



A-475-818

Administrative Review

POR: 7/1/2017 – 6/30/2018

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September 6, 2019

**MEMORANDUM TO:** Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**RE:** Decision Memorandum for the Preliminary Results of the 2017-  
2018 Antidumping Duty Administrative Review: Certain Pasta  
from Italy

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## I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain pasta from Italy. The period of review (POR) is July 1, 2017 through June 30, 2018. The administrative review covers four producers/exporters of the subject merchandise. Commerce selected two respondents for individual examination: Ghigi 1870 S.p.A. (previously known as Ghigi Industria Agroalimentare Srl) (Ghigi) and Pasta Zara S.p.A. (Pasta Zara) (collectively Ghigi/Zara)<sup>1</sup> and Industria Alimentare Colavita S.p.A. (Indalco). We preliminarily determine that Ghigi/Zara made sales of subject merchandise at less than normal value (NV) during the POR and that Indalco did not make sales of subject merchandise at less than NV during the POR. We used the margin calculated for Ghigi/Zara as the basis of the margin assigned to firms that were not subject to individual review. The details of this finding are explained in the “Discussion of the Methodology” section below. The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

Interested parties are invited 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, unless extended, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

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<sup>1</sup> In the current review, we continue to treat Ghigi and Zara as a single entity. See *Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review; 2015–2016*, 82 FR 57428, (December 5, 2017), and accompanying Issues and Decision Memorandum (IDM) at Comment 3 (discussing Commerce’s determination to collapse Ghigi and Zara).



## II. BACKGROUND

On July 24, 1996, we published the *AD Order*<sup>2</sup> in the *Federal Register*. On July 3, 2018, we published a notice of opportunity to request an administrative review of the *AD Order*.<sup>3</sup> Pursuant to requests from interested parties, on September 10, 2018, we published the *Initiation Notice* in the *Federal Register*.<sup>4</sup> We initiated an administrative review of the following companies: Agritalia S.r.L. (Agritalia), Francesco Tamma S.p.A. (Tamma), Ghigi, Ghigi Industria Agroalimentare Srl (Ghigi Industria),<sup>5</sup> Zara, Indalco, La Molisana S.p.A. (La Molisana), and Tesa SrL (Tesa).<sup>6</sup>

On October 1, 2018, Tamma timely withdrew its request for a review. On November 9, 2018, La Molisana timely withdrew its request for a review. On February 20, 2019, we rescinded the administrative review with respect to Tamma and La Molisana.<sup>7</sup> As noted, we are conducting individual examinations of Ghigi/Zara and Indalco. For the remaining firms covered by this administrative review which were not selected for individual examination, we have assigned the weighted-average dumping margin calculated for Ghigi/Zara, 96.79 percent, to the non-selected companies, Agritalia and Tesa.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.<sup>8</sup> Commerce extended the time limit for the preliminary results on May 13, 2019, which fully extended the deadline until September 6, 2019.<sup>9</sup>

### *Ghigi/Zara*

On October 12, 2018, we issued the initial questionnaire to Ghigi/Zara, to which it submitted a section A response on November 16, 2018.<sup>10</sup> On December 10, 2018, Ghigi/Zara submitted its

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<sup>2</sup> See *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy*, 61 FR 38547 (July 24, 1996) (*AD Order*).

<sup>3</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 31121 (July 3, 2018).

<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 45596 (September 10, 2018) (*Initiation Notice*).

<sup>5</sup> Ghigi and Ghigi Industria were listed separately in the *Initiation Notice*. In the 2015-16 administrative review of this order, Commerce determined that Ghigi was formerly known as Ghigi Industria. See *Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review; 2015–2016*, 82 FR 57428 (December 5, 2017). Accordingly, we are conducting the review on Ghigi and intend to assess antidumping duties calculated for Ghigi to any entries made by Ghigi Industria during the POR.

<sup>6</sup> *Id.*

<sup>7</sup> See *Certain Pasta from Italy: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 84 FR 5055 (February 20, 2019).

<sup>8</sup> See Memorandum, “Deadlines Affected by the Partial Shutdown of the Federal Government,” dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

<sup>9</sup> See Memorandum, “Certain Pasta from Italy: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review; 2017/2018,” dated April 16, 2019.

<sup>10</sup> See Ghigi/Zara’s Letter, “Pasta from Italy Ghigi/Zara §§B,C,D response,” dated December 10, 2018 (Ghigi/Zara’s AQR). In Ghigi/Zara’s AQR, the two companies, consistent with Commerce’s finding in the prior review, responded as a collapsed entity.

response to sections B through D of the initial questionnaire.<sup>11</sup> On December 11, 2018, February 2, and February 13, 2019, the petitioners<sup>12</sup> submitted comments on Ghigi/Zara's responses to sections A through D of the initial questionnaire.<sup>13</sup> We issued several section A-D supplemental questionnaires to Ghigi/Zara, to which it provided responses on March 14, March 28, July 2, and July 5, 2019, respectively.<sup>14</sup> We verified the sales responses of Ghigi from June 5 through June 7, 2019 in Italy and verified the cost response of Zara from June 10 through 14, 2019, in Italy. We conducted a constructed export price (CEP) sales verification of Ghigi USA, in the United States from July 11 through July 12, 2019. On July 18, 2019, Ghigi/Zara filed post-verification comments.<sup>15</sup> On August 16, 2019, the petitioners filed pre-preliminary results comments concerning Ghigi/Zara.<sup>16</sup> On August 21, 2019, Ghigi/Zara rebutted the petitioners' pre-preliminary results comments.<sup>17</sup>

### *Indalco*

On October 12, 2018, we issued the initial questionnaire to Indalco, to which it submitted its section A response on November 2, 2018.<sup>18</sup> On December 14, 2018, Indalco submitted its questionnaire response to sections B through D of the initial questionnaire.<sup>19</sup> On January 29, 2019, the petitioners submitted comments on Indalco's section D response.<sup>20</sup> On February 1, 2019, the petitioners submitted comments on Indalco's section A-C response.<sup>21</sup> We issued several section A-D supplemental questionnaires to which Indalco provided its responses on December 14, 2018, March 27, 2019, April 4, 2019, and May 29, 2019.<sup>22</sup> We conducted

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<sup>11</sup> See Ghigi/Zara's Letter, "Pasta from Italy Ghigi/Zara B, C, D response," dated December 10, 2018 (Ghigi/Zara's BQR, CQR and DQR).

<sup>12</sup> The petitioners are the Dakota Growers Pasta Company, Riviana Foods (formerly, the New World Pasta Company), and Treehouse Foods (formerly, the American Italian Pasta Company).

<sup>13</sup> See Petitioners' Letters, "Certain Pasta from Italy – Petitioners' Comments on Ghigi/Zara Section A Response," dated December 11, 2018; "Certain Pasta from Italy – Petitioners' Comments on Ghigi/Zara Sections B-D Response," dated February 2, 2019; and "Certain Pasta from Italy – Petitioners' Comments on Ghigi/Zara Section D Response," dated February 13, 2019.

<sup>14</sup> See Ghigi/Zara's Letter, "First sections A-C supplemental questionnaire response," dated March 14, 2019; *see also* Ghigi/Zara's Letter, "Pasta from Italy Ghigi/Zara §D supplemental response," dated March 28, 2019; "Pasta from Italy Ghigi/Zara response to request for revised U.S. sales database," dated July 2, 2019; and "Pasta from Italy Ghigi/Zara response to request for revised U.S. sales database," dated July 5, 2019.

<sup>15</sup> See Ghigi/Zara's Letter, "Pasta from Italy Ghigi/GFI/Zara post-verification comments," dated July 18, 2019 (Ghigi Post-Verification Comments).

<sup>16</sup> See Petitioners' Letter, "Administrative Review of Certain Pasta from Italy – Petitioners' Comments on Preliminary Determination for Ghigi and Pasta Zara," dated August 16, 2019.

<sup>17</sup> See Ghigi/Zara's Letter, "Pasta from Italy – Ghigi/GFI/Zara response to petitioner's pre-preliminary comments," dated August 21, 2019.

<sup>18</sup> See Indalco's Letter, "Response to Section A of the Antidumping Questionnaire of Industria Alimentare Colavita S.p.A. (Indalco)," dated November 2, 2018 (Indalco's AQR).

<sup>19</sup> See Indalco's Letter, "Response to Sections B, C, and D of the Antidumping Questionnaire of Industria Alimentare Colavita S.p.A. (Indalco)," dated December 14, 2018 (Indalco's BQR, CQR and DQR).

<sup>20</sup> See Petitioners' letter, "Administrative Review of Certain Pasta from Italy – Petitioners' Comments on Indalco's Initial Section D Cost Response," dated January 29, 2019.

<sup>21</sup> See Petitioners' Letter, "Administrative Review of Certain Pasta from Italy – Petitioners' Comments on Indalco's A, B, and C Responses," dated February 1, 2019.

<sup>22</sup> See Indalco's Letter, "Response to Supplemental Section A of the Antidumping Questionnaire of Industria Alimentare Colavita S.p.A. (Indalco)," dated December 14, 2018 (Indalco's December 14, 2018 SQR); *see also*

verification of the sales response of Indalco from June 17 through June 19, 2019 in Italy, and a CEP sales verification of Colavita USA, in the United States from July 15 through July 16, 2019.<sup>23</sup> On August 15, 2019, the petitioners filed pre-preliminary results comments concerning Indalco.<sup>24</sup>

### III. SCOPE OF THE ORDER<sup>25</sup>

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 the scope of the order is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of this order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the Order.<sup>26</sup> Pursuant to Commerce's August 14, 2009, changed circumstances review, effective July 1, 2008, gluten free pasta is also excluded from the scope of the Order.<sup>27</sup> Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the Order.<sup>28</sup>

Also excluded are imports of organic pasta from Italy that are certified by an EU authorized body in accordance with the United States Department of Agriculture's National Organic Program for organic products. The organic pasta certification must be retained by exporters and importers and made available to U.S. Customs and Border Protection or the Department of Commerce upon request.

The merchandise subject to this order is currently classifiable under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the

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Indalco's Letter, "Second Supplemental Response, Part One (Sections B and D) of Industria Alimentare Colavita S.p.A. (Indalco)," dated March 27, 2019; Indalco's Letter, "Second Supplemental Response, Part Two (Section C) of Industria Alimentare Colavita S.p.A. (Indalco)," dated April 1, 2019; Indalco's Letter, "Addendum to Second Supplemental Response, Part Two (Section C) of Industria Alimentare Colavita S.p.A. (Indalco)," dated April 4, 2019; and Indalco's Letter, "Third Supplemental Response of Industria Alimentare Colavita S.p.A. (Indalco)," dated May 29, 2019.

<sup>23</sup> See Memorandum, "Verification of the Sales Response of Industria Alimentare Colavita S.p.A. (Indalco)," dated August 1, 2019 (Indalco Verification Report).

<sup>24</sup> See Petitioners' Letter, "Administrative Review of Certain Pasta from Italy – Petitioners' Pre-Preliminary Comments Concerning Indalco," dated August 15, 2019.

<sup>25</sup> See *Certain Pasta from Italy: Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews*, 82 FR 4291 (January 13, 2017).

<sup>26</sup> See Memorandum to Richard Moreland, dated August 25, 1997, which is on file in the Central Records Unit.

<sup>27</sup> See *Certain Pasta from Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part*, 74 FR 41120 (August 14, 2009).

<sup>28</sup> See *Certain Pasta from Italy: Final Results of Antidumping Duty and Countervailing Duty Changed Circumstances Reviews and Revocation, in Part*, 79 FR 58319, 58320 (September 29, 2014).

HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise subject to the order is dispositive.

## **IV. DISCUSSION OF METHODOLOGY**

### **A. 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 export price (EP) and CEP to NV, as described in the “Export Price/Constructed 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.

#### **1. Determination of Comparison Method**

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average normal values to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce 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 Commerce’s examination of this question in the context of administrative reviews, Commerce 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.<sup>29</sup>

In recent investigations, Commerce has 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.<sup>30</sup> Commerce 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. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce 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 CEPs) for comparable merchandise that differ significantly among

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<sup>29</sup> 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 accompanying IDM at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 2016-1789, 9-11 (Federal Circuit 2017); *Apex Frozen Foods Private Ltd. v. United States*, 144 F. Supp. 3d 1308 (Court of International Trade (CIT) 2016).

<sup>30</sup> 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 *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 Ghigi/Zara and consolidated customer codes for Indalco. Regions are defined using the reported destination codes (*i.e.*, zip codes for Ghigi/Zara and Indalco) 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 Commerce uses in making comparisons between EP (or CEP) 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* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period 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 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 (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that passes the Cohen’s *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average 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 average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average 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 average-to-average 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, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative comparison 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 average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison 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 average-to-average 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.<sup>31</sup>

## 2. Results of the Differential Pricing Analysis

For Ghigi/Zara, based on the results of the differential pricing analysis, Commerce preliminarily finds that 28.52 percent of the value of U.S. sales pass the Cohen's *d* test, 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, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Ghigi/Zara.

For Indalco, based on the results of the differential pricing analysis, Commerce preliminarily finds that 89.69 percent of the value of U.S. sales pass the Cohen's *d* test, and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Indalco.<sup>32</sup>

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<sup>31</sup> The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 862 F. 3d 1322 (Fed. Cir. July 12, 2017) affirmed much of Commerce's differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

<sup>32</sup> *Id.*

## **B. Product Comparisons**

In accordance with section 771(16) of the Act, we compared products produced by Ghigi/Zara and Indalco sold in the U.S. and comparison markets on the basis of the comparison product, which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. When making this comparison, we considered all products sold in the home market as described in the “Scope of the Order” section of this notice, above (*i.e.*, the foreign like product), that were in the ordinary course of trade for purposes of determining an appropriate normal value for comparison to the U.S. export price. In order to define products sold in the home and U.S. markets, we relied on the six physical characteristics: (1) product shape, (2) wheat species, (3) milling form, (4) protein content, (5) additives, and (6) enrichment. If contemporaneous home market sales were reported of merchandise that were identical to subject merchandise sold in the U.S. market, then we calculated NV based on the monthly weighted-average home market prices of all such sales. If there were no contemporaneous home market sales of identical merchandise, then we identified home market sales of the most similar merchandise that were contemporaneous with the U.S. sales in accordance with 19 CFR 351.414(e), and calculated NV based on the monthly weighted-average home market prices of all such sales. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the comparison market, we calculated NV based on constructed value (CV).

## **C. Date of Sale**

Under section 19 CFR 351.401(i), we normally will use the date of invoice, as recorded in the producer’s or exporter’s records kept in the ordinary course of business, as the date of sale. The regulation provides further that we may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. We have a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.<sup>33</sup>

Ghigi/Zara reported the earlier of the date of the shipment or the sale invoice for the home market, in accordance with our practice,<sup>34</sup> and the invoice date as date of sale for their U.S. resales by Ghigi USA and Pasta Zara USA (Zara USA).<sup>35</sup> Indalco reported the earlier of the date of the shipment or the sale invoice for the home market, and the invoice date as date of sale for

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<sup>33</sup> See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying IDM at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying IDM at Comment 2.

<sup>34</sup> See, e.g., *Solid Urea from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 35405 (June 17, 2011), unchanged in *Solid Urea from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 76 FR 66690 (October 27, 2011).

<sup>35</sup> See Ghigi/Zara’s AQR at A-3.



its U.S. resales by Colavita USA, LLC (Colavita USA).<sup>36</sup> Thus, in these preliminary results, we have used the dates of sale reported by the respondents in our margin calculations.

#### **D. Export Price/Constructed Export Price**

According to section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act. Pursuant to section 772(b) of the Act, CEP is “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under {sections 772(c) and (d) of the Act}.”

##### *Ghigi/Zara*

In accordance with section 772(a) of the Act, we used the EP methodology for certain sales made by Pasta Zara because it sold the subject merchandise directly to the unaffiliated customer in the United States prior to importation, and because the use of the CEP methodology was not otherwise warranted.<sup>37</sup> We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions from the starting price for movement expenses, in accordance with section 772(c)(2)(A) of the Act. These expenses included foreign inland freight from the plant to the port of exportation and foreign brokerage and handling.

Both Ghigi and Pasta Zara made CEP sales during the POR.<sup>38</sup> We calculated CEP for those U.S. sales made by Ghigi and Pasta Zara’s U.S. affiliates in the United States based on prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions, where applicable, from the starting price for movement expenses including domestic inland freight from the plant/warehouse to the port of exit; foreign brokerage and handling; international freight; U.S. movement expenses from port to the unaffiliated customer; and U.S. customs duty.

In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted, where applicable, those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, credit expenses, advertising expenses, commissions, warranty expenses, and royalty expenses) and indirect selling expenses (*i.e.*, indirect selling expenses and inventory carrying costs). In accordance with section 772(d) of the Act, we calculated Ghigi/Zara’s credit expenses<sup>39</sup> and inventory carrying costs based on its short-

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<sup>36</sup> See Memorandum, “Sales and Cost Analysis Memorandum for the Preliminary Results – Indalco”, dated concurrently with this memorandum (Indalco Preliminary Results Sales and Cost Analysis Memorandum); *see also* Indalco’s AQR at 18; and Indalco’s December 14, 2018 SQR at 17 and 19.

<sup>37</sup> See Ghigi/Zara’s CQR, dated December 10, 2018 at C-12.

<sup>38</sup> *Id.*

<sup>39</sup> See “Section G. Partial Application of Facts Available” below regarding Ghigi’s U.S. payment date and credit expense calculation.

term interest rate. In addition, we deducted CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act.

### *Indalco*

For Indalco's U.S. sales, we used the CEP methodology, in accordance with section 772(b) of the Act.<sup>40</sup> We calculated CEP for Indalco's U.S. sales made by Colavita USA in the United States based on prices to unaffiliated purchasers in the United States. We made adjustments to price for billing adjustments, where applicable, and discounts. In accordance with section 772(c)(2)(A) of the Act, we made deductions, where applicable, from the starting price for movement expenses including domestic inland freight from the plant/warehouse to the port of exportation; foreign brokerage and handling; U.S. brokerage and handling; international freight; marine insurance; U.S. movement expenses from port to the unaffiliated customer; U.S. warehousing; and U.S. customs duty.<sup>41</sup>

In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted, where applicable, those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, credit expenses, advertising expenses, commissions, warranty expenses, and royalty expenses) and indirect selling expenses (*i.e.*, indirect selling expenses and inventory carrying costs). In accordance with section 772(d) of the Act, we calculated Indalco's credit expenses and inventory carrying costs based on its short-term interest rate. In addition, we deducted CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act.

## **E. Normal Value**

### **1. 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 Ghigi/Zara's and Indalco'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 Ghigi/Zara's and Indalco'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, respectively, we determined that the home market was viable.<sup>42</sup> 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.

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<sup>40</sup> Indalco initially reported its U.S. sales based on the EP methodology in Indalco's AQR. Consistent with the 2016/17 administrative review, Commerce is relying on the CEP methodology for Indalco in these preliminary results. See *Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review; 2016–2017*, 83 FR 63627, (December 11, 2018) (*16-17 Pasta from Italy*), and accompanying IDM.

<sup>41</sup> *Id.*

<sup>42</sup> See Indalco's AQR at 1-3 and Exhibit A.1; see also Ghigi/Zara's AQR at 3 and Exhibit A-1.

## 2. Affiliated Party Transactions and the Arm's-Length Test

Commerce may calculate normal value based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales were made at arm's-length prices.<sup>43</sup> Under section 773(a)(5) of the Act, Commerce has considerable discretion in deciding whether to include affiliated party sales when calculating normal value.<sup>44</sup> Commerce excludes 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.<sup>45</sup> Consistent with 19 CFR 351.403(c) and (d) and in accordance with its practice, Commerce, "may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm's length."<sup>46</sup> 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.<sup>47</sup>

### *Ghigi/Zara*

We preliminarily find that Ghigi/Zara made sales to affiliated customers during the POR. Accordingly, we applied the arm's-length test for these preliminary results.<sup>48</sup> Sales to affiliated customers in the home market that were not made at arm's length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade.<sup>49</sup>

### *Indalco*

We preliminarily find that Indalco made no sales to any affiliated customers during the POR.<sup>50</sup> Accordingly, we did not apply the arm's-length test for these preliminary results.

## 3. Cost of Production (COP)

Section 773(b)(2)(A)(ii) of the Act requires Commerce to request cost information from respondent companies in all antidumping proceedings.<sup>51</sup> Accordingly, we requested this

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<sup>43</sup> See 19 CFR 351.403(c).

<sup>44</sup> See section 773(a)(5) of the Act. See also *NTN Corp. v. United States*, 306 F. Supp. 2d 1319, 1332 (CIT 2004) (affirming Commerce's discretion to apply the arm's-length test to determine whether to exclude certain home market sales to affiliated parties in the normal value calculation.).

<sup>45</sup> See 19 CFR 351.403(c).

<sup>46</sup> See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003).

<sup>47</sup> See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194 (November 15, 2002).

<sup>48</sup> See Ghigi/Zara Preliminary Results Sales and Cost Analysis Memorandum.

<sup>49</sup> See section 771(15) of the Act; and 19 CFR 351.102(b).

<sup>50</sup> See Indalco's AQR at 24.

<sup>51</sup> 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).

information from Ghigi/Zara and Indalco.<sup>52</sup> We examined the respondents' cost data and determined that our quarterly cost methodology was not warranted in this review. Therefore, we have applied our standard methodology of using annual costs based on the reported data of Ghigi/Zara and Indalco.<sup>53</sup>

We relied on the cost data submitted by Indalco, as reported. Concerning Ghigi/Zara, we relied on the cost data as reported, except as follows. For purposes of the preliminary results, we find that Ghigi/Zara's reported material costs vary significantly among control numbers (CONNUMs) with the same and similar other characteristics (*e.g.*, CONNUMs with the same shape, wheat species, and milling form). Based on the information on the record, we preliminarily determine that these differences are due to reasons not related to product characteristics, such as the source of the semolina (*i.e.*, Ghigi or Zara), which is not a physical characteristic defined by Commerce in this proceeding.<sup>54</sup> Therefore, in accordance with 19 CFR 351.411(b) and in accordance with Commerce's practice,<sup>55</sup> we have preliminarily reallocated material costs among products with common characteristics to mitigate differences in material costs unrelated to the physical characteristics of the products.<sup>56</sup>

a. 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.<sup>57</sup> We relied on the cost data submitted by Indalco, as reported. We relied on the COP data submitted by Ghigi/Zara, but adjusted Zara's semolina cost and Zara's cost of manufacture (COM) based on our verification findings.<sup>58</sup>

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<sup>52</sup> The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>53</sup> See Ghigi/Zara Preliminary Results Sales and Cost Analysis Memorandum; *see also* Indalco Preliminary Results Sales and Cost Analysis Memorandum.

<sup>54</sup> See the Sections B and C of Commerce's initial antidumping questionnaire sent to Ghigi/Zara, dated October 12, 2018.

<sup>55</sup> See, *e.g.*, *Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093, (May 30, 2014), and accompanying IDM at Comment 3; *see also* *Stainless Steel Bar from the United Kingdom: Final Results of Antidumping Duty Administrative Review*, 72 FR 43598 (August 6, 2007) (SSB from the UK), and accompanying IDM at Comment 1; *Certain Steel Concrete Reinforcing Bars from Turkey: Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part*, 70 FR 67665 (November 8, 2005), and accompanying IDM at Comment 1; *Color Television Receivers from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 55 FR 26225 (June 27, 1990) at Comment 10; and *Grey Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review*, 58 FR 47253, 47256 (September 8, 1993).

<sup>56</sup> See *16-17 Pasta from Italy* IDM at Comment 1; *see also* Ghigi/Zara Preliminary Results Sales and Cost Analysis Memorandum for further details.

<sup>57</sup> See "Test of Comparison Market Sales Prices" section below for treatment of comparison market selling expenses.

<sup>58</sup> See Memorandum, "Antidumping Duty Administrative Review of Certain Pasta from Italy: Verification of the Cost Response of Pasta Zara S.p.A." dated August 2, 2019; *see also* Ghigi/Zara Preliminary Results Sales and Cost Analysis Memorandum for further details.

b. Test of Comparison Market Prices

As required under sections 773(b)(1) and (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.<sup>59</sup>

c. Results of the COP Test

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

Our cost tests for Ghigi/Zara and Indalco indicate that, for home market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time.<sup>60</sup> Thus, in accordance with section 773(b)(1) of the Act, we disregarded these below-cost sales and used the remaining above-cost sales to determine NV, as well as to calculate selling expenses and profit for constructed value (CV).

**F. Level of Trade**

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).<sup>61</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>62</sup> In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions,

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<sup>59</sup> See Ghigi/Zara Preliminary Results Sales and Cost Analysis Memorandum; *see also* Indalco Preliminary Results Sales and Cost Analysis Memorandum.

<sup>60</sup> See Ghigi/Zara Preliminary Results Sales and Cost Analysis Memorandum; *see also* Indalco Preliminary Results Sales and Cost Analysis Memorandum.

<sup>61</sup> See 19 CFR 351.412(c)(2).

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

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

Pursuant to 19 CFR 351.412(c)(1), in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third-country prices), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act.<sup>63</sup> Where NV is based on 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 we are unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, we 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 an 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), Commerce shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>64</sup>

In this administrative review, we obtained information from the respondents, Ghigi/Zara and Indalco, 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.

#### *Ghigi/Zara*

Ghigi/Zara reported that they sold to different types of customers in the home market, but they conduct the same types of selling activities to all types of customers.<sup>65</sup> Based on our analysis of the selling activities performed by Ghigi/Zara,<sup>66</sup> we preliminarily determine that there is one level of trade (LOT) in the home market.

In the U.S. market, Ghigi/Zara reported three channels of distribution: EP sales made by Pasta Zara directly to unaffiliated U.S. customers (channel 1); CEP sales made by Ghigi USA or Zara USA but that were shipped directly to the unaffiliated U.S. customers by Ghigi or Pasta Zara, respectively (channel 2); and CEP sales made by Ghigi USA or Zara USA from U.S. inventory (channel 3). Ghigi/Zara reported three LOTs for its U.S. sales, respectively.<sup>67</sup> We compared the selling activities conducted by Ghigi/Zara among these three channels of distribution, and find that although there are differences in the levels of intensity performed for some of these

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<sup>63</sup> See *Micron Technology Inc. v. United States*, 243 F. 3d 1301, 1314-1315 (Federal Circuit 2001).

<sup>64</sup> See *Plate from South Africa*, 62 FR at 61732-33.

<sup>65</sup> See Ghigi/Zara BQR at B-12.

<sup>66</sup> See Ghigi/Zara AQR at Exhibit A-8.

<sup>67</sup> See Ghigi/Zara's CQR at C-14.

functions, such differences are minor and do not establish three distinct levels of trade.<sup>68</sup> Accordingly, we preliminarily determine that the three U.S. sales channels constitute one LOT.

Finally, we compared the U.S. market LOT to the home market LOT and found that the selling functions the Ghigi/Zara single entity performed for its home market customers are virtually the same as those performed for its U.S. customers. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that sales to the home market during the POR were made at the same LOT as sales to the U.S. market. Consequently, we matched U.S. market sales to home market sales at the same LOT, and no LOT adjustment or CEP offset was warranted.

### *Indalco*

Indalco reported three channels of distribution for sales in the comparison market and two channels of distribution in the U.S. market in which all sales were CEP sales made by Colavita USA.<sup>69</sup> Indalco reported that it sells to different types of customers in the home market, but storage of the product is the primary difference among its channels of trade.<sup>70</sup> We compared the selling activities conducted by Indalco among these three channels of distribution, and find that although there are differences in the levels of intensity performed for some of these functions, such differences are minor and do not establish three distinct levels of trade. Based on our analysis of the selling activities performed by Indalco and consistent with the prior administrative review,<sup>71</sup> we preliminarily determine that the three sales channels constitute one LOT in the home market.

For Colavita USA's sales in the United States, Colavita USA reports one main channel of distribution and one LOT.<sup>72</sup> Colavita USA reports that its selling activities are the same for all customers, regardless of subcategory.<sup>73</sup> Consequently, for Indalco, we preliminarily determine that there is one LOT.

We compared the U.S. market LOT to the home market LOT and found that the selling functions performed by Indalco for its home market customers are virtually the same as those performed for its U.S. customers. Therefore, based on the totality of the facts and circumstances and consistent with the prior review, we preliminarily determine that sales to the home market during the POR were made at the same LOT as sales to the U.S. market. Consequently, we matched U.S. market sales to home market sales at the same LOT, and no LOT adjustment or CEP offset was warranted.

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<sup>68</sup> See Ghigi/Zara AQR at Exhibit A-8.

<sup>69</sup> See Indalco's December 14, 2018 SQR at 14-16 and Exhibit CA.4.

<sup>70</sup> See "Verification of the Sales Response of Industria Alimentare Colavita S.p.A. (Indalco) in the Antidumping Administrative Review of Certain Pasta from Italy," dated August 1, 2019, at 6.

<sup>71</sup> See 16-17 Pasta from Italy IDM; see also Indalco Preliminary Results Sales and Cost Analysis Memorandum.

<sup>72</sup> See Indalco's December 14, 2018 SQR at 14. Indalco reports a small number of on-line retail sales that Colavita USA makes through its on-line store that it claims may be considered as an additional channel of trade.

<sup>73</sup> *Id.* at 14.

## **G. Partial 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 if an interested party: (1) withholds information requested by Commerce; (2) 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; (3) significantly impedes a proceeding; or (4) provides such information but the information cannot be verified as provided in section 782(i) of the Act, Commerce 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 Commerce 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, and that party also provides a full explanation for the difficulty and suggests an alternative form in which the party is able to provide the information. Section 782(e) of the Act states further that Commerce 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.

### *Application of Facts Otherwise Available*

#### **1. Ghigi U.S. Payment Dates**

At Ghigi's CEP verification, we found that Ghigi reported the U.S. payment date incorrectly for most of its U.S. sales.<sup>74</sup> In its Post-Verification Comments, Ghigi argues that the payment dates in the most recent U.S. sales database are incorrect due to a programming error in the U.S. payment date (PAYDATEU) data field.<sup>75</sup> Ghigi asserts that Commerce should use the payment dates reported in the prior U.S. sales database because they are closer to the correct payment dates. We disagree. Commerce's practice is to rely on the most recently submitted databases as the basis for verification because such data is responsive to Commerce's most recent supplemental questions.<sup>76</sup> Thus, we do find that it is not appropriate to use the payment date information from a prior U.S. sales database. The payment dates listed in the sales documentation for the U.S. transactions examined at verification do not match the payment dates contained in the most recently submitted U.S. sales database.<sup>77</sup> Pursuant to section 776(a)(2)(D) of the Act, we find that a determination based on the facts otherwise available is warranted because Ghigi failed to report a correct payment date for most of its U.S. sales. Accordingly, we find that the application of partial adverse inferences under section 776(b)(1)(A) of the Act is

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<sup>74</sup> See Memorandum, "Antidumping Duty Review of Certain Pasta from Italy: Verification of the Sales Responses of Ghigi," dated August 1, 2019 (Ghigi Sales Verification Report), at 2.

<sup>75</sup> See Ghigi Post-Verification Comments at 7-9.

<sup>76</sup> See, e.g., *Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 91120 (December 16, 2016), and accompanying IDM at Comment 9; see also Commerce's Letter, "2017-2018 Administrative Review of Certain Pasta from Italy: Sales Verification Agenda for Ghigi 1870 S.p.A. and Pasta Zara S.p.A.," dated May 16, 2019.

<sup>77</sup> See Ghigi Sales Verification Report at 2.



warranted, as it applies to Ghigi's U.S. payment date field.<sup>78</sup> Thus, we have applied the longest period between shipment date and payment date for any sale on the record of the review for purposes of imputed credit expenses for Ghigi's U.S. sales.

## 2. Indalco Inventory Carrying Costs

During the sales verification of Indalco, we found that Indalco reported incorrect inventory values that it was unable to reconcile to the reported information.<sup>79</sup> Accordingly, because such data did not reconcile to the reported information, we have disallowed the inventory carrying cost adjustment which Indalco reported for its home market sales and have applied the highest inventory carrying cost reported by Indalco for its U.S. sales.<sup>80</sup>

## H. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV for Ghigi/Zara and Indalco 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, discounts, rebates, and inland freight, pursuant to 19 CFR 351.401(c) and section 773(a)(6)(B)(ii) of the Act.<sup>81</sup>

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.<sup>82</sup> For detailed information on the calculation of NV, *see* the Ghigi/Zara and Indalco Preliminary Sales and Cost Analysis Memoranda.

## I. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(e) of the Act, and where applicable, we calculated CV based on the sum of Ghigi/Zara and Indalco'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 "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 Ghigi/Zara and Indalco, respectively, in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

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<sup>78</sup> See Ghigi Post-Verification Comments at 7-9.

<sup>79</sup> See Indalco's March 27, 2018 SQR at Exhibit B.28.

<sup>80</sup> See Indalco Verification Report at 16-17 and Sales Verification Exhibit (SVE)-19; *see also* Indalco Preliminary Results Sales and Cost Analysis Memorandum.

<sup>81</sup> See Ghigi/Zara Preliminary Results Sales and Cost Analysis Memorandum; *see also* Indalco Preliminary Results Sales and Cost Analysis Memorandum.

<sup>82</sup> See 19 CFR 351.411(b).

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

Generally, when calculating the margin for non-selected respondents, Commerce 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, Commerce 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, Commerce'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.<sup>83</sup>

In this review, we calculated a weighted-average dumping margin of 96.79 percent for Ghigi/Zara and 0.00 percent for Indalco for the period July 1, 2017 through June 30, 2018. Therefore, in accordance with section 735(c)(5)(A) of the Act, we assigned the weighted-average dumping margin calculated for Ghigi/Zara, 96.79 percent, to the non-selected companies, Agritalia and Tesa, in these preliminary results, as referenced above.

## K. Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act and 19 CFR 351.415, based on the official exchange rates in effect on the dates of the U.S. sales as published by the Federal Reserve Bank.<sup>84</sup>

## V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒

Agree

☐

Disagree

9/6/2019

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler

Assistant Secretary

for Enforcement and Compliance

<sup>83</sup> See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying IDM at Comment 16.

<sup>84</sup> The exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/index.html>.