



A-475-835
Investigation
Public Document
AD/CVD Ops VI: EAA

DATE: January 26, 2017

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

FROM: Gary Taverman
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Less-Than-Fair-Value Investigation of Finished Carbon Steel
Flanges from Italy

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that finished carbon steel flanges from Italy are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On June 30, 2016, the Department received an antidumping duty (AD) petition covering imports of finished carbon steel flanges from Italy,¹ which was filed in proper form by Weldbend

¹ See Petitions for the Imposition of Antidumping Duties on Imports of Finished Carbon Steel Flanges from India, Italy and Spain and Countervailing Duties on Imports from India, dated June 30, 2016 (the Petition).



Corporation and Boltex Manufacturing Co., L.P. (collectively, the petitioners). The Department initiated this investigation on July 20, 2016.²

In the *Initiation Notice*, the Department stated that, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for certain of the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.³ Accordingly, on August 3, 2016, the Department released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.⁴ On August 10, 2016, we received such comments from the petitioners. No parties filed rebuttal comments.

Also in the *Initiation Notice*, the Department notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of the merchandise under investigation to be reported in response to the Department's AD questionnaire.⁵ We did not receive any scope comments but, on September 21 and 22, 2016, we did receive comments from interested parties in this and/or the companion AD investigations regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. We received no rebuttal comments on this matter.

On August 19, 2016, the U.S. International Trade Commission (ITC) preliminarily determined that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of finished carbon steel flanges from Italy.⁶

On September 16, 2016, the Department limited the number of respondents selected for individual examination to the two largest publicly identifiable producers/exporters of the subject merchandise by volume, Metalfar Prodotti Industriali S.p.A. (Metalfar) and Officine Ambrogio Melesi & C. S.r.l. (Melesi).⁷ Accordingly, we selected Metalfar and Melesi as mandatory respondents in this investigation and issued the AD questionnaire to them.⁸

On October 31, 2016, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended until 190 days after the date of initiation.⁹ Based

² See *Finished Carbon Steel Flanges from India, Italy, and Spain: Initiation of Less-Than-Fair-Value Investigations*, 81 FR 49619 (July 28, 2016) (*Initiation Notice*).

³ *Id.*, at 49623.

⁴ See Memorandum to the File from Moses Song, International Trade Compliance Analyst, regarding, "Finished Carbon Steel Flanges from Italy: Release of U.S. Customs and Border Protection Import Data," dated August 3, 2016.

⁵ See *Initiation Notice*, 81 FR at 49620-49621.

⁶ See *Finished Carbon Steel Flanges from India, Italy, and Spain; Determinations*, 81 FR 55482 (August 19, 2016).

⁷ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Respondent Selection for the Antidumping Duty Investigation of Finished Carbon Steel Flanges from Italy," dated September 16, 2016.

⁸ *Id.*

⁹ See Letter from the petitioners, regarding "Finished Carbon Steel Flanges from Italy: Request to Postpone Preliminary Determination," dated October 31, 2016.

on the request, the Department published a postponement of the preliminary determination until no later than January 26, 2017.¹⁰

We are conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is April 1, 2015, through March 31, 2016. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the Petition, which was June 2016.¹¹

IV. SCOPE OF THE INVESTIGATION

The product covered by this investigation is finished carbon steel flanges from Italy. For a full description of the scope of this investigation, *see* the accompanying preliminary determination *Federal Register* notice of this investigation at Appendix I.

V. SCOPE COMMENTS

In accordance with the preamble to the Department's regulations,¹² the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).¹³ We received no comments from interested parties regarding the scope of the investigation as it appeared in the *Initiation Notice*. The scope published in the *Initiation Notice* contained several typographical errors, which have been corrected in Appendix I of the accompanying preliminary determination *Federal Register* notice of this investigation.

VI. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

On January 18, 2017, Melesi requested that in the event of an affirmative preliminary determination, the Department postpone the final determination, and that provisional measures be extended pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(e).¹⁴

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the Melesi's request and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*, and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

¹⁰ See *Finished Carbon Steel Flanges from India, Italy, Spain: Postponement of Preliminary Determinations of the Less-Than-Fair-Value Investigations*, 81 FR 84554 (November 23, 2016).

¹¹ See 19 CFR 351.204(b)(1).

¹² See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

¹³ See *Initiation Notice*, 81 FR at 49621.

¹⁴ See Melesi's Final Determination Extension Request.

VII. AFFILIATIONS AND COLLAPSING OF AFFILIATES

Based on an analysis of company responses, we preliminarily determine that Melesi and ASFO are affiliated, pursuant to section 771(33)(E) of the Act.¹⁵ We further determine that these companies should be collapsed and treated as a single entity pursuant to the provisions of 19 CFR 351.401(f).¹⁶ This finding is based in part on the determination that Melesi and ASFO have production facilities for similar or identical products that would not require substantial retooling in order to restructure manufacturing priorities, pursuant to 19 CFR 351.401(f)(1). Additionally, this finding is based on the significant common ownership between Melesi and ASFO, the fact that Melesi's chief executive officer serves on ASFO's board of directors, and the level of intertwined operations (in particular, a significant amount of transactions of foreign like product during the POI) between the two companies. For additional business proprietary detail regarding the Department's collapsing analysis, *see* the Collapsing Memorandum.

VIII. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCE

A. Application of Facts Available

Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that, if necessary information is not available on the record, or (A) an interested party withholds information requested by the Department; (B) fails to provide such information by the deadlines for submission of the information, or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act states that the Department shall consider the ability of an interested party to provide information upon a prompt notification by that party that it is unable to submit the information in the form and manner required, a full explanation for the difficulty, and a suggested alternative form in which the party is able to provide the information. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Finally, where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily

¹⁵ *See* Memorandum from Moses Song, International Trade Compliance Analysis, Office VI, to Scot Fullerton, Director, Office VI, entitled "Less-Than-Fair-Value Investigation of Finished Carbon Steel Flanges from Italy: Affiliation and Collapsing Memorandum for Officine Ambrogio Melesi & C. S.r.l." dated concurrently with this memorandum (Collapsing Memorandum).

¹⁶ We refer to the single entity as Melesi throughout the remainder of this document.

explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

A. Metalfar

Metalfar submitted timely responses to the Department's AD questionnaire (sections A-D) from October 21, 2016, through November 14, 2016, and, based on those responses, the Department issued an AD questionnaire to Metalfar's U.S. affiliate, ITEX Piping Products, LLC (ITEX). Metalfar filed timely responses to sections A and C of the questionnaire on behalf of ITEX on November 30, 2016. We then issued supplemental questionnaires to Metalfar regarding its responses to sections A, B and D of the questionnaire. Metalfar did not file responses to the supplemental questionnaires. The supplemental questionnaires cited numerous deficiencies in Metalfar's original response, including Metalfar's failure to report certain home-market sales and its failure to provide complete cost reconciliations.¹⁷ Two of these questionnaires, issued on November 28 (for section D) and 30 (for section A), 2016, had due dates of December 12, 2016, for the questionnaire responses. On December 8, 2016, we issued a third supplemental questionnaire for section B, for which the response was due on December 15, 2016. Metalfar did not file responses or extension requests for any of these supplemental questionnaires. As a result, we preliminarily find that necessary information is not available on the record of this investigation, that Metalfar withheld information requested by the Department, that Metalfar failed to provide the information by the specified deadlines in the form and manner requested, and that Metalfar significantly impeded the proceeding. Moreover, because the information that Metalfar did timely submit is too incomplete to serve as a reliable basis for reaching the applicable determination and because (as explained below) we find that Metalfar has failed to act to the best of its ability, we are disregarding all of Metalfar's responses pursuant to section 782(d) and section 782(e) of the Act. Accordingly, pursuant to sections 776(a)(1) and 776(a)(2)(A)-(C) of the Act, we are relying upon facts otherwise available to determine the estimated weighted-average dumping margin for Metalfar.

B. Melesi

Because we preliminarily find that Melesi and ASFO should be treated as a single entity for the preliminary determination, we examined the questionnaire responses provided by both companies.

Melesi submitted timely responses to the Department's AD questionnaire (sections A-D) from October 20, 2016, through November 14, 2016. Based on those responses, the Department issued an AD questionnaire to Melesi's home-market affiliate, ASFO S.p.A. (ASFO), on November 2, 2016. ASFO timely filed responses to portions of the sections A, B, and D questionnaire on November 29, 2016. We issued supplemental questionnaires to Melesi, which filed timely responses to those questionnaires from December 14, 2016, through January 4, 2017.

In the cover letter of the AD questionnaire issued to ASFO, the Department stated that ASFO

¹⁷ With respect to the deficiencies, *see* Metalfar's response to section B of the antidumping duty questionnaire, dated November 8, 2016, page 4, and its response to section D of the questionnaire, dated November 14, 2016, pages 23-25 and exhibits D-8 and D-9.

was required to respond to each question in the questionnaire and, in the event that ASFO required an extension of time to respond to any portion of the questionnaire, instructed ASFO to submit a written request for an extension of time to respond.¹⁸ The Department explained that any extension request must be in writing and comply with 19 CFR 351.302(c).¹⁹ The Department explicitly explained that “{s}tatements included within a questionnaire response regarding a respondent’s ongoing efforts to collect part of the requested information, and promises to supply such missing information when available in the future, do not substitute for a written extension request.”²⁰ Further, the Department cautioned that “failure to properly request extensions for all or part of a questionnaire response may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.”²¹

On November 29, 2016, rather than submitting a response to each question in the Department’s AD questionnaire or requesting an extension for additional time to respond completely, ASFO submitted a partial response and explained that it had not been able to prepare the cost reconciliation requested in questions III.B.1 through III.B.5 of the section D portion of the AD questionnaire by the response deadline and that it would “make it available to the Department and the other parties as soon as possible.”²² ASFO’s response was not accompanied by the requisite extension request. Furthermore, despite ASFO’s statements that it would provide the information “as soon as possible,” ASFO never even attempted to file the reconciliations with the Department.

The Department has explained that “the cost reconciliation represents the starting point of the cost verification because it assures the Department that the respondent has accounted for all costs before allocating those costs to individual products.”²³ ASFO’s failure to submit the requested reconciliation prevented the Department from determining the company’s total cost of manufacturing products during the POI, as well as the portion of those manufacturing costs attributable to the merchandise under consideration. Moreover, because the Department is unable to determine ASFO’s total cost of manufacturing for the merchandise under consideration during the POI, the Department is unable to determine whether the summation of ASFO’s per-unit costs captures their applicable portion of ASFO’s total manufacturing costs during the POI. And because the Department is unable to analyze ASFO’s per-unit costs, the Department is unable to determine whether ASFO’s home-market sales were made above their respective cost of production so that such home-market sales can serve as a potential source for normal value.²⁴ Thus, we find that necessary information is missing from the record and that ASFO (as part of the collapsed Melesi entity) failed to submit the requested cost reconciliation by the deadline for submission, withheld information requested of it, and significantly impeded the Department’s

¹⁸ See Letter from the Department to ASFO, dated November 2, 2016.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² See ASFO’s response to section D of the AD questionnaire, dated November 29, 2016, D-23 (where ASFO stated that it would continue to work on the reconciliation and submit it as soon as possible).

²³ See *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006) (*Lined Paper Products from India*) and accompanying Issues and Decision Memorandum at Comment 14.

²⁴ See section 773(b) of the Act.

ability to analyze ASFO's submitted costs within the meaning of sections 776(a)(1) and (2)(A)-(C) of the Act.

As explained above, ASFO failed to respond to the Department's request for a cost reconciliation and, instead, indicated in the narrative portion of its questionnaire response that it had been unable to complete the reconciliation by the response due date. When the Department determines that a questionnaire response is deficient, section 782(d) of the Act requires the Department to "inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency." However, in this case, there was no "deficient" cost reconciliation. Rather, there was no cost reconciliation provided at all. ASFO itself acknowledged that it provided no cost reconciliation. Furthermore, ASFO did not promptly notify the Department of any difficulty in completing the cost reconciliation prior to the deadline, together with a full explanation and suggested alternative forms in which ASFO was able to submit the information, pursuant to section 782(c) of the Act.

Without the cost reconciliation, we find that the information that ASFO provided is too incomplete to serve as a reliable basis for reaching a determination under section 782(e) of the Act. In particular, as explained above, the Department has no reliable cost of production information with which to conduct an analysis.²⁵ The Department has previously found that failure to provide a cost reconciliation warrants use of total adverse facts available (AFA).²⁶ Additionally, the Court has recognized that, because cost information is essential for multiple calculations, "cost information is a vital part of {the Department's} dumping analysis."²⁷ Based on the foregoing, we are relying entirely upon facts otherwise available to determine the estimated weighted-average dumping margin for the collapsed entity in this investigation.

B. Use of Adverse Inference

Section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting the facts otherwise available.²⁸ In doing so, the Department is not required to determine, or make any

²⁵ See *Lined Paper Products from India*, 71 FR 45012, and accompanying Issues and Decision Memorandum at Comment 14 (and stating that "without a reliable overall cost reconciliation, and a clear explanation of Navneet's product cost calculation method in the normal course of business and reported costs prior to the verification, the Department is unable to proceed with the verification and, as a result, Navneet's submitted information was unverifiable.").

²⁶ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Prestressed Concrete Steel Wire Strand from Mexico*, 68 FR 68350 (December 8, 2003), and accompanying Issues and Decision Memorandum at Comment 6 (noting that "the Department's practice has been to reject a respondent's submitted information in total when flawed and unreliable cost data renders any price-to-price comparison impossible") and *Lined Paper Products from India*, 71 FR 45012, and accompanying Issues and Decision Memorandum at Comment 14 (applying total AFA).

²⁷ See *Mukand, Ltd. v. United States*, Court No. 11-00401, Slip Op. 13-41 (CIT March 25, 2013), at 15, *aff'd*, *Mukand Ltd. v. United States*, 767 F.3d 1300 (Fed. Cir. 2014).

²⁸ See also 19 CFR 351.308(a); see also *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002).

adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.²⁹ In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) explains that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”³⁰ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.³¹ It is the Department’s practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.³²

We preliminarily find that Metalfar and the collapsed Melesi entity have not acted to the best of their ability to comply with the Department’s requests for information. In the case of Metalfar, it failed to respond or to request an extension to respond to the supplemental questionnaires we issued for sections A, B, and D. In the case of the collapsed Melesi entity, it failed to provide or to request an extension to provide the requested cost reconciliation required to verify the accuracy of the company’s reported total cost reporting during the POI.³³ Accordingly, the Department concludes that both Metalfar and Melesi failed to cooperate to the best of their ability to comply with requests for information by the Department. Based on the above, in accordance with section 776(b) of the Act and 19 CFR 351.308(a), the Department preliminarily determines to use an adverse inference when selecting from among the facts otherwise available.³⁴

²⁹ See section 776(b)(1)(B) of the Act.

³⁰ See H.R. Doc. 103-316, Vol. 1 (1994) at 870; *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

³¹ See, e.g., *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003); *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); *Preamble*, 62 FR at 27340.

³² See, e.g., *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670 (December 31, 2013), and accompanying Issues and Decision Memorandum at page 4, unchanged in *Steel Threaded Rod From Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476 (March 14, 2014).

³³ See *Light-Walled Rectangular Pipe and Tube From Turkey: Notice of Final Determination of Sales at Less Than Fair Value*, 69 FR 53675 (September 2, 2004), and accompanying Issues and Decision Memorandum at Comment 11 (“In determining whether a collapsed entity cooperated to the best of its ability, the Department reviews all components that constitute the collapsed entity. In the current case, even if Ozborusan/Onur had provided complete and accurate responses, the remaining two components of the collapsed entity did not. Therefore, in this hypothetical situation, the Department would have continued to apply total AFA to the collapsed entity, including Ozborusan/Onur.”).

³⁴ See, e.g., *Non-Oriented Electrical Steel from Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 29423 (May 22, 2014), and accompanying Preliminary Decision Memorandum at pages 7-11, unchanged in *Non-Oriented Electrical Steel from Germany, Japan, the People’s Republic of China, and Sweden: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 61609 (October 14, 2014); see also *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR at 42985, 42986 (July 12, 2000) (where the Department applied total adverse facts available when the respondent failed to respond to the antidumping questionnaire).

C. Preliminary Estimated Weighted-Average Dumping Margins Based on AFA

Section 776(b)(2) of the Act states that the Department, when employing an adverse inference, may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.³⁵ In selecting a rate based on AFA, the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.³⁶ The Department's practice is to select, as an AFA rate, the higher of: (1) the highest dumping margin alleged in the petition, or (2) the highest calculated rate of any respondent in the investigation.³⁷

With respect to Italy, the petitioners calculated three dumping margins in the Petition and related filings.³⁸ These margins ranged from 15.76 percent to 204.53 percent. No rate was calculated in the instant investigation for an individually examined respondent, as Metalfar and Melesi represent the only two mandatory respondents. Thus, consistent with our practice, we have selected the highest dumping margin for merchandise from Italy alleged in the Petition as the AFA rate applicable to Metalfar and Melesi.³⁹

D. Corroboration of Secondary Information

When using facts otherwise available, section 776(c) of the Act provides that in general, where the Department relies on secondary information (such as a rate from the petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination from the LTFV investigation concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.⁴⁰ The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value.⁴¹ To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance

³⁵ See also 19 CFR 351.308(c).

³⁶ See SAA at 870.

³⁷ See *Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093 (May 30, 2014), and accompanying Issues and Decision Memorandum.

³⁸ See the Petition at Volume III; see also Letter from the petitioners to the Department, regarding "Finished Carbon Steel Flanges from Italy: Second Supplemental Questionnaire Response," dated July 13, 2016; see also the Italy Initiation Checklist, dated July 20, 2016 (Italy Initiation Checklist).

³⁹ See *Certain Polyethylene Terephthalate Resin from India: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 13327 (March 14, 2016), and accompanying Issues and Decision Memorandum at Comment 14 (*PET Resin from India Final Determination*).

⁴⁰ See SAA at 870.

⁴¹ *Id.*; see also 19 CFR 351.308(d).

of the information to be used.⁴² Further, under the Trade Preferences Extension Act of 2015,⁴³ the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.⁴⁴

Because the AFA rate determined for Metalfar and Melesi is derived from a rate in the Petition and, consequently, based upon secondary information, the Department must corroborate the rate to the extent practicable.

We determined that the highest Petition margin of 204.53 percent is reliable where, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petition during our pre-initiation analysis.⁴⁵ As set forth below, for purposes of this preliminary determination, we again find that the highest Petition margin of 204.53 percent is reliable.

We examined evidence supporting the calculations in the Petition for Italy to determine the probative value of the dumping margins alleged in this petition for use as AFA for purposes of this preliminary determination. During our pre-initiation analysis, we also examined the key elements of the export price and normal value calculations, and the alleged dumping margins.⁴⁶ During our pre-initiation analysis, we also examined information from various independent sources provided either in the Petition for Italy or, on our request, in the supplements to the Petition that corroborates key elements of the export price and normal value calculations used in the Petition to derive the dumping margins alleged in the Petition.⁴⁷ Because Metalfar and Melesi failed to provide information that the Department requested in its initial and supplemental questionnaires, the factual information in the Petition for Italy and supporting documents are the only reliable information on the record on the issue of dumping.

Our examination of the information is discussed in detail in the Italy Initiation Checklist, where we considered the petitioners’ export price and normal value calculations to be reliable after recalculation.⁴⁸ We confirmed the accuracy and validity of the information underlying the derivation of the dumping margins alleged in the Petition for Italy by examining source documents and an affidavit, as well as publicly available information. We obtained no other information that calls into question the validity of the sources of information or the validity of the information supporting the export price and normal value calculations provided in the Petition. Therefore, we preliminarily determine that the highest dumping margin alleged in the

⁴² See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

⁴³ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015)

⁴⁴ See sections 776(d)(3)(A) and (B) of the Act.

⁴⁵ See Italy Initiation Checklist.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

Petition of 204.53 percent is reliable for purposes of this investigation.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether there are circumstances that would render a rate not relevant. In accordance with section 776(d)(3) of the Act, when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party. Because there are no other participating cooperative respondents in this investigation, we relied upon the dumping margins alleged in the Petition, which is the only information regarding the finished carbon steel flanges industry on the record.⁴⁹ In calculating normal value, the petitioners relied on both home-market price quotes and constructed value, basing the cost of manufacture on the input factors of production from Boltex (adjusted for known differences between the Italian and U.S. finished carbon steel flanges industries during the POI) and valuing factors of production (including labor and electricity) using publicly available data on costs specific to Italy and contemporaneous with the POI.⁵⁰ The petitioners relied on audited financial statements of an Italian producer of comparable merchandise to determine fixed overhead, selling, general and administrative expenses, and profit rate.⁵¹ In calculating export price, the petitioners relied on the average unit values of entries of finished carbon steel flanges from Italy under HTSUS subheadings reflecting the importation of finished carbon steel flanges into the United States. The petitioners deducted foreign inland freight and foreign brokerage and handling expenses derived from the World Bank’s *Doing Business, Economy Profile 2015, Italy*, Google Maps, and Import Genius.⁵² Based on this information, we preliminarily determine that the highest dumping margin alleged in the Petition is relevant.

Accordingly, the Department preliminarily determines that the highest dumping margin alleged in the Petition for Italy has probative value and has corroborated the AFA rate of 204.53 percent to the extent practicable within the meaning of section 776(c) of the Act by demonstrating that the rate: (1) was determined to be reliable in the pre-initiation stage of this investigation (and we have no information indicating otherwise); and (2) is relevant.⁵³

⁴⁹ See *KYD, Inc. v. United States*, 607 F.3d 760, 765 (Fed. Cir. 2010) (agreeing with the Department that price quotes and third-party affidavits used in the petition to calculate estimated margins were independent information not requiring additional corroboration and stating that “{t}he relevant inquiry focuses on the nature of the information, not on whether the source of the information was referenced in or included with the petition”).

⁵⁰ See Volume III of the Petition, at 6.

⁵¹ *Id.*

⁵² *Id.*, at 2-7.

⁵³ See section 776(c) of the Act and 19 CFR 351.308(c) and (d); *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People’s Republic of China*, 73 FR 35652, 35653 (June 24, 2008), and accompanying Issues and Decision Memorandum at Comment 1; see also the Italy Initiation Checklist (in which the Petition margin was recalculated for purposes of initiation).

IX. CALCULATION OF ALL-OTHERS RATE

Section 733(d)(1)(A)(ii) of the Act provides that, in the preliminary determination, the Department shall determine an estimated “all-others” rate for all exporters and producers not individually investigated, in accordance with section 735(c)(5) of the Act. Section 735(c)(5)(A) of the Act provides that the estimated “all-others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis*, or determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters.

As discussed above, Metalfar and Melesi are the only two respondents in this investigation and their estimated dumping margins are determined entirely under section 776 of the Act. Thus, consistent with our practice, we have preliminarily calculated the “all-others” rate applicable to entities not individually examined in the investigation of finished carbon steel flanges from Italy as the simple average of the three affirmative dumping margins (*i.e.*, 15.76 percent, 17.21 percent and 204.53 percent) pertaining to this product as provided in the Petition, which is 79.17 percent.⁵⁴

X. VERIFICATION

Because the mandatory respondents in this investigation did not provide necessary information requested by the Department, verifications will not be conducted.

⁵⁴ See *Certain Iron Mechanical Transfer Drive Components from Canada: Final Affirmative Determination of Sales at Less Than Fair Value*, 81 FR 75039 (October 28, 2016), and accompanying Issues and Decision Memorandum at Comment 2; *Certain Oil Country Tubular Goods from Thailand: Preliminary Determination of Sales at Less Than Fair Value, and Postponement of Final Determination*, 79 FR 10487 (February 25, 2014), and accompanying Preliminary Decision Memorandum, unchanged in *Certain Oil Country Tubular Goods from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 41978 (July 18, 2014).

XI. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

Agree

Disagree

1/26/2017

X *Ronald K. Lorentzen*

Signed by: RONALD LORENTZEN

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance