Rummo. Although the petitioners have not specifically classified the bases for their claim, their allegations appear to be premised upon debt financing and a close-supplier relationship. See July 31, 2003 Memorandum from the Team to Melissa G. Skinner, through Eric Greynolds, regarding Whether Rummo S.p.A. Molino e Pastificio (Rummo) and one of its U.S. customers are Affiliated for the Preliminary Results.

On January 3, 2003, Rummo disputed petitioners' affiliation arguments. Respondents argue that petitioners failed to prove that affiliation exists through control between Rummo and its U.S. customer. Specifically, respondents claim that petitioners did not allege that Rummo has a "close-supplier" relationship with its U.S. customer. Respondents argue that petitioners' argument of a "supplier/buyer" relationship is an attempt to circumvent the "close-supplier" relationship threshold identified by the *Statement of Administrative Action* accompanying H.R. 5110, H.R. Doc. No. 316, Vol. 1, 103d Congr., 2d Sess. 911-955 (1994) ("SAA"). See SAA at 838.

With respect to the petitioners' allegation of debt financing, we find that the outstanding note receivable from the U.S. customer does not demonstrate that the companies are engaged in joint operations. The information on the record does not demonstrate that either company was providing financial support to the other during the POR. The record shows that the note

receivable was given prior to the POR and was being repaid during the POR. Furthermore, we disagree with petitioners' argument that the outstanding note receivable indicates joint operations during the POR, as the financial statements show that the note receivable was being repaid rather than providing new debt financing.

The SAA describes "close-supplier" relationships as those "in which the supplier or buyer becomes reliant upon the other." See SAA at 838; see also *Notice of Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products from Indonesia*, 62 FR 1719, 1725 (Jan. 13, 1997). The evidence that petitioners refer to does not support a relationship in which one party is reliant upon the other. Rummo's sample sales documents do not demonstrate common control over inventories or an exclusive distributor relationship with the U.S. customer. Notably, Rummo USA provided evidence in its questionnaire response that it had customers in the U.S. market, other than the one that petitioners are alleging are affiliated. The evidence before the Department refutes petitioners' claim that Rummo and its customer have an exclusive distributor relationship.

We also find petitioners' argument that the U.S. customer has control over Rummo USA's inventory to be inaccurate and therefore not persuasive. For instance, Rummo's verification report at page 6, shows that Rummo USA and not its U.S. customer is in charge of: (1) Invoicing and billing; and (2) reordering when Rummo USA's warehouses' inventory is low. Rummo USA orders a product from Rummo when it needs more. See July 30, 2003, Memorandum to Eric B. Greynolds, Re: Verification of the Sales Response of Rummo S.p.A. Molino e Pastificio (Rummo) and Rummo USA Inc. (Rummo USA) in the Sixth Administrative Review of the Antidumping Duty Order of Certain Pasta from Italy ("Rummo's Verification Report"). Furthermore, as explained in Rummo's Verification Report, Rummo had to request that information pertaining to other customer's sales not be forwarded to the U.S. customer. If the U.S. customer had control over Rummo USA's warehousing and inventory there would be no reason for Rummo USA to make such a request to its freight company. Rummo USA and the U.S. customer are not engaged in joint warehousing or the joint marketing of pasta; we therefore find that the U.S. customer does not have control over Rummo USA's inventory.