



A-475-818

Administrative Review

POR: 07/01/2023 – 06/30/2024

**Public Document**

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August 28, 2025

**MEMORANDUM TO:** Abdelali Elouaradia  
Deputy Assistant Secretary  
for Enforcement and Compliance

**FROM:** Scot Fullerton  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Results of  
Antidumping Duty Administrative Review: Certain Pasta from  
Italy; 2023-2024

## I. SUMMARY

The U.S. Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain pasta (pasta) from Italy, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). The review covers 18 producers or exporters of the subject merchandise; La Molisana, S.p.A. (La Molisana) and Pastificio Lucio Garofalo S.p.A (Garofalo) are the mandatory respondents in this review. The period of review (POR) is July 1, 2023, through June 30, 2024. We preliminarily determine that Garofalo and La Molisana sold subject merchandise at less than normal value (NV) during the POR.

## II. BACKGROUND

On July 24, 1996, Commerce published the *Order* in the *Federal Register*.<sup>1</sup> On July 1, 2024, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the *Order* for the POR.<sup>2</sup>

Commerce received timely requests for an administrative review of the *Order*, pursuant to section 751(a)(1) of the Act, and 19 CFR 351.213(b). Specifically, on July 31, 2024, 8<sup>th</sup> Avenue Food & Provisions, Inc., and Winland Foods, Inc. (collectively, domestic interested parties), filed a request for review of the following producers/exporters of pasta from Italy:<sup>3</sup> Agritalia

<sup>1</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) (*Order*).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 89 FR 54437 (July 1, 2024).

<sup>3</sup> See Domestic Interested Parties' Letter, "Domestic Industry's Request for Twenty-Eighth Administrative Review (2023-2024) of the Antidumping Duty Order," dated July 31, 2024 (Domestic Interested Parties' Review Request).





S.r.L. (Agritalia), Andriani S.p.A. (Andriani), Georgo DeLallo Company, Inc. (DeLallo), Garofalo, La Molisana, Liguori,<sup>4</sup> and Rummo.<sup>5</sup> Between July 26, 2024, and July 31, 2024, the following companies self-requested a review: Antiche Tradizioni Di Gragnano S.R.L. (ATG), Gruppo Milo SpA (Gruppo Milo), Pastificio Sgambaro, Aldino Group,<sup>6</sup> Barilla G. e R. Fratelli Società per Azioni Socio Unico (Barilla), Pastificio Artigiano Cav. Giuseppe Cocco S.R.L. (Pasta Cocco), Di Martino,<sup>7</sup> and Pastificio Mediterranea S.R.L. (Pastificio Mediterranea).<sup>8</sup> On August 14, 2024, in accordance with 19 CFR 351.221(c)(1)(i), we published in the *Federal Register* a notice of initiation for this administrative review covering the companies for which we received a review request.<sup>9</sup>

On August 5, 2024, Agritalia submitted comments regarding the Domestic Interested Parties' Review Request and Commerce's respondent selection process.<sup>10</sup> On August 26, 2024, we placed a U.S. Customs and Border Protection (CBP) data query on the record of this review, and invited interested parties to comment on the data.<sup>11</sup> On October 4, 2024, pursuant to section 777A(c)(2)(B) of the Act, we selected Garofalo and La Molisana, the producers and exporters accounting for the largest volume of the subject merchandise that could reasonably be examined, as mandatory respondents in this review.<sup>12</sup> On October 9, 2024, Commerce issued the initial

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<sup>4</sup> We initiated the instant review upon the following entity: Pastificio Liguori S.p.A.; PAM S.P.A.; PAM S.R.L.; Liquori Pastificio Dal 1820 S.P.A.; Pastificio Della Forma S.r.L. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 66035, 66037 (August 14, 2024) (*Initiation Notice*). We previously found that Liguori Pastificio dal 1820 S.p.A. and Pastificio Della Forma S.r.l. are affiliated, and treated them as a single entity. See *Certain Pasta from Italy: Preliminary Results of Antidumping Duty Administrative Review; 2019–2020*, 86 FR 41827 (August 3, 2021), and accompanying Preliminary Decision Memorandum (PDM) at 5-7, unchanged in *Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review; 2019–2020*, 86 FR 62995 (November 15, 2021).

<sup>5</sup> We previously found that Rummo S.p.A., Pasta Castiglioni S.r.l., Molino e Pastificio (Rummo), and Rummo Lenta Lavorazione S.p.A. (collectively, Rummo) are affiliated, and continue to treat them as a single entity. See *Certain Pasta from Italy: Antidumping Duty Administrative Review; 2011– 2012*, 78 FR 48146 (August 7, 2013), unchanged in *Certain Pasta from Italy: Notice of Final Results of 16th Antidumping Duty Administrative Review; 2011-2012*, 79 FR 11409 (February 28, 2014).

<sup>6</sup> Aldino S.r.l. (Aldino), Pastificio Chiavenna S.r.l. (Chiavenna), Pastificio Tamma S.r.l. (Tamma), and Pastificio Rigo S.P.A. (Pastificio Rigo) (collectively, Aldino Group).

<sup>7</sup> We previously found that Pastificio Di Martino Gaetano e Flli S.p.A. and Di Martino with Pastificio Dei Campi S.p.A. (collectively, Di Martino) are affiliated, and continue to treat them as a single entity. See *Certain Pasta from Italy: Preliminary Results of Antidumping Duty Administrative Review and Partial Recission of Review; 2020– 2021*, 87 FR 47185 (August 2, 2022), and accompanying PDM at 3-4, unchanged in *Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review; 2020–2021*, 87 FR 67868 (November 10, 2022).

<sup>8</sup> See ATG's Letter, "Request for Administrative Review," dated July 26, 2024; see also Grupo Milo's Letter, "Request for Administrative Review," dated July 26, 2024; Pastificio Sgambaro's Letter, "Request for Administrative Review," dated July 26, 2024; Aldino Group's Letter, "Request for Administrative Review," dated July 31, 2024; Barilla's Letter, "Barilla Request for Review," dated July 31, 2024; Pasta Cocco's Letter, "Pasta Cocco Request for Administrative Review," dated July 31, 2024; Di Martino's Letter, "Request for Administrative Review," dated July 31, 2024; and Pastificio Mediterranea's Letter, "Request for Administrative Review on Behalf of Pastificio Mediterranea," dated July 31, 2024.

<sup>9</sup> See *Initiation Notice*, 89 FR at 66037. We note that Commerce initiated the review upon the individual entities comprising the Aldino Group.

<sup>10</sup> See Agritalia's Letter, "Agritalia's Comments on Petitioners' Review Request and DOC's Request for CBP Data," dated August 5, 2024.

<sup>11</sup> See Memorandum, "Release of Customs and Border Protection Data," dated August 26, 2024 (CBP Data Query Results).

<sup>12</sup> See Memorandum, "Respondent Selection," dated October 4, 2024 (Respondent Selection Memorandum).



antidumping questionnaire to Garofalo and La Molisana.<sup>13</sup>

On September 9, 2024, we notified interested parties of our intent to rescind the review with respect to certain companies with no suspended entries of subject merchandise during the POR.<sup>14</sup> On September 16, 2024, Pastificio Sgambaro submitted comments on the Intent to Rescind Notice.<sup>15</sup> We addressed Pastificio Sgambaro's comments in the Respondent Selection Memorandum.<sup>16</sup>

Between November 6, 2024, and December 10, 2024, Garofalo submitted its response to Commerce's AD Questionnaire.<sup>17</sup> Between February 4, 2025, and June 23, 2025, Garofalo submitted responses to Commerce's supplemental questionnaires.<sup>18</sup>

Between November 4, 2024, and December 10, 2024, La Molisana submitted its response Commerce's AD Questionnaire.<sup>19</sup> Between January 7, 2025, and June 23, 2025, La Molisana submitted responses to Commerce's supplemental questionnaires.<sup>20</sup>

Between July 21, 2025, and July 31, 2025, Garofalo,<sup>21</sup> La Molisana,<sup>22</sup> and the domestic interested parties<sup>23</sup> submitted comments for consideration in the preliminary results of review.

<sup>13</sup> See Commerce's Letters, "Request for Information," dated October 9, 2024 (AD Questionnaire).

<sup>14</sup> See Memorandum, "Notice of Intent to Rescind Review, in Part," dated September 9, 2024 (Intent to Rescind Notice).

<sup>15</sup> See Pastificio Sgambaro's Letter, "Response to Department's September 9, 2024 Intent to Rescind," dated September 16, 2024 (Pastificio Sgambaro's Rescission Response).

<sup>16</sup> See Respondent Selection Memorandum at 3 and 5.

<sup>17</sup> See Garofalo's Letters, "Response to Section A of Initial Questionnaire," dated November 6, 2024 (Garofalo's AQR); "Response to Section B of Initial Questionnaire," dated December 10, 2024 (Garofalo's BQR); "Response to Section C of Initial Questionnaire," dated December 10, 2024 (Garofalo's CQR); and "Response to Section D and Appendix V of Initial Questionnaire," dated December 10, 2024 (Garofalo's DQR).

<sup>18</sup> See Garofalo's Letters, "Response to Supplemental Questionnaire," dated February 4, 2025 (Garofalo's SAQR); "Response to Supplemental Questionnaire," dated February 27, 2025 (Garofalo's SBQR); "Response to Section C Supplemental Questionnaire," dated March 14, 2025 (Garofalo's SCQR); "Response to Supplemental Section D Questionnaire," dated April 7, 2025 (Garofalo's SDQR); "Response to Quarterly Cost Supplemental Questionnaire," dated May 15, 2025 (Garofalo's SQCQR); "Response to Second Quarterly Cost Supplemental Questionnaire," dated May 19, 2025 (Garofalo's 2SQCQR); and "Response to Second Section A, B, C, and D Supplemental Questionnaire," dated June 23, 2025 (Garofalo's 2SABCDQR).

<sup>19</sup> See La Molisana's Letters, "Response to Section A of Initial Questionnaire," dated November 4, 2024 (La Molisana's AQR); "Response to Section B of Initial Questionnaire," dated December 10, 2024 (La Molisana's BQR); "Response to Section C of Initial Questionnaire," dated December 10, 2024 (La Molisana's CQR); and "Response to Section D and Appendix V of Initial Questionnaire," dated December 10, 2024 (La Molisana's DQR).

<sup>20</sup> See La Molisana's Letters, "Response to Supplemental Questionnaire," dated January 7, 2025 (La Molisana's SAQR); "Response to Supplemental Section B Questionnaire," dated February 27, 2025 (La Molisana's SBQR); "Response to Supplemental Section C Questionnaire," dated March 17, 2025 (La Molisana's SCQR); "Response to Supplemental Section D Questionnaire," dated April 7, 2025 (La Molisana's SDQR); "Response to Semola Supplemental Questionnaire," dated May 12, 2025 (La Molisana's Semolina SQR); "Response to Department's Quarterly Cost Supplemental Questionnaire," dated May 14, 2025 (La Molisana's SQCQR); and "Response to Department's Second Supplemental Questionnaire," dated June 23, 2025 (La Molisana's 2SABCDQR).

<sup>21</sup> See Garofalo's Letter, "Garofalo Resubmission of Pre-Preliminary Comments," dated July 31, 2025.

<sup>22</sup> See La Molisana's Letter, "Pre-Preliminary Comments of La Molisana, SpA.," dated July 21, 2025 (La Molisana's Pre-Preliminary Comments).

<sup>23</sup> See Domestic Interested Parties' Letters, "Domestic Producers' Comments on La Molisana in Advance of the



On August 12, 2025, the domestic interested parties submitted additional comments for consideration in the preliminary results of review.<sup>24</sup> La Molisana submitted rebuttal comments in response to Domestic Interested Parties Additional Pre-Preliminary Comments on August 15, 2025.<sup>25</sup>

On December 9, 2024, Commerce tolled certain deadlines in this administrative proceeding by 90 days.<sup>26</sup> On June 25, 2025, Commerce extended the deadline for these preliminary results to July 31, 2025.<sup>27</sup> On July 29, 2025, Commerce further extended the deadline for these preliminary results to August 28, 2025.<sup>28</sup> The deadline for these preliminary results is now August 28, 2025.

### III. SCOPE OF THE *ORDER*

The scope of this *Order* covers 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 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>29</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>30</sup> Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the *Order*.<sup>31</sup>

Also excluded are imports of organic pasta from Italy that are certified by an EU authorized body in accordance with the United States's Department of Agriculture's National Organic Program for organic products. The organic pasta certification must be retained by exporters and importers

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Preliminary Results," dated July 21, 2025; and "Petitioner's Comments in Advance of the Preliminary Determination Regarding Garofalo," dated July 21, 2025.

<sup>24</sup> See Domestic Interested Parties' Letter, "Domestic Producers' Comments on La Molisana in Advance of the Preliminary Results," dated August 12, 2025 (Domestic Interested Parties' Additional Pre-Preliminary Comments).

<sup>25</sup> See La Molisana's Letter, "Response to Additional Pre-Preliminary Comments of Petitioner and Request to Reject," dated August 15, 2025.

<sup>26</sup> See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated December 9, 2024.

<sup>27</sup> See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated June 25, 2025.

<sup>28</sup> See Memorandum, "Second Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated July 29, 2025.

<sup>29</sup> See Memorandum to Richard Moreland, dated August 25, 1997, which is on file in the Central Records Unit.

<sup>30</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>31</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).



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 1901.90.9095 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise subject to the Order is dispositive.

#### IV. RECISSION OF REVIEW, IN PART

At the completion of an administrative review, suspended entries under review are liquidated at the assessment rate calculated for the review period.<sup>32</sup> For an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate. Pursuant to 19 CFR 351.213(d)(3), when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended, Commerce may rescind an administrative review in whole, or with respect to a particular producer or exporter.<sup>33</sup>

As noted above, we initiated this review with respect to 18 companies.<sup>34</sup> On September 9, 2024, we informed parties that we intend to rescind the review of certain companies (*i.e.*, Andriani, DeLallo, Pastificio Mediterranea, Pastificio Rigo, and Pastificio Sgambaro) with no suspended entries during the POR.<sup>35</sup> As discussed above, Pastificio Sgambaro commented on the Intent to Rescind Notice.<sup>36</sup> Pastificio Sgambaro argued that Commerce should not rescind its review of the company because the record evidence “makes it clear that {Pastificio} Sgambaro had exports to the United States during the” POR.<sup>37</sup> In the Respondent Selection Memorandum, Commerce attributed certain entries of subject merchandise to Pastificio Sgambaro, and found that “Pastificio Sgambaro’s commercial documentation contains names identical to those which appeared in the CBP entry data.”<sup>38</sup> Consequently, we preliminarily determine that Pastificio Sgambaro exported subject merchandise to the United States during the POR, and, therefore, are not rescinding the review with regard to Pastificio Sgambaro. No other parties commented on Commerce’s Intent to Rescind Notice. Accordingly, we are rescinding the review of Andriani, DeLallo, Pastificio Mediterranea, and Pastificio Rigo, pursuant to 19 CFR 351.213(d)(3).

On October 16, 2025, Di Martino withdrew its request for review.<sup>39</sup> Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication of the notice of

<sup>32</sup> See 19 CFR 351.212(b)(1).

<sup>33</sup> See, *e.g.*, *Certain Carbon and Alloy Steel Cut-to Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4154 (January 24, 2023); see also *Forged Steel Fittings from Taiwan: Rescission of Antidumping Duty Administrative Review; 2018–2019*, 85 FR 71317, 71318 (November 9, 2020); and *Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Rescission of Antidumping Duty Administrative Review; 2016–2017*, 83 FR 54084 (October 26, 2018).

<sup>34</sup> See *Initiation Notice*.

<sup>35</sup> See *Intent to Rescind Notice*.

<sup>36</sup> See Pastificio Sgambaro’s Rescission Response.

<sup>37</sup> *Id.* at 1-2.

<sup>38</sup> See Respondent Selection Memorandum at 5 (citing Pastificio Sgambaro’s Rescission Response at Exhibits 1-2).

<sup>39</sup> See Di Martino’s Letter, “Withdrawal of Request for Administrative Review,” dated October 16, 2024.



initiation of the requested review. Because Di Martino withdrew its request for review within 90 days of the date of publication of the *Initiation Notice*, and no other interested party requested a review of Di Martino, Commerce is rescinding this review with respect to Di Martino, in accordance with 19 CFR 351.213(d)(1). The administrative review remains active with respect to 13 producers or exporters of subject merchandise.

## **V. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCES**

In accordance with sections 776(a) and (b) of the Act, we determine that the use of facts available with adverse inferences (AFA) is appropriate for these preliminary results with respect to Garofalo and La Molisana.

### **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 if an interested party: (A) withholds information requested by Commerce; (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, 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.

Finally, where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will inform the party submitting the response and, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

In the instant review, Commerce identified a significant number of deficiencies in Garofalo's and La Molisana's initial and supplemental questionnaire responses. These deficiencies covered all aspects of Garofalo's and La Molisana's responses, and included issues such as failure to effectuate revisions to the home and U.S. market sales databases, failure to provide requested



supporting documentation, unsolicited and unexplained changes to the sales and cost of production (COP) databases, and errors and discrepancies within and between the data and supporting documentation. Between December 10, 2024, and May 28, 2025, Commerce issued seven supplemental questionnaires to both Garofalo<sup>40</sup> and La Molisana,<sup>41</sup> identifying, and providing an opportunity to remedy, these deficiencies. Nonetheless, Garofalo and La Molisana failed to remedy or explain certain identified deficiencies. We discuss the various extant deficiencies for each respondent, in turn, below.<sup>42</sup>

### *Garofalo*

We preliminarily find that necessary information is not available on the record because Garofalo withheld information requested by Commerce, failed to provide that information in the form and manner requested, and significantly impeded this proceeding. Consequently, the application of facts otherwise available is appropriate. Specifically, despite multiple requests, Garofalo failed to submit: 1) complete and reliable sales reconciliations tying the home market sales, U.S. market sales, and COP databases to the fiscal year (FY) 2023 financial statements; 2) control numbers (CONNUMs) in the requested form and manner for the home market sales and COP databases; 3) requested U.S. market sales; 4) full and revised costs in its COP database; and 5) requested changes to the home market sales, U.S. market sales, and COP databases.

### Sales Reconciliations

The AD Questionnaire instructed Garofalo to reconcile the sales reported in its home and U.S. market sales databases to the sales revenue accounts reported in its general ledger, and the general ledger sales accounts to its financial statements.<sup>43</sup> Specifically, the AD Questionnaire instructed Garofalo to submit, *inter alia*, “{w}orksheets demonstrating how the general ledgers’ sales revenue accounts...tie to the sales reported in the home {and U.S.} market sales databases,” “{a} detailed narrative explaining how all worksheets and supporting documentation tie together,” and “{a}n explanation of the means used to identify and exclude all these non-subject merchandise sales.”<sup>44</sup> However, Garofalo provided neither the requested worksheets, nor

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<sup>40</sup> See Commerce’s Letters, “First Section A Supplemental Questionnaire,” dated January 10, 2025; “Section B Supplemental Questionnaire,” dated February 6, 2025; “Section C Supplemental Questionnaire,” dated February 28, 2025; “Section D Supplemental Questionnaire,” dated March 18, 2025 (Garofalo Section D Supplemental Questionnaire); “Quarterly Cost Supplemental Questionnaire,” dated May 2, 2025 (Garofalo First SQCQ); “Second Quarterly Cost Supplemental Questionnaire,” dated May 16, 2025 (Garofalo Second SQCQ); and “Second Sections A, B, C, and D Supplemental Questionnaire,” dated May 28, 2025.

<sup>41</sup> See Commerce’s Letters, “Section A Supplemental Questionnaire,” dated December 10, 2024; “Section B Supplemental Questionnaire,” dated February 6, 2025; “Section C Supplemental Questionnaire,” dated February 27, 2025 (La Molisana Section C Supplemental Questionnaire); “Section D Supplemental Questionnaire,” dated March 18, 2025 (La Molisana Section D Supplemental Questionnaire); “Semolina Supplemental Questionnaire,” dated April 21, 2025; “Quarterly Cost Supplemental Questionnaire,” dated May 2, 2025; and “Second Sections A, B, C, and D Supplemental Questionnaire,” dated May 28, 2025.

<sup>42</sup> For analysis of the business proprietary information factors underlying our decision to apply total AFA to Garofalo and La Molisana, see memoranda, “Garofalo Preliminary Analysis Memorandum,” dated concurrently with this memorandum (Garofalo Preliminary Analysis Memorandum); and “La Molisana Preliminary Analysis Memorandum,” dated concurrently with this memorandum (La Molisana Preliminary Analysis Memorandum).

<sup>43</sup> See AD Questionnaire at B-5-6 and C-4-5.

<sup>44</sup> *Id.*



the requested explanations of its reconciliation methodology, in its BQR and CQR.<sup>45</sup> Rather, Garofalo simply provided data tables as a PDF, without any narrative description of the data or reconciliation steps as requested.<sup>46</sup> Accordingly, in the Garofalo Second Sections ABCD Supplemental Questionnaire, we identified deficiencies in Garofalo's sales reconciliations, and provided the opportunity to remedy these deficiencies.<sup>47</sup>

Nonetheless, Garofalo's home and U.S. market sales reconciliations remain deficient and incomplete.<sup>48</sup> Garofalo failed to adequately document and explain its home market sales reconciliation documentation, submitted several new documents without explaining how the documents affect the home market sales reconciliation, omitted information necessary to tie the home market sales database to the general ledger, and submitted data that is inconsistent with the home market sales database.<sup>49</sup> Regarding the U.S. market sales reconciliation, Garofalo failed to submit requested supporting documentation to substantiate a key component of the income statement for its U.S. affiliate Garofalo USA, Inc. (Garofalo USA), and failed to reconcile the total sales value reported in the U.S. market sales database to the Garofalo USA general ledger accounts.<sup>50</sup>

Similarly, the AD Questionnaire instructed Garofalo to provide various worksheets demonstrating:

...how the costs reported on the financial statements reconcile to the general ledger or trial balance, to the cost accounting system (*i.e.*, the source used to derive the reported costs), and to the reported costs.<sup>51</sup>

Garofalo stated in its DQR that it submitted a calculated cost of sales for FY 2023 because cost of sales/cost of goods sold "is not normally used in {Italian} accounting practices related to the" financial statements.<sup>52</sup> Rather, Italian financial statements report "the value of production against the cost of production."<sup>53</sup> Garofalo used its calculated cost of sales in its reconciliation to the COP database, comparing the FY 2023, and POR-specific, costs of sales to the "extended combined total cost of manufacturing (COMBTOTCOM)."<sup>54</sup> Accordingly, in order to provide Garofalo an opportunity to remedy or explain the deficiency, in the Garofalo Section D Supplemental Questionnaire, we further instructed Garofalo to do the following regarding its cost reconciliation:

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<sup>45</sup> See Garofalo's BQR at Exhibit B-1; *see also* Garofalo's CQR at Exhibit C-1.

<sup>46</sup> See Garofalo's BQR at Exhibit B-1; *see also* Garofalo's CQR at Exhibit C-1. We note that the AD Questionnaire uses the term "worksheets" interchangeably with "spreadsheet" and "computer file" to distinguish such files from a PDF file. *See* AD Questionnaire at B-1 ("...submit a copy of the computer program/spreadsheet/worksheet...") and B-4 ("...submit the worksheet computer file in a standard spreadsheet format such as Excel").

<sup>47</sup> *See* Garofalo Second Sections ABCD Supplemental Questionnaire at 5-6.

<sup>48</sup> *See* Garofalo's 2SABCDQR at 1-7 and Exhibits SSG-1-4.

<sup>49</sup> For a discussion of the business proprietary information underlying these findings, *see* Garofalo Preliminary Analysis Memorandum.

<sup>50</sup> *Id.*

<sup>51</sup> *See* AD Questionnaire at D-12.

<sup>52</sup> *See* Garofalo's DQR at D-13-14 and Exhibit D-5.

<sup>53</sup> *Id.* at D-13.

<sup>54</sup> *Id.* at Exhibit D-8.



...describe and quantify each reconciling item, identify the source documents for all major items, and cross-reference the worksheets, where appropriate. Ensure that the cost reconciliation demonstrates how the reported costs reconcile with both the cost accounting system and the financial accounting system.<sup>55</sup>

In its SDQR, Garofalo submitted a revised reconciliation of the FY 2023 cost of sales to the revised COP database.<sup>56</sup> However, because Garofalo provided inconsistent cost of sales calculations within its DQR<sup>57</sup> and between its DQR and SDQR,<sup>58</sup> we provided an additional opportunity to Garofalo to remedy or explain the deficiency by instructing it to:

{e}xplain how the {FY} 2023 cost of sales data reported in Exhibit SD-2 {of Garofalo's SDQR} ties to Garofalo's 2023 financial statements, as reported in Exhibit A-9(b)(i) of {Garofalo's} AQR.<sup>59</sup>

In response, Garofalo stated “{s}ee Exhibit SSD-2, which contains the requested reconciliation.”<sup>60</sup> However, Exhibit SSD-2, titled “List of Entries Misclassified Products,” pertains to an entirely different issue, and fails to explain how Garofalo's cost of sales data reconciles to its 2023 financial statements.<sup>61</sup> Thus, the record lacks necessary information to determine how Garofalo's cost of sales, and, consequently, the COP database, reconciles to its audited financial statements. While Commerce requested, on multiple occasions, Garofalo to tie its reported costs to its financial statements and cost accounting systems, Garofalo failed to do so, despite the multiple opportunities to remedy or explain the deficiency. Moreover, we find that Garofalo reported different COMBTOTCOM data in its cost reconciliation and its COP database, and, thus, failed to reconcile this difference as well.<sup>62</sup>

Based on the above factors, we find that the record lacks necessary information to reconcile Garofalo's home market sales, U.S. market sales, and COP information to its FY 2023 financial statements. This information is not available on the record of this review because Garofalo withheld accurate and complete data, despite repeated requests from Commerce for such information.<sup>63</sup> We therefore find that Garofalo failed to reconcile its home market sales database to its general ledger, its U.S. market sales database to its general ledger, and its COP database to its financial statements. Without complete sales or cost reconciliations, Commerce is unable to confirm that Garofalo's sales and COP databases fully and accurately reflect the sales and cost data reported in Garofalo's and Garofalo USA's financial statements or general ledgers.

## CONNUMs

<sup>55</sup> See Garofalo Section D Supplemental Questionnaire at 5.

<sup>56</sup> See Garofalo's SDQR at Exhibit SD-2.

<sup>57</sup> See Garofalo's DQR at Exhibits D-5 and D-8.

<sup>58</sup> *Id.* at Exhibits D-5 and D-8; *see also* Garofalo's SDQR at Exhibit SD-2.

<sup>59</sup> See Garofalo Second Sections ABCD Supplemental Questionnaire at 15.

<sup>60</sup> See Garofalo's 2SABCDQR at 54.

<sup>61</sup> *Id.* at Exhibit SSD-2.

<sup>62</sup> See Garofalo Preliminary Analysis Memorandum; *see also* Garofalo's 2SABCDQR at COP Database; and Garofalo's SDQR at Exhibit SD-2.

<sup>63</sup> See AD Questionnaire at B-5-6, C-4-5, and D-12; *see also* Garofalo Section D Supplemental Questionnaire at 5; and Garofalo Second Sections ABCD Supplemental Questionnaire at 5-6 and 15.



The AD Questionnaire instructed Garofalo to report each product's shape in field 3.1 (*i.e.*, SHAPEH/U), and the type of pasta sold in field 3.12 (*i.e.*, PASTYPEH/U).<sup>64</sup> The AD Questionnaire delineated eight codes, including "8 – combination of shapes," for reporting SHAPEH/U in the home and U.S. market sales databases.<sup>65</sup> Appendix V of the AD Questionnaire further instructed Garofalo:

...to classify the pasta types reported in field 3.12 into one of the shape categories specified in field 3.1 in accordance with the questionnaire examples and the attached "Classification of Pasta Shapes." If you sold pasta in shapes that do not appear on the attached list, please contact the official in charge.<sup>66</sup>

Notably, Appendix V instructed Garofalo to report "variety mixed pasta" in the home and U.S. market sales databases under classification "combination of shapes," using code 8.<sup>67</sup> Appendix V further instructed Garofalo to "contact the official in charge should you have any questions on the creation or application of {CONNUMs},"<sup>68</sup> of which SHAPEH/U is the first, most important component.<sup>69</sup> Similarly, section D of the AD Questionnaire instructed Garofalo to "{r}eport {in its COP database} each of the product characteristics as specified by Commerce in fields 3.1 through 3.12 of the section B and section C questionnaires in separate fields," including field SHAPE.<sup>70</sup>

In its initial home market sales database, submitted in its BQR, Garofalo reported various sales using an undefined code "9," and did not notify Commerce officials that it created a new SHAPEH code.<sup>71</sup> After Commerce requested clarification, Garofalo stated, in its SBQR, that SHAPEH code 9 pertains to "product codes consisting in cartons made of different shapes," and that "this single product contains a mix of products of different product types."<sup>72</sup> Garofalo further explained that these products are "mainly used for Christmas and similar gifts," and that, because "this single product contains a mix of products of different product types, it cannot accurately be placed in any other category."<sup>73</sup> In the Garofalo Second Sections ABCD

<sup>64</sup> See AD Questionnaire at B-8, B-11, C-7, and C-10.

<sup>65</sup> *Id.* at B-8 and C-7.

<sup>66</sup> *Id.* at Appendix V (p. 13).

<sup>67</sup> *Id.* at Appendix V (p. 20).

<sup>68</sup> *Id.* at Appendix V (p. 13).

<sup>69</sup> *Id.* at Appendix V (explaining that Commerce applies the product characteristics, of which SHAPEH is the first identified in the questionnaire, for its model matching process "on a hierarchical basis") and Appendix VI ("the determination of what constitutes the most similar merchandise is based upon the hierarchy of the product characteristics").

<sup>70</sup> *Id.* at D-18.

<sup>71</sup> See Garofalo's BQR at Home Market Sales Database.

<sup>72</sup> See Garofalo's SBQR at 3.

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



Supplemental Questionnaire, we provided the following additional opportunity for Garofalo to remedy or explain the deficiency:

{p}rovide a detailed description of how Garofalo establishes the material terms of sale (e.g., gross unit price, discounts, *etc.*) for mixed-shape products.

...

Describe how Garofalo tracks the value and costs of the pasta types included in the mixed-shape products. If Garofalo can track the value and costs of the pasta types included in the mixed-shape products, then revise the home market sales database to report each component of the mixed-shape products as individual transactions. If it cannot track the individual component values and costs, then describe how Garofalo tracks the revenues and expenses associated with producing and selling mixed-shape products.

...

Appendix V to the AD Questionnaire instructs respondents to classify “variety mixed pasta” as “Combination of Shapes” (*i.e.*, code ‘8’ in SHAPEH). If Garofalo cannot report each component of the mixed-shape products as individual transactions, then report the products using code ‘8’ in SHAPEH.<sup>74</sup>

In its 2SABCDQR, Garofalo explained that its gift boxes contain “bags from different pasta cuts,” as well as, potentially, “customized cartons” and “a gadget (plate, knife, or other Garofalo oil or tomato products).”<sup>75</sup> Garofalo further stated that “{t}he vending unit of mix-shape products is the carton,” and that:

{p}rice is determined based on the BOM, by adding the cost of packing materials (which normally have Christmas subjects) to the cost of the components, plus a margin (determined by the commercial director). Costs also include the cost of the service of preparation and assembly, which has a great impact on the total.<sup>76</sup>

Similarly, Garofalo explained that:

{t}he cost of the mixed cartons is based on the (1) cost of its components, (2) the cost of the manual packing operations for assembling it, and (3) a margin. The mixed carton has a unique product code and is considered as a product different from its components. For this reason, Garofalo does not impute the revenue from the sale of the mixed carton to its components.<sup>77</sup>

Finally, Garofalo stated that it continued to assign SHAPEH code 9 to its gift boxes because “{t}he pasta in gift boxes is not made from a single die and is not mixed. Each shape is in its own discrete bag.”<sup>78</sup>

<sup>74</sup> See Garofalo Second Sections ABCD Supplemental Questionnaire at 7 (internal citation omitted).

<sup>75</sup> See Garofalo’s 2SABCDQR at 12.

<sup>76</sup> *Id.* at 13.

<sup>77</sup> *Id.* at 14.

<sup>78</sup> *Id.*



As discussed above, in the Garofalo Second Sections ABCD Supplemental Questionnaire, we instructed Garofalo to either report the components of its gift boxes as separate transactions in the home market sales database, or report the gift boxes using SHAPEH code 8.<sup>79</sup> Garofalo failed to make either revision in its 2SABCDQR.<sup>80</sup> Rather, it stated that its gift boxes have “a unique product code and {are} considered as a product different from its components,” and that it “believes that Shape Code 8 relates to those ‘mixed’ shapes produced by a single die.”<sup>81</sup>

As an initial matter, at no point in this review did Garofalo contact Commerce officials to determine how to report gift boxes. Instead, Garofalo unilaterally created a new code, while failing to identify or describe the code until required by Commerce to do so. Moreover, when Commerce explicitly instructed it to use SHAPEH code 8, Garofalo again did not contact Commerce officials to seek clarification, or request that Commerce modify its instructions. We note that Garofalo first argued that SHAPEH code 8 products are distinguishable from its gift boxes based on die and shape mix in its SBQR.<sup>82</sup> Accordingly, Commerce then instructed Garofalo to revise its reporting methodology, consistent with the instructions provided in the AD Questionnaire.<sup>83</sup> Rather than complying with Commerce’s instructions, requesting clarification, or seeking an amendment to Commerce’s multiple instructions, Garofalo failed to remedy or explain the deficiency. Instead, Garofalo continued to report its gift box sales using SHAPEH code 8.

We find that Garofalo’s justifications for assigning a new SHAPEH code 9 to its gift boxes are unsupported, and contradicted, by record evidence. First, for the reasons discussed in the Garofalo Preliminary Analysis Memorandum, we find that Garofalo’s argument that the “pasta in gift boxes is not made from a single die” is contradicted by record evidence.<sup>84</sup> Additionally, Garofalo’s contention that gift box pasta is not “mixed” is unsupported by record evidence. Specifically, while Garofalo stated that gift boxes provide each pasta shape in their “own discrete bag,” we note that the bags are consolidated into a single “carton,” and that the carton is “the vending unit” used to track the material terms of sale.<sup>85</sup> While Garofalo argued that SHAPEH code 8 “relates to those ‘mixed’ shapes produced by a single die,” it provided no explanation of why bags of different pasta shapes within a “unique product code” (*i.e.* “vending unit”) warrants a separate SHAPEH code.<sup>86</sup> Moreover, similar to how it treats the component shapes within product 82 (*i.e.*, pasta mista), Garofalo considers the gift box to be a single product that is distinguishable from the individual components of the product.<sup>87</sup> Importantly, Garofalo neither identified nor provided any record evidence to substantiate its argument that putting different pasta shapes into separate bags within a single product or “vending unit” distinguishes the product from variety mixed pasta. Based on the above factors, the record evidence supports

<sup>79</sup> See Garofalo Second Sections ABCD Supplemental Questionnaire at 7.

<sup>80</sup> See Garofalo’s 2SABCDQR at Home Market Sales Database.

<sup>81</sup> *Id.* at 14.

<sup>82</sup> See Garofalo’s SBQR at 3.

<sup>83</sup> See Garofalo Second Sections ABCD Supplemental Questionnaire at 7; *see also* AD Questionnaire at Appendix V.

<sup>84</sup> See Garofalo Second Sections ABCD Supplemental Questionnaire at 14.

<sup>85</sup> *Id.* at 12-14.

<sup>86</sup> *Id.* at 13-14.

<sup>87</sup> *Id.* at 13-14 and Exhibit SSB-1.



finding that Garofalo's gift boxes are a variety mixed pasta product within the meaning of Appendix V of the AD Questionnaire, and that the pasta is produced using a single die. Absent any compelling reason or record evidence to distinguish the mixed combination of shapes included in SHAPEH code 8 products from the mixed combination of shapes comprising Garofalo's gift boxes, we find that the gift boxes require SHAPEH code 8.

Regarding its COP database, in its 2SABCDQR, Garofalo revised the SHAPE coding for certain products in the database without any explanation or record evidence supporting such revision.<sup>88</sup> Specifically, it changed the SHAPE code reported for these products from 5 and 6, respectively, to 2 (*i.e.*, from short cut and specialty short cut, respectively, to specialty long cut).<sup>89</sup> However, Garofalo neither submitted nor identified any record evidence to explain these changes. Importantly, these unexplained changes critically undermine the reliability, and usability, of Garofalo's COP database. While Garofalo stated that it "revised the submission accordingly" to effectuate the unsolicited SHAPE/CONNUM change,<sup>90</sup> it provided no description of, or details regarding, how it recalculated costs in the COP database. As discussed in the Garofalo Preliminary Analysis Memorandum, these changes are advantageous to Garofalo, and compound the effect of a previous unsolicited and unexplained advantageous change to its COP database.<sup>91</sup> Moreover, as discussed in the Garofalo Preliminary Analysis Memorandum, we find that Garofalo failed to explain or remedy the above-referenced deficiencies with respect to unexplained advantageous changes to its COP database.<sup>92</sup> We, therefore, find that Garofalo did not explain or remedy the deficiency; rather, it exacerbated the deficiency.

The U.S. Court of International Trade (CIT) has upheld Commerce's "firm {policy} with respect to company-specific requests for reclassification of shapes," designed to mitigate "concerns regarding the potential for manipulation," to prevent similar attempts to unilaterally alter the model-matching methodology employed in Commerce's weighted-average dumping margin calculations.<sup>93</sup> We note that Commerce has previously rejected similar attempts to change pasta shape classifications without any explanation or record evidence. For example, in *Pasta from Italy 13-14*, Commerce rejected the respondent's attempt to reclassify SHAPEH codes, noting that:

...we have never allowed respondents to reclassify pasta shape classifications...without providing the requisite evidence to support such a reclassification. Furthermore, we have not allowed respondents to reclassify pasta shapes that are already included in the pasta shape classification table.<sup>94</sup>

<sup>88</sup> See Garofalo's 2SABCDQR at 54-56 and Exhibits SSD-2-4.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.* at 55-56.

<sup>91</sup> See Garofalo Second Sections ABCD Supplemental Questionnaire at 16; *see also* Garofalo Preliminary Analysis Memorandum at section "Shape of Product (SHAPE) Coding".

<sup>92</sup> *Id.*; *see also* Garofalo's 2SABCDQR at 56.

<sup>93</sup> See *La Molisana S.P.A. v. United States*, Slip Op. 18-76 (CIT June 21, 2018) (*La Molisana*).

<sup>94</sup> See *Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 8043 (February 17, 2016) (*Pasta from Italy 13-14*), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.



The CIT upheld Commerce's rejection of the respondent's SHAPEH coding changes.<sup>95</sup> In the instant review, Garofalo sought to change the pasta shape classifications delineated in the AD Questionnaire without notifying Commerce or describing the changes. Garofalo subsequently failed to provide substantial record evidence justifying its changes, and ignored Commerce's explicit instructions to report its gift box sales using SHAPEH code 8, in accordance with Appendix V of the AD Questionnaire. Further, as discussed above, we find that Garofalo's gift boxes are a variety mixed pasta product for the purposes of Appendix V of the AD Questionnaire. Likewise, Garofalo changed SHAPE for certain products in its COP database unilaterally and without submitting or providing evidence to substantiate these changes. Consistent with *Pasta from Italy 13-14* and *La Molisana*, we reject Garofalo's attempts to reclassify its gift boxes under a unique SHAPEH code.

Based on the above factors, we find that Garofalo failed to report home market sales and COP of the foreign like product in the manner or form requested by Commerce (*i.e.*, in accordance with Appendix V of the AD Questionnaire). Rather than comply with Commerce's instructions,<sup>96</sup> or seek clarification or amendment to Commerce's instructions, regarding the appropriate SHAPEH coding for its gift box sales, Garofalo added an unexplained new code that is both unsupported and contradicted by record evidence. Similarly, Garofalo changed its product characteristics and CONNUM reporting without any evidence supporting or explaining these changes. Furthermore, Garofalo submitted an altered COP database without any evidence or explanation, and, thus, failed to address previously-identified deficiencies.<sup>97</sup> Consequently, we find that: (1) necessary information (*i.e.*, accurate, consistent, and substantiated CONNUMs in the home market sales and COP databases) is not available on the record of the instant review; (2) Garofalo withheld this information despite multiple requests by Commerce; and (3) Garofalo failed to report home market sales and COP of subject merchandise in the form and manner requested by Commerce. Moreover, we find that Garofalo's home market sales and COP database CONNUM information is so incomplete that it cannot be relied upon to calculate Garofalo's weighted-average dumping margin, and that Garofalo thereby significantly impeded this review. Finally, because we identified deficiencies in Garofalo's CONNUM reporting, provided opportunities for Garofalo to remedy or explain the deficiencies, and find that Garofalo's response is not satisfactory, we are disregarding Garofalo's home market sales and COP CONNUM reporting.

### Missing U.S Market Sales

In its SCQR, Garofalo, unsolicited and without explanation, deleted from its U.S. market sales database various transactions that it initially reported in its CQR sales database and, without explanation, changed the sequence numbers (SEQUs) assigned to most of the remaining transactions.<sup>98</sup> In the Garofalo Second Sections ABCD Supplemental Questionnaire, we identified these changes and instructed Garofalo to explain why it deleted these sales:

<sup>95</sup> See *La Molisana*, Slip Op. 18-76 at 10.

<sup>96</sup> See AD Questionnaire at B-8, C-7, and Appendix V; see also Garofalo Second Sections ABCD Supplemental Questionnaire at 7.

<sup>97</sup> See Garofalo Second Sections ABCD Supplemental Questionnaire at 16; see also Garofalo Preliminary Analysis Memorandum at section "Shape of Product (SHAPE) Coding."

<sup>98</sup> See Garofalo's CQR at U.S. Market Sales Database; see also Garofalo's SCQR at U.S. Market Sales Database.



{r}evis the U.S. market sales database to include each of the...sales Garofalo deleted from the SCQR sales database, or otherwise demonstrate why these sales should not be reported in the sales database. For each sale that Garofalo continues to omit from the sales database, submit documentation substantiating its justification for omission.<sup>99</sup>

In response, Garofalo stated that it removed these transactions because they occurred outside the ordinary course of trade. Garofalo directed Commerce to Exhibit SSC-1 of its 2SABCDQR, “which contains a copy of three” invoices pertaining to the removed sales, as well as “{t}he documentation for the removal of each of these observations....”<sup>100</sup> However, Exhibit SSC-1 provides no evidence to substantiate Garofalo’s claim that the removed sales occurred outside the ordinary course of trade. Exhibit SSC-1 simply lists transactions, and certain terms of sale fields from the U.S. market sales database, without any supporting documentation or explanation.<sup>101</sup> Notably, much of the sales information listed in Exhibit SSC-1 does not match the sales removed from Garofalo’s CQR U.S. market sales database. As discussed in the Garofalo Preliminary Analysis Memorandum, the information reported in Exhibit SSC-1 for the following fields contradicts the information reported for the corresponding transactions in the CQR U.S. market sales database: product code, product description, CONNUMU, PASTYPEU, customer code (CUSCODU), date of sale, and invoice.<sup>102</sup> Moreover, Garofalo did not include in its CUSCODU list and key, or in its CQR U.S. market sales database, the CUSCODU reported for each sale in Exhibit SSC-1.<sup>103</sup> Accordingly, Exhibit SSC-1 fails to remedy or explain Garofalo’s continued exclusion of U.S. market sales from its database, and critically undermines the reliability of the previously-submitted sales information on the record.

Importantly, Garofalo used these unexplained changes to withhold requested information. Specifically, in the Garofalo Section C Supplemental Questionnaire, we instructed Garofalo to “provide a calculation worksheet and copies of relevant supporting documentation” regarding the per-unit warranty expense (WARRU) reported for two selected transactions.<sup>104</sup> In the Garofalo Second Sections ABCD Supplemental Questionnaire, we noted that Garofalo failed to provide the requested WARRU information for one of these transactions, and instructed it to:

Submit the above-referenced calculation worksheets supporting documentation for SEQU {BPI}, using the SEQU coding in the initial U.S. market sales database reported in the CQR.<sup>105</sup>

Garofalo again failed to provide the requested WARRU information, stating that this sale did not have WARRU “in the old version of the database or in the current database.”<sup>106</sup> However,

<sup>99</sup> See Garofalo Second Sections ABCD Supplemental Questionnaire at 11.

<sup>100</sup> See Garofalo’s 2SABCDQR at 38 and Exhibit SSC-1.

<sup>101</sup> *Id.* at Exhibit SSC-1.

<sup>102</sup> *Id.*; see also Garofalo Preliminary Analysis Memorandum.

<sup>103</sup> See Garofalo’s CQR at Exhibit C-5 and U.S. Market Sales Database.

<sup>104</sup> See Garofalo Section C Supplemental Questionnaire at 7.

<sup>105</sup> See Garofalo Second Sections ABCD Supplemental Questionnaire at 14 (emphasis added).

<sup>106</sup> See Garofalo’s 2SABCDQR at 48.



Garofalo reported WARRU for this transaction in its initial U.S. market sales database.<sup>107</sup> While Garofalo provided WARRU worksheets and supporting documentation in its SCQR for the other selected transaction,<sup>108</sup> Garofalo never provided the requested information for the above-referenced transaction. We note that the omitted documentation pertains to one of the lowest WARRU values in the U.S. market sales database.<sup>109</sup>

Garofalo neither provided “documentation substantiating its justification for omission,” nor reported the above-referenced removed sales in its 2SABCDQR U.S. market sales database.<sup>110</sup> While Garofalo claims that it provided supporting documentation in Exhibit SSC-1 of its 2SABCDQR, we find, based on the above factors, that Exhibit SSC-1 does not explain Garofalo’s continued exclusion of the previously-reported U.S. market sales of subject merchandise. Moreover, the clear contradictions in the material terms of sale reported in Exhibit SSC-1 of Garofalo’s 2SABCDQR and CQR U.S. market sales database render the information provided in both submissions for the above-referenced sales unreliable and unusable for the purposes of Commerce’s weighted-average dumping margin calculations. Furthermore, Garofalo failed to provide requested information in the form and manner requested for sales remaining in its U.S. market sales database due, in part, to altering SEQU without any explanation or evidence. We therefore find that necessary information is not available on the record because (1) Garofalo withheld information requested by Commerce; (2) Garofalo failed to provide the information in the form and manner requested; and, (3) by deleting sales without explanation or justification, Garofalo significantly impeded analysis of record information in this review.

### COP Data

In its DQR, Garofalo failed to report the quarterly weighted-average per-unit cost data requested in the AD Questionnaire.<sup>111</sup> Commerce issued two supplemental questionnaires requesting quarterly cost data from Garofalo.<sup>112</sup> Garofalo provided the data in response to Commerce’s supplemental questionnaires.<sup>113</sup> Specifically, Garofalo submitted quarterly weighted-average per-unit production quantities, direct materials cost (DIRMAT), and COMBTOTOCM for the POR.<sup>114</sup> In the Garofalo Second Sections ABCD Supplemental Questionnaire, we instructed Garofalo to “{e}xplain...apparent discrepancies between the quarterly COMBOTOTCOMs calculated in Exhibit SSQ-1 and the weighed-average annual COMBOTOTCOMs reported in the COP database.”<sup>115</sup> Garofalo responded that it “revised the quarterly COP files.”<sup>116</sup>

<sup>107</sup> See Garofalo’s CQR at U.S. Market Sales Database.

<sup>108</sup> See Garofalo’s SCQR at 10 and Exhibit SC-8.

<sup>109</sup> See Garofalo’s CQR at U.S. Market Sales Database.

<sup>110</sup> See Garofalo Second Sections ABCD Supplemental Questionnaire at 11; *see also* Garofalo’s 2SABCDQR at U.S. Market Sales Database.

<sup>111</sup> See AD Questionnaire at D-4.

<sup>112</sup> See Garofalo First SQCQ; *see also* Garofalo Second SQCQ.

<sup>113</sup> See Garofalo’s SQCQR; *see also* Garofalo’s 2SQCQR.

<sup>114</sup> See Garofalo’s 2SQCQR at Exhibit SSQ-1.

<sup>115</sup> See Garofalo Second Sections ABCD Supplemental Questionnaire at 17-18.

<sup>116</sup> See Garofalo’s 2SABCDQR at 62.



As an initial matter, Garofalo made no attempt to explain these discrepancies, or to explain how it remedied the discrepancies. It likewise failed to demonstrate that revising its quarterly cost data, rather than its annual cost data, remedies the discrepancies identified in the Garofalo Second Sections ABCD Supplemental Questionnaire.<sup>117</sup> Moreover, Garofalo's quarterly cost data remain inconsistent with the annual cost data reported in its COP database, and demonstrates that the COP database omits costs. This is particularly problematic because the CONNUMs for which Garofalo reported quarterly costs represent "the five CONNUMs with the highest volume of sales to the U.S. and the five CONNUMs with the highest volume of sales in the comparison market for each quarter of the POR."<sup>118</sup> Furthermore, for the reasons discussed in the Garofalo Preliminary Analysis Memorandum, these discrepancies are advantageous to Garofalo.<sup>119</sup>

Commerce provided Garofalo four opportunities to submit requested quarterly cost information to remedy or explain the deficiencies.<sup>120</sup> Garofalo failed to submit the quarterly cost information in response to the AD Questionnaire, and its 2SQCQR contained additional deficiencies in the form of discrepancies between the quarterly cost data and the COP database.<sup>121</sup> Based on the above factors, we find that Garofalo failed to either explain or remedy these deficiencies. Accordingly, we find that Commerce informed Garofalo of these deficiencies, provided an opportunity to remedy or explain the deficiencies, but Garofalo's failed to provide the information in the form and manner requested. Moreover, the record evidence suggests that Garofalo's COP database is incomplete, due to omitted costs reported in Exhibit SSSQ-1 of its 2SABCDQR, and cannot be relied upon to calculate Garofalo's weighted-average dumping margin. Consequently, we are disregarding Garofalo's original and subsequent quarterly and annual cost information, and find that the record lacks information necessary to calculate Garofalo's weighted-average dumping margin (*i.e.*, complete and substantiated COP data).

#### Failure to Remedy or Explain Deficiencies

Throughout this review, Garofalo failed to effectuate requested changes to remedy deficiencies in its home market sales, U.S. market sales, and COP databases. These deficiencies affect numerous components of Garofalo's NV, constructed export price (CEP), and COP. Specifically, Garofalo failed to remedy or explain deficiencies regarding home market billing adjustments, home market rebates, movement expenses for home market ex-works sales, price discrepancies between gross unit price (GRSUPRU) for U.S. sales of products with the same CONNUM and PASTYPEU, U.S. market brokerage and handling expenses, U.S. duty expenses, U.S. warehousing expenses, U.S. market early payment discounts, U.S. indirect selling expenses, and its direct material costs.<sup>122</sup> Consequently, while Commerce informed Garofalo of these deficiencies, and provided opportunities to remedy or explain these deficiencies, Garofalo failed to provide satisfactory remedies or explanations for these deficiencies. We note that these

<sup>117</sup> See Garofalo Second Sections ABCD Supplemental Questionnaire at 17-18.

<sup>118</sup> See AD Questionnaire at D-4; *see also* First SQCQ at 5.

<sup>119</sup> See Garofalo Preliminary Analysis Memorandum.

<sup>120</sup> See AD Questionnaire at D-4; First SQCQ at 5; Second SQCQ at 5; and Garofalo Second Sections ABCD Supplemental Questionnaire at 17-18.

<sup>121</sup> See Garofalo Second Sections ABCD Supplemental Questionnaire at 17-18.

<sup>122</sup> For analysis of these deficiencies, as well as Commerce's identification and notification of these deficiencies, *see* Garofalo Preliminary Analysis Memorandum.



deficiencies are in addition to the above-described issues with Garofalo's initial and supplemental questionnaire responses.

### Summary

The deficiencies described above, and in the Garofalo Preliminary Analysis Memorandum, render Garofalo's home market sales, U.S. market sales, and COP information unusable for the purposes of calculating a weighted-average dumping margin. Consistent with section 782(d) of the Act, for each of the above deficiencies where Commerce determined that Garofalo's response to its request for information did not comply with the request, Commerce informed Garofalo of the nature of the deficiency, and provided Garofalo with an opportunity to remedy or explain the deficiency. For the reasons discussed in the Garofalo Preliminary Analysis Memorandum, Garofalo failed to remedy or explain these deficiencies when given multiple opportunity to do so.

In accordance with section 782(e)(2)-(4) of the Act, we are disregarding the submitted information because: (1) we cannot verify the information; (2) the information is so incomplete that it cannot serve as a reliable basis for reaching the applicable determination (*i.e.*, calculating Garofalo's weighted-average dumping margin for the POR); (3) Garofalo failed to demonstrate that it acted to the best of its ability in providing the information to Commerce. Without complete sales and cost reconciliations, we cannot verify that Garofalo fully and accurately reported in its home market sales, U.S. market sales, and COP databases the sales and costs recorded in its financial statements. Additionally, without CONNUMs reported in the requested form and manner, we cannot reliably match sales of the foreign like product to identical or similar products sold in the United States during the POR. Absent certain U.S. market sales of subject merchandise, we cannot accurately calculate a weighted-average dumping margin based on the universe of sales of subject merchandise during the POR. Furthermore, without full and accurate COP data, we cannot accurately calculate a weighted-average dumping margin based on the universe of above-cost home market sales.<sup>123</sup> Finally, absent reliable sales and cost data due to the numerous deficiencies described in the Garofalo Preliminary Analysis Memorandum, we cannot accurately calculate Garofalo's NV or CEP, thereby precluding calculation of its weighted-average dumping margin.

Based on the above factors, we preliminarily find that necessary information is not available on the record, and that Garofalo withheld information despite multiple requests from Commerce. Garofalo failed to provide the information in the form and manner requested, despite the multiple opportunities to remedy or explain deficiencies. Thus, Garofalo significantly impeded this administrative review. Consequently, pursuant to sections 776(a)(1) and 776(a)(2)(A)-(C) of the Act, we preliminarily find that the use of facts available is warranted with respect to Garofalo.

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<sup>123</sup> 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. *See, e.g., Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Malaysia: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 89 FR 96207 (December 4, 2024) (*Solar Cells from Malaysia LTFV Prelim*), and accompanying Preliminary Decision Memorandum (PDM) at 23, unchanged in *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Malaysia: Final Affirmative Determination of Sales at Less Than Fair Value*, 90 FR 17376 (April 25, 2025).



*La Molisana*

We preliminarily determine that necessary information is not on the record because La Molisana withheld information requested by Commerce, failed to provide requested information in the requested form and manner, and significantly impeded this proceeding. Consequently, the application of facts otherwise available is appropriate. Despite multiple requests, La Molisana failed to submit certain information in the form and manner requested, including, but not limited to: 1) complete and reliable sales reconciliations tying the home market sales and COP databases to the FY 2023 financial statements; 2) CONNUMs in the requested form and manner for the home market sales database; 3) requested U.S. market sales invoices; 4) full and revised costs in its COP database; and 5) requested changes to the home market sales, U.S. market sales, and COP databases.

Sales Reconciliations

During the POR, La Molisana offered significant on-invoice discounts to home market customers of the foreign like product, as well as significant rebates (REBATEH).<sup>124</sup> In the La Molisana Second Sections ABCD Supplemental Questionnaire, we identified various deficiencies in La Molisana's home market sales reconciliation regarding REBATEH.<sup>125</sup> After reviewing La Molisana's 2SABCDQR, we continue to find various deficiencies in La Molisana's home market sales reconciliation.

First, in the La Molisana Second Sections ABCD Supplemental Questionnaire, we noted that La Molisana reported, in steps 2 and 3 of its home market sales reconciliation, significantly different rebate amounts for the period July 1, 2023, through December 31, 2023 (2H2023).<sup>126</sup> We, therefore, instructed La Molisana to “{s}ubmit documentation from the accounting system substantiating the monthly rebate totals recorded in the general ledger between January 1, 2023, and August 31, 2024.”<sup>127</sup> In response, La Molisana submitted a spreadsheet reporting REBATEH offered from January 1, 2023, through December 31, 2024.<sup>128</sup> As an initial matter, despite explicit instructions,<sup>129</sup> many of the spreadsheet's column titles are not translated into English, inhibiting our understanding of, and ability to analyze, La Molisana's response.<sup>130</sup> Regardless, while Exhibit SSG-2 seemingly corroborates the 2H2023 REBATEH data reported in step 3 of the home market sales reconciliation,<sup>131</sup> La Molisana uses the step 2 2H2023 REBATEH data to reconcile the difference between net sales from the invoicing system and “sales of finished products” reported in the trial balance.<sup>132</sup> We note, however, that substituting

<sup>124</sup> See La Molisana's 2SABCDQR at Home Market Sales Database.

<sup>125</sup> See La Molisana Second Sections ABCD Supplemental Questionnaire at 5-6.

<sup>126</sup> *Id.* at 5.

<sup>127</sup> *Id.*

<sup>128</sup> See La Molisana's 2SABCDQR at Exhibit SSG-2.

<sup>129</sup> See La Molisana Second Sections ABCD Supplemental Questionnaire at 4 (“{i}n accordance with 19 CFR 351.303(e), “**A document submitted in a foreign language must be accompanied by an English translation** of the entire document or of only pertinent portions, where appropriate, unless the Secretary waives this requirement for an individual document {emphasis in original}. A party must obtain Commerce's approval for submission of an English translation of only portions of a document prior to submission to Commerce.”).

<sup>130</sup> See La Molisana's 2SABCDQR at Exhibit SSG-2.

<sup>131</sup> *Id.* at Exhibit SSG-5 (Excel worksheet “Step 3 Sales by Month 2023”).

<sup>132</sup> *Id.* at Exhibit SSG-5 (Excel worksheet “Step 4 breakdown by market 2023”).



the 2H2023 REBATEH value reported in Exhibit SSG-2 into step 4 of the home market sales reconciliation, as reported in Exhibit SSG-5, increases the unreconciled difference between net sales from the invoicing system and sales of finished products in the trial balance.<sup>133</sup>

Furthermore, in the La Molisana Second Sections ABCD Supplemental Questionnaire, we noted a significant difference in REBATEH from the three months prior to the window period to the first month of the window period (*i.e.*, April 2023).<sup>134</sup> We identified certain April 2023 sales, and instructed La Molisana to “{s}ubmit copies of the sales invoice, shipping documentation, rebate documentation, and screenshots from the accounting system entries for” those sales.<sup>135</sup> While La Molisana stated that “{t}he requested documents are provided as Exhibit SSG-4,” it failed to provide the requested information for each sale.<sup>136</sup> Exhibit SSG-4 does not include any of the requested sales invoices, shipping documentation, rebate documentation, or screenshots from La Molisana’s accounting system. Instead, La Molisana submitted worksheets of rebate percentages that do not tie to the corresponding transactions in the home market sales database. La Molisana also submitted lists of invoices that purportedly demonstrate how it booked rebates in its accounting system. However, these lists are not translated into English, and use undefined acronyms, inhibiting our ability to tie the information to the home market sales database, or to the rebate calculations in Exhibit SSG-4. Consequently, although Commerce identified a deficiency in La Molisana’s REBATEH reconciliation information (*i.e.*, significant REBATEH differences between the first month of the window period and the three months preceding the window period), and instructed La Molisana to provide information remedying or explaining the deficiency, La Molisana failed to remedy or explain the identified deficiency.

We find that the home market sales reconciliation remains deficient regarding a critical component of La Molisana’s commercial practices and home market sales database (*i.e.*, REBATEH). La Molisana’s REBATEH are an essential component of its sales information, and affect various expense variables (*e.g.*, inventory carrying cost (INVCARH) and indirect selling expenses (INDIRSH)) used in Commerce’s NV calculations.<sup>137</sup> However, La Molisana provided contradictory REBATEH information, withheld requested supporting documentation, and failed to provide useable English-language translations of various supporting documents that it did submit. We therefore find that the record lacks a complete reconciliation of La Molisana’s home market sales database to its general ledger (*i.e.*, trial balance).

Regarding its cost reconciliation, the AD Questionnaire instructed La Molisana to “illustrate how the costs reported on the financial statements reconcile to the general ledger or trial balance, to the cost accounting system (*i.e.*, the source used to derive the reported costs), and to the reported costs.”<sup>138</sup> In its DQR, La Molisana explained that it separately calculated its FY 2023 cost of sales because “‘{c}ost of goods sold’ is not normally used in {Italian} accounting practices” related to companies’ financial statements.<sup>139</sup> However, La Molisana provided no worksheets or description of how it calculated cost of sales; rather, it provided a single PDF page that listed

<sup>133</sup> See La Molisana Preliminary Analysis Memorandum.

<sup>134</sup> See La Molisana Second Sections ABCD Supplemental Questionnaire at 6.

<sup>135</sup> *Id.*

<sup>136</sup> See La Molisana’s 2SABCDQR at 7.

<sup>137</sup> See La Molisana’s BQR at B-48; *see also* La Molisana’s SBQR at 13.

<sup>138</sup> See AD Questionnaire at D-12.

<sup>139</sup> See La Molisana’s DQR at D-14-15 and Exhibit D-5.



trial balance accounts and values during FY 2023.<sup>140</sup> In the La Molisana Section D Supplemental Questionnaire, we further instructed La Molisana to submit all worksheets used to create its DQR.<sup>141</sup> Additionally, we instructed it to “{r}econcile the cost of sales calculation, and the component cost values, to the La Molisana 2023 audited income statement’s total production costs.”<sup>142</sup> While La Molisana provided a cost of sales calculation worksheet pertaining to Exhibit D-5 of the DQR, the worksheet is significantly different than the original Exhibit D-5 of the DQR.<sup>143</sup> La Molisana provided no explanation of, or justification substantiating, the cost of sales calculation changes between the DQR and SDQR. Moreover, La Molisana did not reconcile its DQR cost of sales calculation to the FY 2023 income statement’s production costs. While La Molisana responded “Exhibit SD-9 contains the requested reconciliation,” this exhibit reconciles the cost of sales value reported in Exhibit SD-1 of the SDQR to the COP database, not the FY 2023 income statement.<sup>144</sup>

In the La Molisana Second Sections ABCD Supplemental Questionnaire, we instructed La Molisana to identify the trial balance accounts from which it sourced certain cost adjustments to its cost of sales, and explain why it “excluded the corresponding expenses from the COP database.”<sup>145</sup> La Molisana responded that it records purchases of both subject pasta and non-subject merchandise in a particular account, and that it excluded “the remaining value of purchases” after accounting for subject pasta.<sup>146</sup> However, La Molisana identifies no record evidence substantiating the amount of the deduction for this account in the reconciliation.<sup>147</sup> Additionally, certain of La Molisana’s deductions remain unsubstantiated by record evidence.<sup>148</sup> Further, La Molisana, without explanation, deleted various labor and packing material expenses from its initial cost of sales calculations.<sup>149</sup> It is, therefore, unexplained how La Molisana’s labor costs in its COP database tie to the trial balance and cost of sales calculation, and whether La Molisana accurately reported packing costs in its sales databases.

Moreover, La Molisana submitted inconsistent and unclear total costs throughout its submissions. In addition to the significant difference between the cost of sales values calculated in the DQR and SDQR, La Molisana provides inconsistent trial balance and combined total cost of manufacturing (COMBTOTCOM) data within individual submissions.<sup>150</sup> We identified the following deficiency, and provided the following instructions in the La Molisana Second Sections ABCD Supplemental Questionnaire:

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<sup>140</sup> *Id.* at Exhibit D-5.

<sup>141</sup> See La Molisana Section D Supplemental Questionnaire at 5.

<sup>142</sup> *Id.* at 6.; see also La Molisana’s AQR at Exhibit A-9(b).

<sup>143</sup> See La Molisana’s SDQR at Exhibit SD-1 (Excel worksheet “D-5 Cost of Sales”); see also La Molisana Preliminary Analysis Memorandum.

<sup>144</sup> See La Molisana’s SDQR at Exhibit SD-9 (Excel worksheet “COST OF SALES”).

<sup>145</sup> See La Molisana Second Sections ABCD Supplemental Questionnaire at 13.

<sup>146</sup> See La Molisana’s 2SABCDQR at 27-28.

<sup>147</sup> See La Molisana Preliminary Analysis Memorandum.

<sup>148</sup> *Id.*; see also La Molisana’s SDQR at Exhibit SD-12 (Excel worksheet “SD-12d REC EXTENDED COMBTOTCOM”).

<sup>149</sup> See La Molisana’s SDQR at Exhibit SD-1 (Excel worksheet “D-5 Cost of Sales”); see also La Molisana’s DQR at Exhibit D-5.

<sup>150</sup> See La Molisana Preliminary Analysis Memorandum.



The “Extended Cost from Cost File” (*i.e.*, {BPI} euros) is {BPI} percent lower than the total cost reported in the POR trial balance (*i.e.*, {BPI} euros). The difference is primarily attributable to the difference in DIRMAT reported in the cost file (*i.e.*, {BPI} euros), and the expenses from the trial balance allocated to DIRMAT (*i.e.*, {BPI} euros). Reconcile the above-referenced DIRMAT values.<sup>151</sup>

La Molisana reported that “{t}he database has been modified to reflect the request of {Commerce}.”<sup>152</sup> While La Molisana submitted a revised trial balance and COMBTOTCOM reconciliation worksheet in an unrelated exhibit (*i.e.*, Exhibit SSD-5, titled “Revised COP Quarterly Cost”), it neither identified nor described the reconciliation in its 2SABCDQR narrative, nor substantiated the revised DIRMAT value reported in column “Extended Cost from Cost File.”<sup>153</sup> Although this revised DIRMAT value is reported in the COP database, the value includes DIRMAT for both subject and non-subject pasta.<sup>154</sup> While La Molisana provided DIRMAT data for non-subject pasta in the SDQR,<sup>155</sup> it did not provide non-subject pasta DIRMAT data incorporating revisions made in the 2SABCDQR, rendering the data unreliable and unusable for the revised reconciliation. In other words, La Molisana failed to reconcile its revised total DIRMAT for both subject and non-subject merchandise to its DIRMAT for subject merchandise reported in the COP database. Even if we assume that La Molisana accurately and completely compiled the reconciliation data in Exhibit SSD-5 of its 2SABCDQR, the exhibit includes a significant unreconciled difference between DIRMAT reported in the COP database and the underlying data in the POR-specific trial balance.<sup>156</sup>

Moreover, La Molisana’s revised DIRMAT calculations, submitted as Exhibit SSD-2 of the 2SABCDQR, did not revise DIRMAT to account for the above-referenced discrepancy identified in the La Molisana Second Sections ABCD Questionnaire.<sup>157</sup> Rather, the quantity and value of the DIRMAT (*i.e.*, semolina) used in production remained the same between the Semolina SQR and the 2SABCDQR.<sup>158</sup> The only change to DIRMAT is attributable to an increased yield loss rate, made in response to a separate issue and question.<sup>159</sup> We therefore find that La Molisana failed to explain or remedy the above-referenced DIRMAT discrepancy, despite multiple opportunities.

La Molisana relied upon its calculated cost of sales to reconcile its trial balance and COP database costs to its FY 2023 financial statements. We find that La Molisana provided two sets of significantly different cost of sales data, but La Molisana did not reconcile either set to its audited financial statements. La Molisana did not describe how it determined which accounts to include in either set of cost of sales data, and, without explanation, significantly changed its cost of sales to approximate its total costs reported in the COP database. Further, it obfuscated these

<sup>151</sup> See La Molisana Second Sections ABCD Questionnaire at 13.

<sup>152</sup> See La Molisana’s 2SABCDQR at 29.

<sup>153</sup> *Id.* at Exhibit SSD-5.

<sup>154</sup> *Id.* at COP Database.

<sup>155</sup> See La Molisana’s SDQR at Exhibit SD-9 (Excel worksheet “LM Cost”).

<sup>156</sup> See La Molisana’s 2SABCDQR at Exhibit SSD-5; *see also* La Molisana Preliminary Analysis Memorandum.

<sup>157</sup> See La Molisana Second Sections ABCD Questionnaire at 13.

<sup>158</sup> See La Molisana’s SDQR at Exhibit SD-11 (Excel worksheet “DM-D\_revised”); *see also* La Molisana’s 2SABCDQR at Exhibit SSD-2.

<sup>159</sup> See La Molisana’s 2SABCDQR at 30-31.



changes by reporting them in the SDQR as a purported Excel version of the initial cost of sales calculations reported in the DQR.<sup>160</sup> La Molisana failed to reconcile its cost of sales calculations, which it uses as a surrogate cost of goods sold, to its audited financial statements. We, therefore, find La Molisana's COP database does not reconcile to its audited financial statements. Consequently, we find that the record lacks reliable cost data upon which to calculate NV.

Based on the above factors, we find that the record lacks necessary information to reconcile La Molisana's home market sales and COP information to its FY 2023 financial statements. This information is not available on the record of this review because La Molisana withheld supporting documentation, as well as accurate and complete data, despite repeated requests from Commerce for such information.<sup>161</sup> We therefore find that La Molisana failed to reconcile its home market sales database to its general ledger, and its COP database to its financial statements. Without complete home market sales and cost reconciliations, Commerce cannot confirm that La Molisana's sales and COP databases fully and accurately reflect the sales and cost data reported in its financial statements and general ledger.

### CONNUMs

The AD Questionnaire instructed La Molisana to report each product's shape in field 3.1 (*i.e.*, SHAPEH), and the type of pasta sold in field 3.12 (*i.e.*, PASTYPEH).<sup>162</sup> The AD Questionnaire delineates eight codes, including "8 – combination of shapes," for reporting SHAPEH in the home market sales database.<sup>163</sup> Appendix V to the AD Questionnaire further instructed La Molisana to:

...classify the pasta types reported in field 3.12 into one of the shape categories specified in field 3.1 in accordance with the questionnaire examples and the attached "Classification of Pasta Shapes." If you sold pasta in shapes that do not appear on the attached list, please contact the official in charge.<sup>164</sup>

Notably, Appendix V instructed La Molisana to report "variety mixed pasta" in the home market sales database under classification "combination of shapes," using code 8.<sup>165</sup> Appendix V further instructed La Molisana to "contact the official in charge should you have any questions on the creation or application of control numbers {(CONNUMs)}," of which SHAPEH is the first, most important component.<sup>166</sup>

<sup>160</sup> See La Molisana's DQR at Exhibit D-5; *see also* La Molisana's SDQR at Exhibit SD-1 (labeled as Exhibit D-5 of the DQR, but nonetheless providing significantly different calculations).

<sup>161</sup> See AD Questionnaire at B-5-6, C-4-5, and D-12; *see also* La Molisana Section D Supplemental Questionnaire at 6; and La Molisana Second Sections ABCD Supplemental Questionnaire at 5-6 and 13.

<sup>162</sup> See AD Questionnaire at B-8 and B-11.

<sup>163</sup> *Id.* at B-8.

<sup>164</sup> *Id.* at Appendix V (p. 13).

<sup>165</sup> *Id.* at Appendix V (p. 20).

<sup>166</sup> *Id.* at Appendix V (explaining that Commerce applies the product characteristics, of which SHAPEH is the first identified in the questionnaire, for its model matching process "on a hierarchical basis") and Appendix VI ("{t}he determination of what constitutes the most similar merchandise is based upon the hierarchy of the product characteristics").



In its initial home market sales database, submitted in its BQR, La Molisana submitted various sales using an undefined SHAPEH code “9,” and did not notify Commerce officials that it created a new SHAPEH code. In its SBQR, La Molisana stated that SHAPEH code 9 pertains to “cartons made of different 500 {gram} or 1 KG bag{s} of different shapes,” as well as certain non-subject merchandise.<sup>167</sup> La Molisana further stated that SHAPEH code 8 products are distinguishable from SHAPE code 9 products because code 8 products “contain{} a single type of pasta...which are multiple form{s} of pasta produced with a single die....”<sup>168</sup> The SHAPEH code 9 products include “gift boxes,” which “consist{} of a fancy box with holds within it various items including packages of subject dry durum wheat pasta, subject whole-wheat pasta....”<sup>169</sup>

In the La Molisana Section C Supplemental Questionnaire, we instructed La Molisana to:

{p}rovide a detailed description of how La Molisana establishes the material terms of sale (*e.g.*, gross unit price, discounts, *etc.*) for gift box sales.

...

Discuss whether La Molisana tracks the value and costs of the pasta types included in the gift boxes. If so, revise the home market sales database to report each component of the gift boxes as individual transactions. If not, describe how La Molisana tracks the revenues and expenses associated with producing and selling the gift boxes.<sup>170</sup>

In response, La Molisana described typical gift box customers, and provided a “list of gift boxes and their composition, a sample from the catalogue and some invoices for the POR.”<sup>171</sup> In the La Molisana Second Sections ABCD Supplemental Questionnaire, we noted that La Molisana’s gift box composition list did not reconcile to the actual sales reported in the home market sales database.<sup>172</sup> Moreover, we again instructed La Molisana to:

...discuss whether {it} tracks the value and costs of the pasta types included in the gift boxes. If so, revise the home market sales database to report each component of the gift boxes as individual transactions. If not, describe how La Molisana tracks the revenues and expenses associated with producing and selling the gift boxes.<sup>173</sup>

Finally, we noted that “Appendix V to the AD Questionnaire instructs respondents to classify ‘variety mixed pasta’ as ‘Combination of Shapes’ (*i.e.*, code ‘8’ in SHAPEH),” and instructed La Molisana to “report the products using code ‘8’ in SHAPEH” if “La Molisana cannot report each component of the mixed-shape products as individual transactions.”<sup>174</sup>

<sup>167</sup> See La Molisana’s SBQR at 3.

<sup>168</sup> *Id.*

<sup>169</sup> See La Molisana’s BQR at B-16.

<sup>170</sup> See La Molisana Section C Supplemental Questionnaire at 5.

<sup>171</sup> See La Molisana’s SCQR at 4 and Exhibit SC-4.

<sup>172</sup> See La Molisana Section Sections ABCD Supplemental Questionnaire at 6-7.

<sup>173</sup> *Id.* at 7.

<sup>174</sup> *Id.* at 7.



In its 2SABCDQR, La Molisana stated that the gift boxes reported in Exhibit SC-4 of the SCQR “related to U.S. sales database,” and that it submitted a revised list reflecting home market and U.S. sales databases as Exhibit SSG-7.<sup>175</sup> Regarding its tracking of gift box components, La Molisana stated that “the vending unit is the gift box, not the individual package of pasta and there is no way to break-out the price of each individual package of pasta, particularly for those gift boxes which contain non-pasta....”<sup>176</sup> Nonetheless, La Molisana did not revise the gift box SHAPEH coding because:

{i}t is La Molisana’s understanding that Shape Code 8 relates to those “mixed” shapes produced by a single die and in a single bag. The pasta in gift boxes is not made from a single die and is not mixed. Each shape is in its own discrete bag, but the single vending unit contains multiple bags. As such, the proper shape code is 9.<sup>177</sup>

As an initial matter, at no point in this administrative review did La Molisana contact Commerce officials to determine how to report gift boxes. Instead, La Molisana unilaterally created a new SHAPEH code, while failing to identify or describe the code until required by Commerce to do so, based on its “understanding” of the SHAPEH coding methodology.<sup>178</sup> Moreover, when Commerce explicitly instructed La Molisana to use SHAPEH code 8, La Molisana again did not contact Commerce officials to seek clarification, or request that Commerce modify its instructions. We note that La Molisana first argued that SHAPEH code 8 products are distinguishable from its gift boxes based on die and shape mix in its SBQR.<sup>179</sup> Commerce then instructed La Molisana to revise its reporting methodology, consistent with the instructions provided in the AD Questionnaire.<sup>180</sup> Rather than complying with Commerce’s explicit instructions, or seeking clarification of or an amendment to the instructions, La Molisana ignored Commerce’s instructions, and continued to report its gift box sales using SHAPEH code 9, thereby failing to provide the information in the form and manner requested by Commerce.

While La Molisana argued that it properly classified its gift boxes under SHAPEH code 9, its argument is unsubstantiated and contradicted by record evidence. For example, as discussed in the La Molisana Preliminary Analysis Memorandum, the record evidence suggests that La Molisana uses pasta with a single die for certain gift boxes.<sup>181</sup> La Molisana’s own reporting therefore contradicts its argument that gift boxes are distinguishable from SHAPEH code 8 products based on die.

Additionally, La Molisana’s contention that gift box pasta is not “mixed” is unsupported by record evidence. Specifically, while La Molisana stated that gift boxes provide each pasta shape in their “own discrete bag{s},” we note that the bags are consolidated into a single box, and that

<sup>175</sup> See La Molisana’s 2SABCDQR at 10.

<sup>176</sup> *Id.* at 11.

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> See La Molisana’s SBQR at 3.

<sup>180</sup> See La Molisana Second Sections ABCD Supplemental Questionnaire at 7; see also AD Questionnaire at Appendix V.

<sup>181</sup> See La Molisana’s 2SABCDQR at Exhibit SSG-7 and Home Market Sales Database; see also La Molisana Preliminary Analysis Memorandum.



the box is “the vending unit” used to track the material terms of sale.<sup>182</sup> La Molisana notes that this “single vending unit contains multiple bags,” but does not explain why keeping individual components in separate bags renders the overall product (*i.e.*, gift boxes) unmixed for the purposes of Appendix V of the AD Questionnaire.<sup>183</sup> Notably, the record evidence demonstrates that products reported with SHAPEH code 8 include multiple pasta shapes packaged together in a single vending unit.<sup>184</sup> Likewise, the gift boxes include multiple pasta shapes packaged together in a single vending unit.<sup>185</sup> Moreover, La Molisana’s product catalog delineates gift box product specifications (*i.e.*, package weight, package size, outer carton dimensions, amount per pallet, and “TMC”) in the same manner as it delineates SHAPEH code 8 product specifications.<sup>186</sup>

Furthermore, La Molisana’s product catalog contradicts the supposed difference between pasta packaged in “bags” and “boxes.” For example, La Molisana’s product catalog describes several of the gift boxes as “paper pack,” “pack paper,” or “paper forms,” while similarly noting that pasta bags use a “paper pack.”<sup>187</sup> La Molisana does not explain how the paper comprising its bags differs from that of its gift boxes. In addition, La Molisana uses both its bag and box packaging to market the underlying product. Specifically, La Molisana’s product catalog highlights its “new paper pack” as a “strength” of its pasta products.<sup>188</sup> Similarly, La Molisana’s use of a “fancy box”<sup>189</sup> for its gift boxes indicates that La Molisana uses the box to market the product itself.

The record evidence, therefore, supports finding that La Molisana’s gift boxes are a variety mixed pasta product within the meaning of Appendix V of the AD Questionnaire. Absent any compelling reason based on substantial evidence to distinguish the mixed combination of shapes included in SHAPEH code 8 products from the mixed combination of shapes comprising La Molisana’s gift boxes, we find that the gift boxes require SHAPEH code 8.

As discussed above, we find that La Molisana failed to report home market sales of subject merchandise in accordance with Appendix V of the AD Questionnaire. Rather than working with Commerce officials to determine the appropriate SHAPEH coding for its gift box sales, La Molisana unilaterally added a new code, without any explanation, that is both unsupported and contradicted by substantial record evidence. This is particularly problematic because La Molisana’s changes remove certain home market sales from a CONNUM with U.S. market sales into a CONNUM with no U.S. sales, thereby removing these sales from the weighted-average dumping margin calculations.<sup>190</sup> Consequently, La Molisana’s SHAPEH coding for gift boxes undermines Commerce’s model-matching methodology, thereby distorting its weighted-average dumping margin calculations. The CIT has upheld Commerce’s “firm {policy} with respect to

<sup>182</sup> See La Molisana’s 2SABCDQR at 11; *see also* La Molisana’s AQR at Exhibit A-13(a).

<sup>183</sup> *Id.* at 11.

<sup>184</sup> See La Molisana’s AQR at Exhibit A-13(a).

<sup>185</sup> *Id.*; *see also* La Molisana’s 2SABCDQR at 11 and Exhibit SSG-7.

<sup>186</sup> See La Molisana’s AQR at Exhibit A-13(a).

<sup>187</sup> *Id.* (p. 154 and 249).

<sup>188</sup> *Id.*

<sup>189</sup> See La Molisana’s BQR at B-16.

<sup>190</sup> See La Molisana’s 2SABCDQR at Home Market Sales Database and U.S. Market Sales Database; *see also* La Molisana Preliminary Analysis Memorandum.



company-specific requests for reclassification of shapes,” designed to mitigate “concerns regarding the potential for manipulation,” in order to prevent similar attempts to unilaterally alter the model-matching methodology employed in Commerce’s weighted-average dumping margin calculations.<sup>191</sup>

Finally, we note that Commerce has previously rejected La Molisana’s similar attempts to unilaterally change pasta shape classifications. For example, in *Pasta from Italy 13-14*, Commerce rejected La Molisana’s attempt to reclassify SHAPEH codes, explaining that:

...we have never allowed respondents to reclassify pasta shape classifications...without providing the requisite evidence to support such a reclassification. Furthermore, we have not allowed respondents to reclassify pasta shapes that are already included in the pasta shape classification table.<sup>192</sup>

The CIT upheld Commerce’s rejection of La Molisana’s SHAPEH coding changes.<sup>193</sup> In the instant review, La Molisana sought to change the pasta shape classifications delineated in the AD Questionnaire without any record evidence justifying the changes, and thus, failed to provide the information regarding gift box sales using SHAPEH code 8 in the form and manner requested in Appendix V of the AD Questionnaire. Further, as discussed above, we find that La Molisana’s gift boxes are a variety mixed pasta product for the purposes of Appendix V of the AD Questionnaire. Consistent with *Pasta from Italy 13-14* and *La Molisana*, we reject La Molisana’s attempts to reclassify its gift boxes under a unique SHAPEH code. Based on the above factors, we find that La Molisana failed to provide SHAPEH, and, therefore, home market sales database CONNUMs, in the requested form and manner.

### Missing U.S Market Sales

Exhibit C-12 of La Molisana’s CQR, and Exhibit SC-12a of La Molisana’s SCQR, calculate brokerage (DBROKU/USBROKU) and duty (USDUTYU) expenses for U.S sales on an invoice-specific basis. In the La Molisana Section C Supplemental Questionnaire, we noted that La Molisana did not report in its U.S. market sales database various invoices identified in Exhibit C-12.<sup>194</sup> Subsequently, to provide an opportunity for La Molisana to remedy or explain the deficiency, we instructed La Molisana to “{r}eport these invoices in the U.S. market sales database,” and to “provide an explanation for why these invoices were omitted.”<sup>195</sup> After issuing the La Molisana Section C Supplemental Questionnaire, La Molisana requested that Commerce “confirm that La Molisana is not required to include in the U.S. Sales database non-subject merchandise, even where...such invoices were expressly requested to be included in the sales database....”<sup>196</sup> On March 4, 2025 (*i.e.*, 13 days before La Molisana submitted its SCQR),

<sup>191</sup> See *La Molisana*, Slip Op. 18-76 at 9-10.

<sup>192</sup> See *Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review; 2013–2014*, 81 FR 8043 (February 17, 2016) (*Pasta from Italy 13-14*), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

<sup>193</sup> See *La Molisana*, Slip Op. 18-76 at 10.

<sup>194</sup> See La Molisana Section C Supplemental Questionnaire at 8.

<sup>195</sup> *Id.*

<sup>196</sup> See La Molisana’s Letter, “Request for Clarification,” dated March 3, 2025 (La Molisana’s Request for Clarification).



Commerce held an *ex-parte* phone call with La Molisana, in which Commerce instructed La Molisana:

{w}here such invoices pertain to non-subject merchandise...to exclude the corresponding merchandise from the U.S. sales database, and to *submit copies of all such invoices* to substantiate that the merchandise is not subject to review.<sup>197</sup>

In its SCQR, La Molisana stated that, “{p}ursuant to the express direction of {Commerce}, La Molisana has provided in Exhibit SC-11 copies of the relevant invoices.”<sup>198</sup> However, the exhibit contained only two sales invoices, neither of which relate to the requested invoices identified in Exhibit C-12 of La Molisana’s CQR.<sup>199</sup> We again instructed La Molisana, in the La Molisana Second Sections ABCD Questionnaire:

{f}or *all invoices pertaining to non-subject merchandise reported in Exhibit C-12, submit copies of the invoice* to substantiate that the merchandise is not subject to review. Ensure that La Molisana reports any invoices pertaining to subject merchandise in the U.S. market sales database.<sup>200</sup>

La Molisana responded in its 2SABCDQR that Commerce “requested invoices only for those invoices which {Commerce} expressly requested that such invoices be reported in the U.S. database. It did not request copies of those invoices for which {Commerce} did not expressly request be included in the U.S. sales database.”<sup>201</sup> La Molisana reported four invoices individually named in Commerce’s question, but failed to report the remaining “invoices pertaining to non-subject merchandise reported in Exhibit C-12,” or to otherwise report these invoices in the U.S. market sales database.<sup>202</sup>

As discussed above, Exhibits C-12 of the CQR and SC-12a of the SCQR, provide sample DBROKU, USBROKU, and USDUTYU calculations for La Molisana’s pasta<sup>203</sup> sales to the United States. The record evidence demonstrates that the merchandise sold through the outstanding invoices entered the United States during the POR, and incurred DBROKU, USBROKU, and USDUTYU. Moreover, La Molisana calculated DBROKU, USBROKU, and USDUTYU for each invoice, on an invoice-specific basis, in Exhibit C-12 of the CQR. We, therefore, find that the record identifies sales of pasta that entered the United States during the POR for which La Molisana calculated certain expenses, but did not report in the U.S. market sales database. Accordingly, as described above, we instructed La Molisana to either report these sales in the U.S. market sales database, or provide copies of the invoices to substantiate its contention that such sales pertain to “non-subject merchandise.”<sup>204</sup> La Molisana failed to do so

<sup>197</sup> See Memorandum, “Phone Call with Counsel to La Molisana,” dated March 5, 2025 (La Molisana *Ex-Parte* Meeting Memorandum) (emphasis added).

<sup>198</sup> See La Molisana’s SCQR at 14.

<sup>199</sup> *Id.* at Exhibit SC-11.

<sup>200</sup> See La Molisana Second Sections ABCD Questionnaire at 10 (emphasis added).

<sup>201</sup> See La Molisana’s 2SABCDQR at 20-21.

<sup>202</sup> *Id.* at Exhibit SSC-2; see also La Molisana Second Sections ABCD Questionnaire at 10.

<sup>203</sup> See La Molisana’s CQR at C-35 (explaining that La Molisana calculated USDUTYU for “{p}asta from Italy” under Harmonized Tariff Schedule classification 1902.19.10).

<sup>204</sup> See La Molisana’s SCQR at 14.



despite explicit instructions throughout the review.<sup>205</sup> Based on the above factors, and absent any record evidence substantiating La Molisana's claim that the invoices in question pertain to non-subject merchandise, we find that La Molisana withheld information requested by Commerce to establish the universe of U.S. market sales of pasta during the POR.

### COP Data

In its DQR, La Molisana failed to report the quarterly weighted-average per-unit cost data requested in the AD Questionnaire.<sup>206</sup> La Molisana subsequently provided the data in response to a supplemental questionnaire.<sup>207</sup> Specifically, La Molisana provided quarterly weighted-average per-unit production quantities, DIRMAT, and COP for the POR, as well as annual weighted-average per-unit values for other cost fields, including COMBTOTCOM.<sup>208</sup> However, the COMBTOTCOM reported for the CONNUMs in Exhibit SQ-3 of La Molisana's SQCQR were higher than the COMBTOTCOM reported in the COP database submitted in the SDQR.<sup>209</sup> In the La Molisana Second Sections ABCD Supplemental Questionnaire, we noted that:

...the data reported under field COMBOTOTCOM in Exhibit SQ-3 {of La Molisana's SQCQR} for each CONNUM is between {BPI} euros higher than the COMBOTOTCOM data reported for these CONNUMs in the COP database. Consequently, COMBOTOTCOM for the CONNUMs reported in Exhibit SQ-3 is between {BPI} percent higher than the COMBOTOTCOM data reported for these CONNUMs in the COP database.<sup>210</sup>

Consequently, we instructed La Molisana to “{e}xplain the discrepancies between COP data in Exhibit SQ-3 and the COP database, and revise the COP database to include the higher costs reported in Exhibit SQ-3.”<sup>211</sup> We further instructed La Molisana that, “{i}f the higher costs result from methodological changes, then identify and describe all such changes. Revise the COP database to apply such changes for all CONNUMs, as appropriate.”<sup>212</sup>

La Molisana responded that “there must be a wrong cross reference in the COP quarterly cost {because n}o change in the methodology occur {sic} and therefore there is no other explanation to such difference.”<sup>213</sup> La Molisana failed to comply with Commerce's instruction to “revise the COP database to include the higher costs reported in Exhibit SQ-3,” and instead submitted “revised COP quarterly cost” data.<sup>214</sup> Notably, La Molisana neither explains its changes to the quarterly cost data, nor why its SQCQR quarterly cost data, rather than its COP database COMBTOTCOM, is incorrect. Nonetheless, the difference between the revised

<sup>205</sup> See La Molisana *Ex-Parte* Meeting Memorandum; see also La Molisana Second Sections ABCD Questionnaire at 10.

<sup>206</sup> See AD Questionnaire at D-4.

<sup>207</sup> See La Molisana's SQCQR.

<sup>208</sup> *Id.* at Exhibit SQ-3.

<sup>209</sup> *Id.*; see also La Molisana's SDQR at COP Database.

<sup>210</sup> See La Molisana Second Sections ABCD Questionnaire at 14-15.

<sup>211</sup> *Id.* at 15.

<sup>212</sup> *Id.*

<sup>213</sup> See La Molisana's SABCDQR at 32.

<sup>214</sup> *Id.* at 32 and Exhibit SSD-5; see also La Molisana Second Sections ABCD Supplemental Questionnaire at 15.



COMBTOTCOM calculated for each CONNUM in Exhibit SSD-5 of La Molisana's 2SABCDQR, and the COMBTOTCOM reported for these CONNUMs in the 2SABCDQR COP database, is greater than before.<sup>215</sup>

The record, therefore, contains two sets of significantly different COMBTOTCOM for the CONNUMs comprising a significant majority of total production quantity reported in the 2SABCDQR COP Database.<sup>216</sup> These CONNUMs likewise account for a significant majority of net quantity sold in the home market during the window period.<sup>217</sup> Based on the above-discussed factors, we find that La Molisana failed to report quarterly costs in its originally filed DQR. La Molisana subsequently reported higher COMBTOTCOM in its SQCQR, but still omitted these higher COMBTOTCOM values from its COP database, despite Commerce's instruction to revise its COP database to include these values.<sup>218</sup> Additionally, La Molisana's explanation for the discrepancy in the COMBTOTCOM data<sup>219</sup> does not satisfactorily explain or remedy the discrepancy.

#### Failure to Remedy or Explain Deficiencies

Throughout this review, La Molisana failed to effectuate requested changes to remedy deficiencies in its home market sales, U.S. market sales, and COP databases. These deficiencies affect numerous components of La Molisana's NV, export price (EP), and COP. Specifically, La Molisana failed to remedy or explain deficiencies regarding home market rebates, home market indirect selling expenses, home market inventory carry costs, U.S. market credit expenses, U.S. market sales terms and movement expenses, packing expenses in both the home and U.S. markets, and various inconsistencies in its COP data.<sup>220</sup> Consequently, while Commerce informed La Molisana of these deficiencies, and provided opportunities to remedy or explain these deficiencies, La Molisana failed to provide satisfactory remedies or explanations for these deficiencies. We note that these deficiencies are in addition to the above-described issues with La Molisana's initial and supplemental questionnaire responses.

#### Summary

The deficiencies described above, and in the La Molisana Preliminary Analysis Memorandum, combine to render La Molisana's home market sales, U.S. market sales, and COP information unusable for the purposes of calculating a weighted-average dumping margin. Consistent with section 782(d)(1) of the Act, for each of the above deficiencies where Commerce determined that La Molisana's response to its request for information did not comply with the request, Commerce informed La Molisana of the nature of the deficiency, and provided La Molisana with an opportunity to remedy or explain the deficiency. For the reasons discussed in the La

<sup>215</sup> See La Molisana Preliminary Analysis Memorandum.

<sup>216</sup> See La Molisana's 2SABCDQR at Exhibit SSD-5 and COP Database.

<sup>217</sup> *Id.* at Home Market Sales Database.

<sup>218</sup> See La Molisana Second Sections ABCD Questionnaire at 15.

<sup>219</sup> See La Molisana's SABCDQR at 32 ("there must be a wrong cross reference in the COP quarterly cost. No change in the methodology occur {sic} and therefore there is no other explanation to such difference").

<sup>220</sup> For analysis of these deficiencies, as well as Commerce's identification and notification of these deficiencies, see La Molisana Preliminary Analysis Memorandum.



Molisana Preliminary Analysis Memorandum, La Molisana failed to remedy or explain these deficiencies when given the opportunity to do so.

Without CONNUMs reported in the requested form and manner, we cannot reliably match sales of the foreign like product to identical or similar products sold in the United States during the POR. Absent certain U.S. market sales of subject merchandise, we cannot accurately calculate a weighted-average dumping margin based on the universe of sales of subject merchandise during the POR. Furthermore, without full and accurate COP data, we cannot accurately calculate a weighted-average dumping margin based on the universe of above-cost home market sales.<sup>221</sup> Finally, absent reliable sales and cost data due to the numerous deficiencies described in the La Molisana Preliminary Analysis Memorandum, we cannot accurately calculate La Molisana's NV or CEP, thereby precluding calculation of its weighted-average dumping margin.

Based on the above factors, we preliminarily find that necessary information is not available on the record, because La Molisana withheld information despite multiple requests from Commerce, failed to provide that information in the form and manner requested by Commerce, and significantly impeded this administrative review. Consequently, pursuant to sections 776(a)(1), 776(a)(2)(A)-(C) of the Act, we preliminarily find that the use of facts available is warranted with respect to La Molisana.

### *Conclusion*

For the purposes of these preliminary results, we find that necessary information is missing from the administrative record because Garofalo and La Molisana withheld information requested by Commerce, failed to provide requested information in the form and manner requested by Commerce, and significantly impeded the proceeding. Accordingly, we are preliminarily relying on the facts otherwise available pursuant to sections 776(a)(1) and (2)(A)-(C) of the Act.

## **B. Use of Adverse Inferences**

Section 776(b) of the Act provides that, if Commerce 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, Commerce may use an inference adverse to the interests of that party in selecting the facts otherwise available. In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) explains that Commerce 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."<sup>222</sup> Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference.<sup>223</sup> It is

<sup>221</sup> 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. *See Solar Cells from Malaysia LTFV Prelim PDM* at 23.

<sup>222</sup> *See* Statement of Administrative Action, H.R. Rep. No. 103-316, vol. 1 (1994) (SAA) at 870; *see also Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

<sup>223</sup> *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); and *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27340 (May 19, 1997) (*Preamble*).



Commerce's practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.<sup>224</sup>

In *Nippon Steel*, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) held that, while the Act does not provide an express definition of the "failure to act to the best of its ability" standard, the ordinary meaning of "best" is "one's maximum effort."<sup>225</sup> Thus, according to the Federal Circuit, the statutory mandate that a respondent act to the "best of its ability" requires the respondent to do the maximum it is able to do. The Federal Circuit indicated that inadequate responses to an agency's inquiries would suffice to find that a respondent did not act to the best of its ability. While the Federal Circuit noted that the "best of its ability standard" does not require perfection, it does not condone inattentiveness, carelessness, or inadequate record keeping.<sup>226</sup> The "best of its ability" standard recognizes that mistakes sometimes occur; however, it requires a respondent to, among other things, "have familiarity with all of the records it maintains," and "conduct prompt, careful, and comprehensive investigations of all relevant records that refer or relate to the imports in question to the full extent of" its ability to do so.<sup>227</sup> Moreover, affirmative evidence of bad faith on the part of a respondent is not required before Commerce makes an adverse inference.<sup>228</sup>

We preliminarily find that Garofalo and La Molisana failed to cooperate by not acting to the best of their ability in failing to remedy or explain the deficiencies identified by Commerce, despite multiple opportunities. Therefore, in accordance with section 776(b) of the Act, we preliminarily find that an adverse inference, when selecting from among the facts otherwise available, is warranted.<sup>229</sup>

### C. Selection and Corroboration of the Adverse Facts Available Rate

Section 776(b)(2) of the Act states that Commerce, when employing an adverse inference, may rely upon information derived from the petition, the final determination from the less-than-fair-value (LTFV) investigation, a previous administrative review, or other information placed on the record.<sup>230</sup> In selecting a rate based on AFA, Commerce selects a rate that is sufficiently adverse

<sup>224</sup> 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 PDM at 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).

<sup>225</sup> See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (*Nippon Steel*).

<sup>226</sup> *Id.*, 337 F.3d at 1382.

<sup>227</sup> *Id.*

<sup>228</sup> See, e.g., 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); see also Preamble, 62 FR at 27340 (May 19, 1997); and *Nippon Steel*, 337 F.3d at 1382-83.

<sup>229</sup> See SAA at 870; see also *Large Power Transformers from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*; 2017-2018, 84 FR 55559 (October 17, 2019), and accompanying PDM, unchanged in *Large Power Transformers from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*; 2017-2018, 85 FR 21827 (April 20, 2020); *Circular Welded Carbon-Quality Steel Pipe from Pakistan: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures*, 81 FR 36867 (June 8, 2016), unchanged in *Circular Welded Carbon-Quality Steel Pipe from Pakistan: Final Affirmative Countervailing Duty Determination*, 81 FR 75045 (October 28, 2016).

<sup>230</sup> See 19 CFR 351.308(c).



to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.<sup>231</sup>

When using facts otherwise available, section 776(c)(1) of the Act provides that, except as provided under section 776(c)(2) of the Act, where Commerce relies on secondary information 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.<sup>232</sup> The SAA clarifies that “corroborate” means that Commerce will satisfy itself that the secondary information to be used has probative value.<sup>233</sup> To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used.<sup>234</sup> Under section 776(c)(2) of the Act, Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.

Finally, under section 776(d)(1)(B) of the Act, Commerce may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins.<sup>235</sup> The Act also makes clear that when selecting an AFA margin, Commerce 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.<sup>236</sup>

When assigning adverse rates in a review, Commerce’s practice is to select as AFA the higher of: (a) the highest dumping margin alleged in the petition; or (b) the highest calculated rate for any respondent from any segment of the proceeding.<sup>237</sup> Further, under section 776(c)(2) of the

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<sup>231</sup> See SAA at 870.

<sup>232</sup> *Id.*

<sup>233</sup> *Id.*; see also 19 CFR 351.308(d).

<sup>234</sup> 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).

<sup>235</sup> See section 776(d)(1)-(2) of the Act.

<sup>236</sup> See sections 776(d)(3)(A) and (B) of the Act.

<sup>237</sup> See *Diamond Sawblades and Parts Thereof from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2010-2011*, 77 FR 73420 (December 12, 2012), unchanged in *Diamond Sawblades and Parts Thereof from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 2010-2011*, 78 FR 36524 (June 18, 2013); see also *Administrative Review of Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Results, Partial Rescission of Sixth Antidumping Duty Administrative Review and Determination Not To Revoke in Part*, 77 FR 53856 (September 4, 2012); *Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil: Final Determination of Sales at Less than Fair Value*, 65 FR 5554, 5567 (February 4, 2000); *Emulsion Styrene-Butadiene Rubber from the Republic of Korea: Final Determination of Sales at Less than Fair Value*, 64 FR 14865, 14866 (March 29, 1999); and *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Final Determination of Sales at Less than Fair Value*, 64 FR 30664, 30687 (June 8, 1999).



Act, Commerce is not required to corroborate a dumping margin applied in another segment of the proceeding.<sup>238</sup>

As AFA, we are preliminarily assigning Garofalo and La Molisana a dumping margin of 91.74 percent, which is the highest calculated rate for any respondent from any segment of the instant proceeding.<sup>239</sup> Because this rate was a rate applied to a respondent in a prior segment of the instant proceeding, there is no need to corroborate it under section 776(c)(2) of the Act. Further, this rate is at a level which does not permit Garofalo or La Molisana to benefit from its lack of cooperation in this review.

## VI. COMPANIES NOT SELECTED FOR INDIVIDUAL EXAMINATION

Commerce did not select Agritalia, Aldino, ATG, Barilla, Chiavenna, Gruppo Milo, Ligouri, Pastificio Sgambaro, Pasta Cocco, Rummo, or Tamma for individual examination in this administrative review. These companies remain non-selected respondents for which Commerce must determine an AD rate. The Act and Commerce's regulations do not address the establishment of a rate for companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for companies not selected for individual review in an administrative review. Pursuant to section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}." Section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis*, or based entirely on facts available, Commerce may use "any reasonable method" for assigning the rate to all other respondents. The SAA states that the expected method in such cases will be to weight average the zero and *de minimis* margins, and margins determined pursuant to facts available, provided that volume data is available.<sup>240</sup> The SAA continues that "if this method is not feasible, or it results in an average that would not be reasonably reflective of potential dumping margins for non-investigated exporters or producers, Commerce may use other reasonable means."<sup>241</sup>

In addressing rates that are reasonably reflective, the Federal Circuit and CIT have discussed the statute's presumption that the behavior of mandatory respondents is representative of the non-selected companies. In *Albemarle*, the Federal Circuit stated that:

{t}he very fact that the statute contemplates using data from the largest volume exporters suggests an assumption that those data can be viewed as representative of all exporters. The statute assumes that, absent such evidence, reviewing only a

<sup>238</sup> See section 776(c)(2) of the Act.

<sup>239</sup> See *Certain Pasta from Italy: Notice of Court Decision Not in Harmony with the Results of Antidumping Duty Administrative Review; Notice of Amended Final Results*, 87 FR 34844, 34845 (June 8, 2022).

<sup>240</sup> See SAA at 873 (emphasis added).

<sup>241</sup> *Id.*



limited number of exporters will enable Commerce to reasonably approximate the margins of all known exporters.”<sup>242</sup>

In addition, the CIT has explained that “{t}he representativeness of the investigated exporters is the essential characteristic that justifies an ‘all-others’ rate based on a weighted average for such respondents.”<sup>243</sup> The CIT has further explained that “this assumption of representativeness that arises with Commerce’s {selection of mandatory respondents based on the largest exporters or producers} carries weight when Commerce determines the rate applicable to non-selected respondents.”<sup>244</sup> The Federal Circuit and CIT have further explained that “the expected method is the default method,” and any party seeking to depart from the expected method must demonstrate that there is a reasonable basis for doing so.<sup>245</sup>

As discussed above, we preliminarily assigned Garofalo and La Molisana weighted-average dumping margins based entirely on AFA.<sup>246</sup> Further, we preliminarily find that the mandatory respondents’ total AFA dumping margin of 91.74 percent is reasonably reflective of the non-selected companies’ potential dumping margins during the POR because the record evidence does not rebut the presumption that the margins assigned to the mandatory respondents are representative of the non-selected companies in this review. The non-selected respondents did not demonstrate that there is a reasonable basis for Commerce to depart from the expected method delineated in the SAA. Moreover, in this administrative review, we selected as mandatory respondents for individual examination “the two exporters accounting for the largest volume of subject merchandise” during the POR (*i.e.*, Garofalo and La Molisana).<sup>247</sup> Therefore, we preliminarily find that it is reasonable to assume that Garofalo’s and La Molisana’s behavior during the POR is representative of the behavior of the non-selected respondents. Finally, we note that, in *PrimeSource 2022*, the CIT upheld Commerce’s application of the expected method, and assignment of a rate based on AFA, to non-selected respondents. The Federal Circuit subsequently affirmed the CIT’s determination.<sup>248</sup> Accordingly, pursuant to 735(c)(5)(B) of the Act, we preliminarily assigned a weighted-average dumping margin of 91.74 percent to the non-selected companies subject to review.

<sup>242</sup> See *Albemarle Corp. v. United States*, 821 F.3d 1345, 1353 (Fed. Cir. 2016) (*Albemarle*).

<sup>243</sup> See *Nat’l Knitwear & Sportswear Ass’n v. United States*, 779 F.Supp.1364, 1373 (CIT 1991).

<sup>244</sup> See *PrimeSource Building Prods. Inc. v. United States*, 581 F.Supp.3d 1331, 1338 (CIT 2022) (*PrimeSource 2022*).

<sup>245</sup> *Id.*, 581 F.Supp.3d at 1338; see also *Albemarle*, 821 F.3d at 1353.

<sup>246</sup> See section “Application of Facts Available and Use of Adverse Inferences,” *supra*.

<sup>247</sup> See Respondent Selection Memorandum at 6.

<sup>248</sup> See *PrimeSource Building Products, Inc. et al v. United States*, 111 F.4th 1320 (Fed. Cir. 2024).



## VII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒

Agree

☐

Disagree

X



Signed by: ABDELALI ELOUARADIA

Abdelali Elouaradia

Deputy Assistant Secretary  
for Enforcement and Compliance