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Washington, D.C. 20230

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Administrative Review
7/1/2014 – 6/30/2015
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August 5, 2016

MEMORANDUM TO: Ronald 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: Certain Pasta from Italy; 2014-2015

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, 2014, through June 30, 2015. The Department preliminarily determines that Industria Alimentare Colavita S.p.A. (Indalco) and Liguori Pastificio Dal 1820 (Liguori) made sales of subject merchandise at less than normal value (NV) during the POR. We have used the margins assigned to Indalco and Liguori as the basis of the margin assigned to the firms that were not subject to individual review.[1]

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.

[1] *See* section titled, "Margins for Companies Not Selected for Individual Examination," for additional details.

BACKGROUND

On July 24, 1996, the Department published in the *Federal Register* the *AD Order*[2] on pasta from Italy. On July 1, 2015, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on pasta from Italy.[3] Pursuant to requests from interested parties, on September 2, 2015, the Department published in the *Federal Register* the *Initiation Notice*.[4] The Department initiated this administrative review covering the following 31 companies: Agritalia S.r.L. (Agritalia), Atar S.r.L. (Atar), Azienda Agricola Casina Rossa di De Laurentiis Nicola (Azienda), Corticella Molini e Pastifici S.p.A. (Corticella), Delverde Industrie Alimentari S.p.A. (Delverde), Domenico Paone fu Erasmo S.p.A. (Domenico), F. Divella S.p.A. (F. Divella), I Sapori dell'Arca S.r.l. (I Sapori), Indalco, La Fabbrica della Pasta di Gragnano S.a.s. di Antonio Moccia (La Fabbrica), La Molisana SpA. (La Molisana), La Romagna S.r.l. (La Romagna), Liguori, Molino e Pastificio Tomasello S.r.L. (Tomasello), P.A.P SNC DI Pazienza G.B. & C. (P.A.P), PAM S.p.A. (aka PAM S.r.L.) (PAM), Pasta Lensi S.r.L. (Pasta Lensi), Pasta Zara S.p.A. (Pasta Zara), Pastificio Andalini S.p.A. (Andalini), Pastificio Bolognese of Angelo R. Dicuonzo (Bolognese), Pastificio Carmine Russo S.p.A. (Carmine), Pastificio DiMartino Gaetano & F. Ili S.r.L. (DiMartino), Pastificio Fabianelli S.p.A. (Fabianelli), Pastificio Felicetti S.r.L. (Felicetti), Pastificio Labor S.r.L. (Labor), Pastificio Riscossa F. Ili Mastromauro S.p.A. (AKA Pastificio Riscossa F. Ili. Mastromauro S.r.L.) (Riscossa), Poiatti S.p.A. (Poiatti), Premiato Pastificio Afreltra S.r. L. (Premiato), Rustichella d'Abruzzo S.p.A. (Rustichella), Ser.com.snc, and Vero Lucano S.r.l. (Vero Lucano).

On September 9, 2015, the Department announced its intention to select mandatory respondents based on CBP data.[5] On October 13, 2015, the Department selected Indalco and La Molisana as mandatory respondents, and issued initial questionnaires to both companies on the same date.[6] On October 27, 2015, La Molisana timely withdrew its request for a review. On October 28, 2015, the Department selected Pasta Lensi as a mandatory respondent.[7] On October 30, 2015, Pasta Lensi timely withdrew its request for a review. On November 6, 2015, the Department selected Liguori as a mandatory respondent.[8] On November 12, 2015, Andalini timely withdrew its request for review. On December 1, 2015, Ritrovo, LLC (Ritrovo), an interested party in this review, timely withdrew its request for an administrative review of Azienda, Bolognese, I Sapori, La Romagna, Ser.com.snc, and Vero Lucano.

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[2] *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*).

[3] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 80 FR 37583 (July 1, 2015).

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 53106 (September 2, 2015) (*Initiation Notice*).

[5] *See* Memorandum titled, "Customs and Border Protection Data for Selection of Respondents for Individual Review," dated September 9, 2015.

[6] *See* Memorandum titled, "Selection of Respondents for Individual Examination," dated October 13, 2015 (Respondent Selection Memo).

[7] *See* Memorandum titled, "Selection of Mandatory Respondent," dated October 28, 2015 (Second Respondent Selection Memorandum).

[8] *See* Memorandum titled, "Selection of Additional Respondent for Individual Review," dated November 6, 2015 (Third Respondent Selection Memo).

On December 24, 2015, the Department rescinded the administrative review with respect to La Molisana, Pasta Lensi, Andalini, Azienda, Bolognese, I Sapori, La Romagna, Ser.com.snc, and Vero Lucano pursuant to the aforementioned timely withdrawal requests submitted by the respective parties.[9] Thus, in this administrative review, we are conducting individual examinations of Indalco and Ligouri. For the remaining firms covered by this administrative review which were not selected for individual examination, we have assigned the weighted-average of the publicly ranged weighted-average dumping margins for Indalco and Ligouri, 3.19 percent, to the 19 non-selected companies in these preliminary results.[10] The firms receiving this non-selected rate are: Agritalia, Atar, Corticella, Delverde, Domenico, F. Divella, La Fabbrica, Tomasello, P.A.P, Pasta Zara, Carmine, DiMartino, Fabianelli, Felicetti,[11] Labor, Riscossa, Poiatti, Premiato, and Rustichella.

Indalco

In response to the Department's initial questionnaire dated October 13, 2015, Indalco submitted its section A response on November 10, 2015.[12] Indalco submitted its questionnaire response to the Department's sections B through D initial questionnaire on December 14, 2015.[13] On January 13, March 7, and March 16, 2016, Petitioners[14] submitted comments on Indalco's section A-D responses. On May 12, 2016, Petitioners submitted pre-verification comments regarding Indalco's section A-D responses.

The Department issued several section A-D supplemental questionnaires to which Indalco provided its responses on April 4, May 3, and May 23, 2016.

Liguori

In response to the Department's initial questionnaire dated November 6, 2015, Liguori submitted its section A response on December 4, 2015.[15] Liguori submitted its questionnaire response to the Department's sections B through D initial questionnaire on January 4, 6, and 12, 2016, respectively.[16]

Petitioners submitted comments on Liguori's response to the Department's sections A through D of the initial questionnaire on January 11, February 9, and February 17, 2016. On April 19, 2016, Petitioners submitted an additional comment letter on Liguori's response to the Department's supplemental questionnaire. On June 28, 2016, Petitioners submitted comments

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[9] *See Certain Pasta From Italy*: *Notice of Partial Rescission of Antidumping Duty Administrative Review*, 80 FR 80320 (December 24, 2015).
[10] *See* "Margins for Companies Not Selected for Individual Examination" section for further discussion of the derivation of the "non-selected rate."
[11] Information on the record indicates that Felicetti had shipments during the POR. Thus, Felicetti will be assigned the non-selected rate in this review. *See* Memorandum, titled "Felicetti Shipment," dated July 5, 2016 for additional detail.
[12] *See* Indalco's Initial Questionnaire Response (IQR) section A, dated November 10, 2015 (Indalco's AQR).
[13] *See* Indalco's IQR at sections B through D (BQR, CQR and DQR), dated December 14, 2015.
[14] Petitioners consist of New World Pasta Company, American Italian Pasta Company and Dakota Growers Pasta Company.
[15] *See* Liguori's Initial Questionnaire Response (IQR) section A, dated December 4, 2015 (Liguori's AQR).
[16] *See* Liguori's IQR at sections B through D (BQR, CQR and DQR), dated January 4, 6, and 12, 2016.

regarding the cost and sales verification minor corrections of Liguori,[17] to which the Department issued a reply letter on July 14, 2016.[18]

The Department issued several section A-D supplemental questionnaires to which Ligouri provided its responses on February 24, March 8, April 5, and May 16, 2016, respectively.[19]

From May 30, 2016, through June 17, 2016, we conducted cost and sales verifications of Indalco and Liguori.[20]

The Department previously found that Liguori and PAM are affiliated and calculated a margin for the consolidated entity.[21] In the instant review, Liguori reported that PAM ceased its operations as of October 24, 2014, and that PAM did not make any sales of subject merchandise to the United States during the POR.[22] We intend to follow-up with CBP concerning Liguori's statement subsequent to these preliminary results and to allow interested parties an opportunity to comment on any information received from CBP. Therefore, for purposes of these preliminary results, we have preliminarily assigned PAM the same rate as Liguori, rather than making a preliminary no shipments determination with respect to PAM.

<u>Extension of Preliminary Results</u>

On March 17, 2016, the Department issued a memorandum extending the time period for issuing the preliminary results of the instant administrative review from April 7, 2016, to August 5, 2016.[23]

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[17] *See* Petitioners' letter titled "Objection to Liguori's Response Revisions Submitted at the Start of the Sales and Cost Verifications," dated June 28, 2016.
[18] *See* the Department's Letter titled, "Reply to Petitioners' June 27, 2016, Letter," dated July 14, 2016.
[19] *See* Liguori's first supplemental questionnaire response (1st SQR), dated February 24, 2016; *see also* Liguori's second supplemental questionnaire response (2nd SQR), dated March 8, 2016, Liguori's 3rd supplemental questionnaire response (3rd SQR), dated April 5, 2016, and Liguori's 4th supplemental questionnaire response (4th SQR), dated May 16, 2016.
[20] *See* Memorandum to the File titled, "Verification of the Cost and Sales Response of Industria Alimentare Colavita S.p.A. (Indalco) in the Antidumping Administrative Review of Certain Pasta from Italy," dated July 22, 2016; *see also* Memorandum titled, "Verification of the Cost and Sales Response of Liguori Pastificio dal 1820 S.p.A. (Liguori) in the Antidumping Administrative Review of Certain Pasta from Italy," dated July 20, 2016.
[21] *See, e.g.*, *Notice Of Preliminary Results And Partial Rescission Of Antidumping Duty Administrative Review And Intent To Revoke The Antidumping Duty Order In Part*, 66 FR 34414 (June 28, 2001) unchanged in *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).
[22] *See* Liguori's AQR at 2.
[23] *See* Memorandum, titled "Certain Pasta from Italy: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated March 17, 2016.

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 (EU) authorized body and accompanied by a National Organic Program import certificate for organic products.[24] Effective July 1, 2008, gluten free pasta is also excluded from this order.[25]

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.

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.

Indalco reported the invoice date as the date of sale, except for sales where shipment date preceded invoice date, in which Indalco reported the shipment date as date of sale,[26] in accordance with the Department's practice.[27] Liguori reported the date it issued its shipment documents (or bolla) as the date of sale for both markets. Bolla is the date where the quantity,

[24] 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.
[25] *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).
[26] *See* Memorandum titled "Sales and Cost Analysis Memorandum for the Preliminary Results – Indalco" (Indalco Preliminary Results Sales and Cost Analysis Memorandum), dated concurrently with this memorandum; *see also* Indalco's BQR and CQR at page B-17 and C-12, respectively; *see also* Memorandum titled "Sales and Cost Analysis Memorandum for the Preliminary Results – Liguori" (Liguori Preliminary Results Sales and Cost Analysis Memorandum), dated concurrently with this memorandum; *see also* Liguori's BQR at 9.
[27] S*ee, 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).

type and value of the order are finally fixed.[28] Thus, in these preliminary results we have used the dates of sale reported by the respondents in our margin calculations.

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 exported price (EP) to NV, as described in the "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 weighted-average dumping margins by comparing weighted-average normal values to weighted-average export prices (or constructed export prices) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values with the export prices (or constructed export prices) of individual sales (*i.e.*, the average-to-transaction 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 less-than-fair-value investigations.[29]

In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.[30] The Department

[28] *See* Liguori's AQR at 20-21.
[29] *See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012) and the accompanying Issues and Decision Memorandum at comment 1; *see also Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (Ct. Int'l Trade 2014).
[30] *See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or

finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will 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 average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer codes for Indalco and Liguori.[31] Regions are defined using the reported destination codes (*i.e.*, state codes for Indalco and zip codes for Liguori) and 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 and NV for the individual dumping margins.

In the first stage of the differential pricing 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 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

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Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value, 80 FR 61362 (October 13, 2015).

[31] Indalco reported one customer code in its U.S. sales database, as all of its sales during the POR were made to Colavita U.S.A. Liguori did not use multiple customer codes for the same customer.

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 differential pricing 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 differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

<u>Results of the Differential Pricing Analysis</u>

For Indalco, based on the results of the differential pricing analysis, the Department preliminarily finds that 23.79 percent of Indalco's U.S. sales passed the Cohen's *d* test,[32] and does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the average-to-average method. Accordingly, the Department preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Indalco.

For Liguori, based on the results of the differential pricing analysis, the Department preliminarily finds that 74.37 percent of the value of U.S. sales pass the Cohen's *d* test,[33] and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method

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[32] *See* Indalco Preliminary Results Sales and Cost Analysis Memorandum for further details.
[33] *See* Ligouri Preliminary Results Sales and Cost Analysis Memorandum for further details.

cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, the Department is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Liguori.

Export Price

For Indalco and Liguori'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 Indalco and for Liguori, in accordance with section 772(c)(2)(A) of the Act, we made deductions, where appropriate, for movement expenses, 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.

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 Indalco and Liguori'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 Indalco and Liguori's aggregate volume of home market sales of the foreign like product was greater than five percent of their aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable.[34] Moreover, there is no evidence on the record supporting a particular market situation in the exporting companies' 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).[35] Substantial differences in selling activities are a necessary, but not sufficient, condition for

[34] *See* Indalco's AQR at 2 and Exhibit A.1; *see* also Liguori's AQR at 3 and Exhibit A-1.
[35] *See* 19 CFR 351.412(c)(2).

determining that there is a difference in the stages of marketing.[36] 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 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.[37] 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.[38]

In this administrative review, we obtained information from the respondents, Indalco and Liguori, 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.

Indalco reported two channels of distribution for sales in the comparison market and one channel of distribution in the U.S. market in which all sales were EP sales.[39] Indalco reported that it provides fewer, and less intensive, selling functions for sales to its single channel of distribution in the United States as compared to its two channels of distribution in for its sales in Italy.[40] However, Indalco is unable to quantify a LOT adjustment between the different LOTs existing in the U.S. and home markets. Indalco'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.[41] Consequently, for Indalco 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. Accordingly, we did not make an LOT adjustment under section 773(a)(7)(A) of the

[36] *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*).
[37] *See Micron Technology Inc. v. United States*, 243 F.3d 1301, 1314-1315 (Fed. Cir. 2001).
[38] *See Plate from South Africa*, 62 FR at 61732-33.
[39] *S*ee Indalco's AQR at 11-13 and Exhibit A.1.
[40] *Id.*, at 15-16.
[41] *Id.*, at Exhibit A.5; *see also* CQR at page C-17.

Act and 19 CFR 351.412(e) because we preliminarily find that there was only one comparison market LOT and one U.S. LOT, and both the NV and EP sales were made at the same LOT.[42]

Liguori reported two channels of distribution for sales in the comparison market and in the U.S. market in which all sales were EP sales.[43] Liguori claimed that it provides fewer, and less intensive, selling functions for sales to both channels of distribution in the United States as compared to Liguori's sales in Italy.[44] However, Liguori is unable to quantify a LOT adjustment between the different LOTs existing in the U.S. and home markets. Accordingly, we did not make an LOT adjustment under section 773(a)(7)(A) of the Act and 19 CFR 351.412(e) because we preliminarily find that there was only one comparison market LOT and one U.S. LOT, and both the NV and EP sales were made at the same LOT.[45]

C. Sales to Affiliated Customers

We exclude comparison market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because we consider them to be outside the ordinary course of trade.[46] Consistent with 19 CFR 351.403(c) and (d) and our practice, "the Department may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm's length."[47] To test if sales to affiliates were made at arm's-length prices, we compare, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all direct selling expenses, billing adjustments, discounts, rebates, movement charges, and packing (arm's-length test). Where prices to the affiliated party are, on average, within a range of 98-to-102 percent of the price of identical or comparable merchandise to the unaffiliated parties, we determine that the sales made to the affiliated party are at arm's length.[48]

We preliminarily find that Indalco and Liguori made no sales to any affiliated customers during the POR. Accordingly, we did not apply the arm's-length test for these preliminary results.

D. Cost of Production Analysis

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), Public Law No. 114-27, which made numerous amendments to United States antidumping and countervailing law, including amendments to section 773(b)(2)(A) of the Act.[49] The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments to section 771(7) of the act, which relate to determinations of material injury by the International

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[42] *See* Indalco Preliminary Results Sales and Cost Analysis Memorandum for further details.
[43] *S*ee Liguori's AQR at 11-13.
[44] *Id.*, at 19.
[45] *See* Liguori Preliminary Results Sales and Cost Analysis Memorandum for further details.
[46] *See* 19 CFR 351.403(c).
[47] *See China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003).
[48] *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194 (November 15, 2002).
[49] *See Trade Preferences Extension Act of 2015*, Pub. L. 114-27, 129 Stat. 362 (2015) (TPEA).

Trade Commission.[50] Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request CV and cost of production (COP) information from respondent companies in all antidumping proceedings.[51] Because these amendments apply to this review, the Department requested this information from Indalco and Liguori.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses and interest expenses.[52] We relied on the COP data submitted by Indalco and Liguori. We examined the cost data and determined that our quarterly cost methodology is not warranted in this review. Therefore, we have applied our standard methodology of using annual costs based on the reported data of Indalco and Liguori.[53]

2. 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, where appropriate.[54]

3. Results of COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(1)(A) and (b)(2)(C)(i) of the Act, where less than 20 percent of respondent's comparison market sales of a given product are at prices less than the COP, we did not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made in "substantial quantities" within an extended period of time. Where 20 percent or more of a respondent's comparison market sales of a given product are at prices below the COP, we disregard the below-cost sales when: 1) they are made within an extended period of time in substantial quantities, in

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[50] *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).
[51] *Id*., at 46794-95.
[52] *See* "Test of Comparison Market Sales Prices" section below for treatment of comparison market selling expenses.
[53] *See* Indalco Preliminary Results Sales and Cost Analysis Memorandum; *see also* Liguori Preliminary Results Sales and Cost Analysis Memorandum.
[54] *See* Indalco Preliminary Results Sales and Cost Analysis Memorandum; *see also* Liguori Preliminary Results Sales and Cost Analysis Memorandum.

accordance with sections 773(b)(2)(B) and (C)(i) of the Act, and 2) they are at prices which would not permit the recovery of all costs within a reasonable period of time based on our comparison of prices to the weighted-average COPs for the POR, in accordance with sections 773(b)(1)(B) and (b)(2)(D) of the Act.

Our cost tests indicate that Indalco and Liguori 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.[55] Thus, in accordance with section 773(b)(1) of the Act, we disregarded certain below-cost sales and used the remaining above-cost sales to determine NV.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV for Indalco and Liguori based on the reported packed, ex-factory, or delivered prices to comparison market customers. We made deductions from the starting price, where appropriate, for billing adjustments and inland freight, pursuant to 19 CFR 351.401(c) and section 773(a)(6)(B)(ii) of the Act.[56]

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), we made, where appropriate, circumstance-of-sale adjustments (*i.e.*, credit and commissions). We added U.S. packing costs and deducted comparison market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign-like product and subject merchandise.[57] For detailed information on the calculation of NV, *see* the Indalco and Liguori Preliminary Sales and Cost Analysis Memoranda.

F. Price-to-CV Comparison

Where we were unable to find a comparison market match of identical or similar merchandise, in accordance with section 773(a)(4) of the Act, we based NV on CV. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

G. Constructed Value

In accordance with section 773(e) of the Act, and where applicable, we calculated CV based on the sum of Indalco and Liguori's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the

[55] *See* Indalco Preliminary Results Sales and Cost Analysis Memorandum; *see also* Liguori Preliminary Results Sales and Cost Analysis Memorandum.
[56] *See* Indalco Preliminary Results Sales and Cost Analysis Memorandum; *see also* Liguori Preliminary Results Sales and Cost Analysis Memorandum.
[57] *See* 19 CFR 351.411(b).

"Cost of Production" section of this memorandum. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Indalco and Liguori in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

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 margins for selected respondents, excluding margins that are zero, *de minimis*, or based entirely on facts available.[58]

In this review, we calculated a weighted-average dumping margin of 2.14 percent for Indalco and 5.74 percent for Liguori for the period July 1, 2014, through June 30, 2015. Therefore, in accordance with section 735(c)(5)(A) of the Act, the Department assigned the weighted-average of these two calculated weighted-average dumping margins, 3.19 percent, to the 19 non-selected companies in these preliminary results, as referenced above.[59]

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.[60]

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[58] *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.
[59] *See* Memorandum to the File titled, "Certain Pasta from Italy: Margin for Respondents Not Selected for Individual Examination," dated concurrently with this memorandum.
[60] The exchange rates are available on the Enforcement and Compliance website at http://enforcement.trade.gov/exchange/index.html.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

Agree ✓ Disagree ______

Ronald K. Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

August 5, 2016
(Date)