




C-475-819
Administrative Review
POR: 1/1/2013 – 12/31/2013
Public Document
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February 12, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for Final Results of
Countervailing Duty Administrative Review: Certain Pasta from
Italy

I. Summary

The Department of Commerce (the Department) conducted an administrative review of the countervailing duty (CVD) order¹ on certain pasta (pasta) from Italy. The period of review (POR) is January 1, 2013, through December 31, 2013. We find that La Molisana, S.p.A (La Molisana) and De Matteis Agroalimentare S.p.A. (De Matteis) (also known as, De Matteis Agroalimentare SpA), received countervailable subsidies during the POR.

II. Background

On August 10, 2015, we published the *Preliminary Results* of this administrative review.² In the *Preliminary Results*, the Department stated its intent to seek additional information from La Molisana. Accordingly, the Department sent supplemental questionnaires to the Government of Italy (GOI) and La Molisana³ and received timely responses.⁴ La Molisana was the only

¹ See *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta From Italy*, 61 FR 38544 (July 24, 1996) (*Order*).

² See *Certain Pasta From Italy: Preliminary Results of the Countervailing Duty Administrative Review, Rescission in Part, and Preliminary Intent To Rescind in Part; 2013*, 80 FR 47900 (August 10, 2015) (*Preliminary Results*), and accompanying Decision Memorandum, dated July 31, 2015.

³ La Molisana urged the Department to permit parties to comment on the information solicited by the Department following the *Preliminary Results*. See Letter from La Molisana to the Department, "Certain Pasta from Italy: C-475-819; Case Brief," (Case Brief), September 9, 2015, at 4-5. The Department invited comments on this information. See Memorandum to Interested Parties, "Opportunity to Comment on Solicited New Information," October 5, 2015. No party provided comments.

interested party to submit a case brief.⁵ No party submitted a rebuttal brief. La Molisana also timely submitted comments on the new factual information submitted after the *Preliminary Results*.⁶ On November 16, 2015, the Department extended the deadline for the final results of the administrative review to February 8, 2016.⁷

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final results of this review is now February 12, 2016.⁸ La Molisana requested a hearing and subsequently withdrew its request.⁹

Below is the complete list of the issues in this administrative review for which we received comments from the interested parties and to which we have responded:

Comment 1: Whether to Rescind the Review of La Molisana Industrie Alimentari S.p.A. (LMIA)

Comment 2: Entries Covered in La Molisana's Liquidation Instructions

Comment 3: Application of the Appropriate Sales Denominator

III. Changes Since the Preliminary Results

Following the *Preliminary Results*, we requested additional information from the GOI and La Molisana. Specifically, from the GOI, we requested information about the Fund for Sustainable

⁴ See Letter to the GOI, "Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy: Third Supplemental Questionnaire" (September 2, 2015)(GSQ2) and Letter from the GOI, "Response to the Third Supplemental Questionnaire," (September 30, 2015)(GSQR2). See Letter to La Molisana, "Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy: Supplemental Questionnaire" (September 2, 2015)(LSQ2) and Letter to La Molisana, "Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy: Supplemental Questionnaire," (September 25, 2015)(LSQ3). See Letter from La Molisana, "Certain Pasta From Italy: C-475-819; Response to Supplemental CVD Questionnaire," (September 15, 2015)(LSQR2) and Letter from La Molisana, "Certain Pasta From Italy: C-475-819; Response to Supplemental CVD Questionnaire," (October 5, 2015)(LSQR3).

⁵ See La Molisana's Case Brief (September 9, 2015).

⁶ See Letter from La Molisana, "Additional Comments of La Molisana S.p.A.," (October 9, 2015). La Molisana commented that the information provided by the GOI after the *Preliminary Results* is consistent with its own information.

⁷ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Pasta from Italy: Extension of Time Limit for Final Results of Countervailing Duty Administrative Review," (November 16, 2015).

⁸ See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas," dated January 27, 2016.

⁹ See Letter from La Molisana to the Department, "Certain Pasta From Italy: C-475-819; Request for Hearing," (September 9, 2015); see also See Letter from La Molisana to the Department, "Certain Pasta From Italy: C-475-819; Withdraw Request for Hearing," (December 9, 2015).

Growth, POR FESR Molise 2009/2013, and benefits provided under Article 14 of Law 46/1982. From La Molisana, we requested sales data for additional years during the average useful life (AUL) period. The GOI and La Molisana provided the information we requested, and we used the information to revise certain sales denominators for these final results of review, and our attribution of benefits under Article 14 of Law 46/1982. These changes are discussed in detail below, in the section “Analysis of Programs.”

IV. Scope of the Order

Imports covered by the *Order* are shipments of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by the scope of the *Order* is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of the *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. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, by Associazione Italiana per l'Agricoltura Biologica, or by Ambientale.¹⁰ Pursuant to the Department's May 12, 2011 changed circumstances review, effective January 1, 2009, gluten-free pasta is also excluded from the scope of the *Order*.¹¹ Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the *Order*.¹²

The merchandise subject to review is currently classifiable under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the *Order* is dispositive.

Rulings Relevant to Scope

To date, the Department issued the following rulings and determinations, among others, concerning the scope of the *Order*:

- (1) Multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from

¹⁰ See Memorandum to Susan Kuhbach, “Recognition of EU Organic Certifying Agents for Certifying Organic Pasta from Italy” (October 10, 2012), which is on file in the Department's Central Records Unit (CRU) in Room B8024 of the main Department building.

¹¹ See *Certain Pasta From Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634 (May 12, 2011).

¹² 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).

the scope of the *Order*.¹³

- (2) Multipacks consisting of six one pound packages of pasta that are shrink-wrapped into a single package are within the scope of the *Order*.¹⁴
- (3) Effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the *Order*.¹⁵
- (4) Pastificio Fratelli Pagani S.p.A.'s importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention with respect to the *Order* pursuant to section 781(a) of the Act and 19 CFR 351.225(g).¹⁶
- (5) Valdigrano di Flavio Pagani S.r.L.'s pasta made from a dough that contains 2.5 percent egg white, by weight, is within the scope of the *Order*.¹⁷

V. Partial Rescission of the Administrative Review

We initiated a review for LMIA.¹⁸ However, as explained below, the record demonstrates that LMIA ceased operations prior to the POR and did not export subject merchandise during the POR. Moreover, La Molisana demonstrated that all entries shown in the data provided by Customs and Border Protection (CBP) as entering under the company case number established for LMIA were of subject merchandise produced and exported by La Molisana.¹⁹ Accordingly, because we find that LMIA was not operational during the POR and made no entries of subject merchandise during the POR we are rescinding this review with respect to LMIA.

VI. Use of Facts Otherwise Available and Adverse Inferences

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply “facts otherwise available,” subject to section 782(d) of the Act, if necessary information is not on the record or if an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as

¹³ See Memorandum to Richard Moreland, dated August 25, 1997, which is on file in the CRU.

¹⁴ See Letter from Susan H. Kuhbach to Joseph A. Sidari Company Inc., dated July 30, 1998, which is on file in the CRU.

¹⁵ See Memorandum to Richard Moreland, dated May 24, 1999, which is on file in the CRU.

¹⁶ See *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003).

¹⁷ See Memorandum to Christian Marsh, “Certain Pasta from Italy: Final Ruling on the Scope Inquiry Request Regarding Egg White Pasta from Valdigrano di Flavio Pagani S.r.L.” (July 18, 2013).

¹⁸ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 58729, 58738 (September 30, 2014).

¹⁹ See Letter from La Molisana to the Department, “Certain Pasta from Italy: Request for Clarification of Liquidation Instructions,” September 15, 2014 at 1.

provided by section 782(i) of the Act.

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

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the antidumping and CVD law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.²⁰ The amendments to section 776 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this review.²¹

Section 776(b) of the Act provides that the Department may use an adverse inference in selecting from among the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, the Department is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.²² Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the CVD investigation, a previous administrative review, or other information placed on the record.²³

When the government fails to provide requested information concerning alleged subsidy programs, the Department, as adverse facts available (AFA), typically finds that a financial contribution exists under the alleged program and that the program is specific.²⁴ However, where possible, the Department will normally rely on the foreign producer's or exporter's records to determine the existence and amount of the benefit to the extent that such information is useable and verifiable. Consistent with its past practice, as described below, because the GOI failed to provide information concerning certain alleged subsidies identified below, the Department, as AFA, has determined that those programs confer a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act, respectively. The analysis of the

²⁰ See TPEA, Pub. L. No. 114-27, 129 Stat. 362 (2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission. See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).

²¹ See *Applicability Notice*, 80 FR at 46794-95.

²² See section 776(b)(1)(B) of the Act; TPEA, section 502(1)(B).

²³ See also 19 CFR 351.308(d).

²⁴ See, e.g., *Hardwood and Decorative Plywood from the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2011*, 78 FR 58283 (September 23, 2013), and accompanying IDM at Comment 3, ““Provision of Electricity.”

extent of the benefit, if any, is discussed under the sections below entitled “Analysis of Programs.”

Application of Adverse Facts Available (AFA)

A. Social Security Reductions and Exemptions 1089/68 (Unico) and Subsequent Laws – Sgravi (Sgravi)

In the prior administrative review, on the basis of AFA, the Department found this program specific and to provide a financial contribution under sections 771(5A) and 771(5)(D) of the Act, respectively, because the GOI did not provide the requested laws, regulations or usage information governing this program.²⁵ In this administrative review, the Department again requested that the GOI answer all questions in the Standard Questions Appendix and other appendices (as applicable), including providing copies of the laws governing the program.²⁶ The GOI provided a portion of some of the Sgravi program laws, usage information for the POR, made statements regarding the countervailability of some of the Sgravi programs, and cited to hyperlinks for additional information, including certain of the laws that govern this program.²⁷ The GOI did not submit a completed Standard Questions Appendix or any other applicable appendices. In its response, the GOI stated, “[a]s already explained in the GOI response to the 2011 CVD Administrative Review- Certain Pasta from Italy (C-475-819), Law 1089/68 was repealed by Legislative Decree 212 of December 13, 2010, which came into force on December 16, 2010.”²⁸

In GSQ1, we noted that the Department does not consider citations to documents on the record of other segments or the provision of hyperlinks to information found on the Internet to constitute the provision of information for the record of this administrative review.²⁹ We also noted that De Matteis reported receiving benefits under this program during the POR and requested that the GOI complete the Standard Questions Appendix and the Tax Program Appendix with respect to certain laws under the Sgravi program including Law 276/03 and Law 25/55, and Law 167/2011.³⁰ With respect to Law 25/55, and Law 167/2011, the GOI stated:

It should be noted that, as stated in previous anti-subsidy administrative reviews, that the aid received by pasta manufacturers pursuant to Law 25/55 (now Legislative Decree No. 167/2011) should not be mentioned, given the fact the U.S. Department of Commerce, on the occasion of the final decision regarding the XII revision in question (year 2007) – also taken following the visit of U.S. Officials to Italy – acknowledged that the above – mentioned provisions are not

²⁵ See *Certain Pasta From Italy: Final Results of Countervailing Duty Administrative Review*; 2012, 80 FR 11172 (March 2, 2015)(*Pasta from Italy 2012AR*) and accompanying Issues and Decision Memorandum (IDM) at 4-5 and 12-13.

²⁶ See initial questionnaire at 4.

²⁷ See GQR at 9-11; see also GSQR1 at 4-8.

²⁸ See GQR at 9.

²⁹ See GSQ1 at 1.

³⁰ *Id.* at 4. In this question, we noted “Subsequent Laws” of the program’s title “Social Security Reductions and Exemptions 1089/68(Unico) and Subsequent Laws” included Laws 276/03 and 167/2011.

liable to Countervailing Duty.³¹

Though the GOI stated that Law 25/55 is now Law 167/2011, we find that there is no information on the record or in public decision memoranda in prior reviews that establishes that Law 25/55 is the predecessor to Law 167/2011. Instead, the Department has found only that Law 276/03 is a modification of Law 25/55. Specifically, the Department found that the Sgravi program Law 25/55 was countervailable in *Pasta from Italy 2002AR*³² and it was modified into Law 276/03 in *Pasta from Italy 2007AR*.³³ Furthermore, although we did determine that benefits under Law 25/55, as modified by Law 276/03, were not specific in *Pasta from Italy 2007AR*, as set forth in greater detail below, in that review the GOI provided information that enabled the Department to conduct a *de facto* specificity analysis.³⁴ The GOI has not provided the same information in this review, despite the Department's request for such information.³⁵

Law 276/03 and Law 25/55

In GSQ1, we noted that De Matteis reported receiving benefits during the POR under the Sgravi Program: Law 276/03 and Law 25/55 and requested that the GOI complete the Standard Questions Appendix, the Tax Programs Appendix and a chart stating the amounts approved and the approval dates.³⁶ The GOI stated, "{o}n this issue we recall the same text already underlined in answer to the question of which to point 8) of the note." The GOI provided a chart stating the amounts and dates of the contributory reductions provided to De Matteis under this program during the POR.³⁷ The GOI also provided a short description of Law 276/03 and translated copies of part of the law but did not provide necessary information as requested by the Department in its questionnaires, *i.e.*, translation of the relevant sections of the laws, regulations, and relevant usage information governing Law 276/03 and Law 25/55.³⁸

Because the GOI did not provide complete responses to the Department's questionnaires regarding this program, we determine that the GOI withheld information requested and failed to provide information in the form and manner requested. As a result, we are relying on facts otherwise available, in accordance with sections 776(a)(1) and 776(a)(2)(A) and (B) of the Act. In selecting from among the facts otherwise available, we find that an adverse inference is warranted within the meaning of section 776(b) of the Act because we find that by not providing information requested, the GOI did not act to the best of its ability in responding to our requests.

³¹ See GSQR1 at 4.

³² See *Pasta from Italy 2002AR*, and accompanying IDM at 20.

³³ See *Certain Pasta from Italy: Preliminary Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 25489, 25495 (May 28, 2009) (*Pasta from Italy 2007 Prelim*), unchanged in *Certain Pasta from Italy: Final Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 47204 (September 15, 2009) (*Pasta from Italy 2007 Final*) (collectively, *Pasta from Italy 2007AR*).

³⁴ *Id.*

³⁵ The GOI also stated in its initial questionnaire response that Law 223/91 (discussed in more detail below in the section "Analysis of Programs") was found not countervailable in *Pasta from Italy 2007 AR*. However, the Department's finding in that review did not relate to the particular provision of Law 223/91 under which De Matteis reported receiving benefits in this review (specifically, Article 25, Paragraph 9, which the Department found not to be used in *Pasta from Italy 2007AR*).

³⁶ See GSQ1 at 4.

³⁷ See GSQR1 at 7.

³⁸ See GSQ1 at 4-5 and Exhibits 2, 3, and 4.

As AFA, we find that the reduced tax revenue due to the GOI under Laws 276/03 and 25/55 of the Sgravi program during the POR constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act as revenue forgone. We also find, as AFA, that Laws 276/03 and 25/55 are specific within the meaning of 771(5A) of the Act.

For details regarding the remainder of our analysis of this program, *see* the “Analysis of Programs” section below.

Law 167/2011

We noted in GSQ1 that De Matteis reported receiving benefits during the POR under the Sgravi Program: Law 167/2011 and we requested that the GOI complete the Standard Questions Appendix, the Tax Programs Appendix and a chart stating the amounts approved and the approval dates.³⁹ The GOI stated, “{o}n this issue we recall the same text ready underlined in answer to the question of which to point 8) of the note.”⁴⁰ The GOI provided a chart showing the amounts and dates of the contributory reductions provided to De Matteis under this program during the POR.⁴¹ The GOI provided a short description of this law but did not provide necessary information as requested by the Department in its questionnaires, *i.e.*, translated copies of the laws, regulations, and relevant usage information governing Law 167/2011.⁴²

Because the GOI did not provide complete responses to the Department’s questionnaires regarding this program, we determine that the GOI has failed to provide information in the form and manner requested. As a result, we are relying on facts otherwise available, in accordance with sections 776(a)(1) and 776(a)(2)(A) and (B) of the Act. In selecting from among the facts otherwise available, we find that an adverse inference is warranted within the meaning of section 776(b) of the Act because we find that by not providing the requested information, the GOI did not act to the best of its ability in responding to our requests. As AFA, we find that the reduced tax revenue due to the GOI under Law 167/2011 of the Sgravi program during the POR constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act as revenue forgone. We also find, as AFA, that Law 167/2011 is specific within the meaning of 771(5A) of the Act.

For details regarding the remainder of our analysis of this program, *see* the “Analysis of Programs” section below.

B. Article 42 of Law 78/2010

In the prior administrative review of this proceeding, the Department found this program specific as AFA because the GOI did not provide laws, regulations, and relevant usage information governing this program as requested.⁴³ In this administrative review, the Department again requested that the GOI answer all questions in the Standard Questions Appendix and other

³⁹ *Id.* at 4.

⁴⁰ *See* GSQR1 at 6.

⁴¹ *Id.* at 6-7.

⁴² *See* GSQ1 at 4-5 and Exhibits 2, 3, and 4.

⁴³ *See Pasta from Italy 2012AR* and accompanying IDM at 6-7 and 17-18.

appendices (as applicable). The GOI did not submit a completed Standard Questions Appendix or any other applicable appendices. Instead the GOI stated, “Please refer to the response to supplemental questionnaires to the 2012 Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy (C-475-819).” The GOI also stated that none of the respondent companies benefitted from the program during the POR.⁴⁴

Because La Molisana reported receiving some benefits under Article 42 of Law 78/2010 prior to the POR,⁴⁵ we again asked the GOI to complete the Standard Questions Appendix and the Grant Appendix, and to provide a chart showing the amounts and dates the contribution was approved and disbursed under this program prior to the POR and during the POR.⁴⁶ In its response, the GOI stated, “{t}he information is not currently available (competent Authority in charge of providing the answer is the Italian Ministry of Economy and Finance – Agenzia delle Entrate).”⁴⁷

Because the GOI withheld necessary information as requested by the Department, and failed to provide information by the deadlines for submission of the information, we are relying on facts otherwise available, in accordance with sections 776(a)(1) and 776(a)(2)(A) and (B) of the Act. In selecting from among the facts otherwise available, we find that an adverse inference is warranted within the meaning of section 776(b) of the Act because we find that by failing to provide requested information, the GOI did not act to the best of its ability in responding to our requests related to Article 42 of Law 78/2010. As AFA, we therefore find that this program is specific within the meaning of section 771(5A)(D)(iii) of the Act. For details regarding the remainder of our analysis of this program, *see* the “Analysis of Programs” section below.

Application of Facts Available (FA)

A. Article 1 of Law 296/06

In the prior administrative review, the Department relied on FA pursuant to sections 776(a)(1) and (2)(B) of the Act to find that Article 1 of Law 296/06 provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act because the GOI did not provide laws and regulations governing this program as requested. In this administrative review, the Department again requested that the GOI answer all questions in the Standard Questions Appendix and other appendices (as applicable). The GOI did not submit a completed Standard Questions Appendix or any other applicable appendices. Instead the GOI stated “{p}lease refer to the response to the supplemental questionnaires to the 2012 Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy (C-475-819).”⁴⁸ The GOI also stated that none of the respondent companies benefitted from the program during the POR.⁴⁹

In GSQ1, we stated that the Department does not consider a citation to documents in the record

⁴⁴ See GQR at 16.

⁴⁵ See LQR at 15.

⁴⁶ See GSQ1 at 4-5.

⁴⁷ See GSQR1 at 8.

⁴⁸ *Id.*

⁴⁹ *Id.* at 1.

of other segments to satisfy our request to provide information on the record of this administrative review.⁵⁰ We also noted that, contrary to the GOI's statement that no respondents benefitted from this program, De Matteis reported receiving a grant under this program; however, a full response for this program was not provided.⁵¹ We again asked the GOI to complete the Standard Questions Appendix and the Grant Appendix, and to provide a chart showing the amounts and dates the contribution was approved and disbursed under this program prior to the POR and during the POR.⁵² In its response, the GOI stated, "{t}he information is not currently available (competent Authority in charge of providing the answer is the Italian Ministry of Economy and Finance – Agenzia delle Entrate)."

Because the GOI did not provide complete responses to the Department's questionnaires regarding this program, we determine that the GOI withheld information requested by the Department in its questionnaires and, thus, did not provide this information by the deadlines for submission of the information, *i.e.*, the GOI did not provide translated copies of the laws and regulations governing Article 1 of Law 296/06. Accordingly, we must rely, in part, on facts otherwise available, in accordance with sections 776(a)(1) and (2)(A) and (B) of the Act. In selecting from among the facts available, we find that this program confers a financial contribution under section 771(5)(D)(i) of the Act in the form of a direct transfer of funds, as De Matteis reported receiving disbursements from the GOI under this program during the AUL that equaled the amount approved in 2008.⁵³

Our FA finding is limited to the GOI's failure to provide adequate responses to certain requests for information regarding the nature of a financial contribution within the meaning of section 771(5)(D) of the Act. De Matteis has responded completely to the Department's requests in this review, and consistent with the Department's practice, we will rely on the information provided by De Matteis to measure the benefit and calculate the countervailable subsidy rate for this program. For details regarding the remainder of our analysis of this program, *see* the "Analysis of Programs" section below.

VII. Subsidy Valuation Information

A. Allocation Period

Pursuant to 19 CFR 351.524(d)(2), we will presume the allocation period for non-recurring subsidies to be the AUL of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1997 Class Life Asset Depreciation Range System, as updated by the Department of the Treasury. The presumption will apply unless a party claims and establishes that the IRS tables do not reasonably reflect the company-specific AUL or the country-wide AUL for the industry under examination and that the difference between the company-specific and/or country-wide AUL and the AUL from the IRS tables is significant.

⁵⁰ See GSQ1 at 1.

⁵¹ *Id.* at 2.

⁵² *Id.*

⁵³ See Letter from De Matteis, "Pasta from Italy: De Matteis Questionnaire Response" (January 26, 2015) (DQR) at 18 and DSQR2 Exhibit 1.

The AUL period in this proceeding, as described in 19 CFR 351.524(d)(2), is 12 years according to the IRS Tables at Table B-2: Table of Class Lives and Recovery Periods.⁵⁴ No party in this proceeding has disputed this allocation period.

Furthermore, for non-recurring subsidies, we applied the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL.

B. Attribution of Subsidies

The Department’s regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of the Department’s regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *Preamble* to the Department’s regulations further clarifies the Department’s cross-ownership standard. According to the *Preamble*, relationships captured by the cross-ownership definition include those where:

the interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) ... Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.⁵⁵

Thus, the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade upheld the Department’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of

⁵⁴ See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

⁵⁵ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998).

another company in essentially the same way it could use its own subsidy benefits.⁵⁶

De Matteis

De Matteis reported that it was wholly-owned by De Matteis Costruzioni S.r.l. (Costruzioni) during the entirety of the AUL, including the POR.⁵⁷ De Matteis also reported that Costruzioni is wholly-owned by two Italian families.⁵⁸ De Matteis states that, in 1993, Costruzioni purchased a mill and pasta factory from an unaffiliated company, and, in 1994, changed the company's name to De Matteis Agroalimentare S.p.A.⁵⁹

We note that despite Costruzioni's 100 percent ownership of De Matteis, we do not reach the issue of whether cross-ownership exists or whether subsidies to Costruzioni would be attributable to the pasta sold by De Matteis under 19 CFR 351.525(b)(6) because Costruzioni did not receive subsidies during the POR or the AUL period.⁶⁰ Thus, we are attributing subsidies received by De Matteis to its sales, in accordance with 19 CFR 351.525(b)(6)(i).

De Matteis reported that it made export sales of pasta to the United States through an unaffiliated trading company, Agritalia, during the POR.⁶¹ Accordingly, consistent with the Department's requirements, Agritalia submitted a complete questionnaire response and responded to two supplemental questionnaires.

Pursuant to 19 CFR 351.213(b) and 19 CFR 351.221(b), Agritalia is not a respondent in this review because a review was not requested for Agritalia. However, pursuant to 19 CFR 351.525(c), benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm that is producing subject merchandise that is sold through the trading company, regardless of whether the trading company and the producing firm are affiliated. Thus, we are cumulating the benefits from subsidies received by Agritalia with the benefits from subsidies received by De Matteis based on the ratio of Agritalia's exports to the United States of subject merchandise that was produced by De Matteis during the POR to Agritalia's total exports of subject merchandise to the United States during the POR (based on volume).⁶² We find that cumulating Agritalia's benefits with those received by De Matteis for purposes of this review comports with 19 CFR 351.525(c) and the Department's determination in *Pasta from Italy 2012AR*.⁶³

La Molisana

La Molisana reported that it is part of the Ferro Group, owned by F.lli Ferro (Ferro), which

⁵⁶ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (Ct. Int'l Trade 2001).

⁵⁷ See DQR at 2 and 5.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ See generally DQR and DSQR1.

⁶¹ See DQR at 6; DSQR2 at 1; AQR at 13.

⁶² See ASQR2 at 1; and see also Memorandum to the File, "Final Calculation Memorandum for Agritalia S.r.L.," dated concurrently with this memorandum (Agritalia Final Calculation Memorandum).

⁶³ See *Pasta from Italy 2012AR*, and accompanying IDM at 10.

acquired La Molisana in 2011. Ferro was established in 1972 and started operating as a mill in 1975. During the POR, Ferro provided certain raw material inputs (semolina) to La Molisana, which produced and exported the subject merchandise. La Molisana responded to our questionnaire on behalf of the Ferro Group. We find that cross-ownership exists between La Molisana and Ferro within the meaning of 19 CFR 351.525(b)(6)(vi) through Ferro's ownership of La Molisana, and we are attributing subsidies received by La Molisana to La Molisana's sales and subsidies received by Ferro to the combined sales of both, excluding inter-company sales, pursuant to 19 CFR 351.525(b)(6)(iii) and (iv).⁶⁴

La Molisana Industrie Alimentari S.p.A. (LMIA) underwent a bankruptcy proceeding in 2011. Ferro acquired the assets and operations of LMIA and following that proceeding, LMIA ceased to operate after 2011, and the operations were constituted as La Molisana S.p.A, wholly owned by Ferro.⁶⁵ La Molisana has not rebutted our presumption that the non-recurring allocable subsidies provided to LMIA prior to this change in ownership continue to benefit La Molisana. For these final results, we are continuing to attribute non-recurring allocable subsidies provided to LMIA prior to the change in ownership to La Molisana and to allocate the benefits to the POR.

C. Denominators

In accordance with 19 CFR 351.525(a), we calculated *ad valorem* subsidy rates by dividing the amount of the benefit allocated to the POR by the appropriate sales value during the same period taking into account the respondent's receipt of benefits under each program. As explained in detail below in the "Programs Determined to be Countervailable" section, in accordance with 19 CFR 351.525(b)(2), we attributed export subsidies only to products exported by a firm. Further, in accordance with 19 CFR 351.525(b)(3), we have attributed domestic subsidies to all products sold by the firm, including products that were exported.

VIII. Loan Benchmarks and Discount Rates

Section 771(5)(E)(ii) of the Act provides that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market." Normally, the Department uses comparable commercial loans reported by the company as a benchmark. If the firm did not have any comparable commercial loans during the period, 19 CFR 351.505(a)(3)(ii) provides that we "may use a national average interest rate for comparable commercial loans."

Neither La Molisana nor De Matteis reported the receipt of any comparable commercial loans in the years in which the GOI agreed to provide loans under the programs covered in this administrative review. Therefore, pursuant to 19 CFR 351.505(a)(3)(ii), we are using as our benchmark a national average interest rate for comparable commercial loans. For years 1995-1998, we used the information from the Italian Bankers' Association (ABI) from a prior

⁶⁴ See LQR at 2-3.

⁶⁵ *Id.* at 4.

administrative review.⁶⁶ For benefits received in 1999-2004, we used the ABI's prime interest rate (as reported by the Bank of Italy), increased by the average spread charged by banks on loans to commercial customers, plus an amount for bank charges.⁶⁷ For benefits received in 2005-2013, we have used the "Bank Interest Rates on Euro Loans: Outstanding Amounts, Non-Financial Corporations, Loans With Original Maturity More Than Five Years" as published by the Bank of Italy.⁶⁸ For the POR, we relied on Bank of Italy information supplied in the GOI's questionnaire response.⁶⁹ We are also relying on the above-discussed interest rates as discount rates for purposes of allocating non-recurring benefits over time pursuant to 19 CFR 351.524(d)(3)(i)(B).

IX. Analysis of Programs

Based on our analysis and the responses to our questionnaires, we determine the following:

1) Programs Determined To Be Countervailable

A. Grant Programs

1. Article 1 of Law 296/06

This law established an income tax credit for companies that carried out new investments in manufacturing facilities located in the "disadvantaged areas" of Abruzzo, Basilicata, Calabria, Campania, Molise, Puglia, Sardinia and Sicily, during the years 2007 through 2013.⁷⁰ Under Article 1 of Law 296/06, companies located in Campania were eligible to apply for a tax credit for realizing an investment project. This tax credit is in proportion to the total cost of new goods, and the proportion is a percentage based on the location and size of the company.⁷¹ Also, Law 296/06 provides that the tax credit "might be used for the payment of the income taxes; and any excess can be used in compensation."⁷² Thus, the benefit is given in the form of a tax credit; however if a company's tax situation does not permit the use of the awarded amount as a tax credit, then the company can apply to be directly compensated for the awarded amount.

In the prior administrative review covering the 2012 POR, we determined that tax credits provided under this program confer a countervailable subsidy.⁷³ This determination was made, in part, on the basis of FA, because the GOI did not provide requested laws and regulations

⁶⁶ See *Certain Pasta From Italy: Final Results of Countervailing Duty Administrative Review*; 2012, 80 FR 11172 (March 2, 2015)(*Pasta from Italy 2012AR*) and accompanying Issues and Decision Memorandum (IDM) at 4-5 and 12-13.

⁶⁷ See GQR at Exhibit 1. The average spread and bank charges are described in *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from Italy*, 64 FR 30624, 30626-7 (June 8, 1999).

⁶⁸ The Bank of Italy ceased reporting the ABI prime rate in 2004 and, thus, the ABI prime rate was no longer reported after 2004. See GQR at 2-3.

⁶⁹ See GQR at Exhibits 1-3.

⁷⁰ See *Pasta From Italy 2012AR* and accompanying IDM at 18.

⁷¹ See Memorandum to the File, "Additional Documents," (July 31, 2015) at Attachment 1.

⁷² *Id.*

⁷³ See *Pasta From Italy 2012AR* and accompanying IDM at 18-19.

governing this program. Thus, as FA, where a respondent reported receiving disbursements from the GOI under this program, we found that there was a financial contribution under section 771(5)(D)(i) of the Act in the form of a direct transfer of funds. We also found this program specific within the meaning of 771(5A)(D)(iv) of the Act because it is limited to certain enterprises located within designated geographical regions. As summarized above, we are again finding as FA that the program provided a financial contribution under section 771(5)(D)(i) of the Act in the form of a direct transfer of funds. Furthermore, because no interested party provided new information which would warrant reconsideration of our specificity determination, we continue to find that these tax credits are specific within the meaning of 771(5A)(D)(iv) of the Act.

De Matteis reported applying for and receiving approval to complete an investment under this program in 2008 and, subsequently, constructing pasta manufacturing facilities (including plant and machinery) during the AUL.⁷⁴ De Matteis also reported receiving disbursements from the GOI during the AUL that equaled the total awarded amount approved under this program in 2008.⁷⁵ De Matteis stated that it received no additional assistance under this program during the POR.⁷⁶ In *Pasta From Italy 2012*, we found that the subsidy De Matteis received was exceptional, not automatic, and was provided for, or tied to, its capital structure or capital assets, and, thus, it is non-recurring in nature.⁷⁷

To calculate the benefit, we first determined whether the subsidy received by De Matteis exceeded 0.5 percent of its sales in the year in which it was approved, in accordance with 19 CFR 351.524(b)(2). Because the benefits for which De Matteis was approved exceeded 0.5 percent of the relevant sales value in the year of approval, we allocated the benefits over the AUL using the formula described in 19 CFR 351.524(d). We then divided the benefits allocated to the POR by De Matteis' total sales in the POR. On this basis, we determine the countervailable subsidy rate of 0.97 percent *ad valorem* for De Matteis.⁷⁸

2. Law 662/96 – Patti Territoriali

The Patti Territoriali (Law 662/96 Article 2, Paragraph 203, Letter d) program provides grants to companies for entrepreneurial initiatives such as new plants, additions, modernization, restructuring, conversion, reactivation, or transfer. To be eligible for these grants, companies must be involved in mining, manufacturing, production of thermal or electric power from biomass, service companies, tourist companies, agricultural, maritime and salt-water fishing businesses, aquaculture enterprises, or their associations.

This program provides grants to companies located within regions that meet the criteria of Objective 1 or Objective 2 under the Structural Funds or Article 87.3.c. of the Treaty of Rome.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ See DQR at 13.

⁷⁷ See *Pasta From Italy 2012*AR and IDM at 19.

⁷⁸ See Memorandum to the File, “Final Calculation Memorandum for De Matteis Agroalimentare S.p.A.,” dated concurrently with this memorandum (De Matteis Final Calculation Memorandum).

A *Patti Territoriali* is signed between the provincial government and the GOI. Based upon project submissions, the provincial government ranks the projects and selects the projects it considers to be the best. The provincial government submits the detailed plans to the GOI and, if approved, a special authorizing decree is issued for each company specifying the investment required and a schedule of the benefits.⁷⁹

In *Pasta from Italy 2005AR*, the Department found that these grants confer a countervailable subsidy within the meaning of section 771(5) of the Act, because it is a direct transfer of funds from the GOI under section 771(5)(D)(i) of the Act, bestowing a benefit in the amount of the grant.⁸⁰ Also, this grant was found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because it is limited to companies located within regions which meet the criteria of Objective 1 or Objective 2 under the Structural Funds or Article 87.3.c. of the Treaty of Rome.⁸¹ No interested party provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.

De Matteis was approved for a grant under the *Patti Territoriali* on January 29, 1999, and it received disbursements of this grant in 2004 and 2007.⁸² In accordance with 19 CFR 351.524(c) and consistent with our prior findings related to this program, we are treating this one-time grant as a non-recurring subsidy, and we performed the “0.5 percent test” of 19 CFR 351.524(b).⁸³ We divided the total amount of the grant by De Matteis’ total sales in the year of approval/receipt. Because the resulting percentage is greater than 0.5 percent, we are allocating the grant over the AUL.⁸⁴ To determine De Matteis’ subsidy rate, we divided the amounts allocated to the POR by the company’s total sales in the POR. On this basis, we determine the countervailable subsidy rate of 0.05 percent *ad valorem* for De Matteis.⁸⁵

3. Law 662/96 – Contratto di Programma

The *Contratto di Programma* (Law 662/96, Article 2, Paragraph 203, Letter e) program provides grants for the expansion of existing facilities in regions that meet the criteria of Objective 1 or Objective 2 under the Structural Funds or Article 87.3.c. of the Treaty of Rome. The expenses eligible for these grants are design, study, company land, brickwork, machinery, plants, and equipment. There are three types of entities eligible for these grants: (1) large businesses operating in the industrial sector (mining, manufacturing, construction, production and distribution of power, steam, and hot water), services, tourism, agriculture, fishing, and aquaculture industries; (2) associations of small and medium businesses operating in one or more of the above-indicated sectors; or (3) representatives of industrial, agricultural, agri-food, and fishing districts in which beneficiaries are small, medium, and large enterprises.

⁷⁹ *Id.*

⁸⁰ See *Certain Pasta From Italy: Final Results of the Tenth (2005) Countervailing Duty Administrative Review*, 73 FR 7251 (February 7, 2008)(*Pasta from Italy 2005AR*) and accompanying IDM at 11.

⁸¹ *Id.*

⁸² See DQR at 13 and Exhibit 10, and see DSQR2 Exhibit 1.

⁸³ In *Pasta from Italy 2005AR*, the Department treated the *Patti Territoriali* grant as a non-recurring subsidy.

⁸⁴ See 19 CFR 351.524(d).

⁸⁵ See Memorandum to the File, “Preliminary Results Calculation Memorandum for De Matteis Agroalimentare S.p.A. (De Matteis), July 31, 2015.

There are several stages for the application and provision of grants under this program. During the first stage, an entity must apply for the grant through the Ministry of Economic Development (MED) (formerly the Ministry of Productive Activities) which verifies the technical and economic validity of the proposed project, the entrepreneurship requirements of the proposing party, and the adequacy of the allocated funds. The MED files a report with the Interministerial Committee for Economic Planning to approve the financial contribution. During the second stage, the proposing party provides an Executive Project for the implementation of the Project Plan. Following approval, the *Contratto di Programma* is signed by the entity or entities receiving grants and the GOI. The grant is disbursed based on the progress of the work, except for the first installment which is made as an advance payment.⁸⁶

In *Pasta from Italy 2007AR*, the Department found that this grant confers a countervailable subsidy within the meaning of section 771(5) of the Act.⁸⁷ In that review, we found that the grant constitutes a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act from the GOI and Regione Campania which bestows a benefit in the amount of the grant pursuant to 19 CFR 351.504(a). Also, we found that the grant is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because it is limited to companies located within regions which meet the criteria of Objective 1 or Objective 2 under the Structural Funds or Article 87.3.c. of the Treaty of Rome.⁸⁸ No interested party provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.

De Matteis was approved for a grant under the *Contratto di Programma* on March 27, 2006, and it received disbursements of this grant in 2007 and 2008.⁸⁹ In accordance with 19 CFR 351.524(c), we are treating this one-time grant as a non-recurring subsidy, and we performed the “0.5 percent test” of 19 CFR 351.524(b).⁹⁰ We divided the total amount of the grant by De Matteis’ total sales in the year of approval/receipt. Because the resulting percentage is greater than 0.5 percent, we are allocating the grant over the AUL.⁹¹ To determine De Matteis’ subsidy rate, we divided the amount allocated to De Matteis in the POR by its total sales in the POR. On this basis, we determine the countervailable subsidy rate of 0.36 percent *ad valorem* for De Matteis.⁹²

4. Article 14 Law 46/82 (*Fondo Innovazione Tecnologica*)

Article 14 of Law 46/1982 authorized the creation of a revolving fund for technology innovation, also known as the “FIT Program.” Through the fund, the Ministry of Economic Development provides aid for experimental and industrial research projects in the form of soft loans, grants against interest, and capital grants. After an application is submitted to one of the banks

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ See DQR at 13 and Exhibit 10; see DSQR1 at 5, and 11; and see DSQR2 Exhibit 1.

⁹⁰ In *Pasta from Italy 2005AR*, the Department treated the *Patti Territoriali* grant as a non-recurring subsidy.

⁹¹ See 19 CFR 351.524(b)(1) and (d).

⁹² See De Matteis Prelim Calculation Memorandum.

approved by the Ministry to administer the program, the application is evaluated on a number of scientific, technological and economic criteria. Subject matter experts in relevant fields may be asked to help evaluate the technical merits of the proposal. Within 90 days from the submission of an application, the bank is required to report to the Ministry of Economic Development whether it believes the project is feasible. Projects that pass this examination are funded in order of the highest to lowest score, until all the resources appropriated for the program have been exhausted.⁹³ We discuss the grant portion of this program here and the loan portion below under “C. Loans.”

In the prior administrative review, the Department found that grants provided under Article 14 of Law 46/1982 are financial contributions and specific under section 771(5)(D)(i) and 771(5A)(D) of the Act, and to have a benefit and be specific under 19 CFR 351.504(a). No new information has been placed on the record of this review that warrants the reconsideration of this determination.⁹⁴

As stated above, following the *Preliminary Results* we requested and received additional information regarding this program from the GOI. The GOI reported that this program has been modified.⁹⁵ The GOI reported that the program operating as Article 14 Law 46/82 (*Fondo Innovazione Tecnologica, or FIT*), was renamed *Fund for Sustainable Growth* and governed according to Article 23 of Law number 134/2012.⁹⁶ The GOI stated that funds for the FIT program were assigned until 2012.⁹⁷ The GOI also reported that the Italian Ministry of Economic Development manages both the FIT program and the *Fund for Sustainable Growth*.⁹⁸ The GOI did not provide the relevant translations of the new laws governing this program. The GOI also reported that neither mandatory respondent in this administrative review received benefits under the newly modified version of the FIT program (i.e., under the *Fund for Sustainable Growth*), but reported that Ferro received benefits under the former version of the FIT program (i.e., under Article 14 Law 56/82).⁹⁹

Prior to the *Preliminary Results*, La Molisana reported receiving benefits under an unspecified European Regional Development Program (ERDF) program.¹⁰⁰ In the *Preliminary Results*, we relied on the supporting documentation that La Molisana provided which identified these benefits as actually having been provided pursuant to Article 14 of Law 46/1982, and not through the ERDF.¹⁰¹ We noted that we would solicit additional information from the parties regarding this issue after the *Preliminary Results*.

⁹³ See, e.g., *Certain Pasta From Italy: Final Results of the 2009 Countervailing Duty Administrative Review*, 77 FR 7129 (February 10, 2012) (*Pasta From Italy 2009AR*), and accompanying IDM at 16-18; see also *Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review; 2010*, 77 FR 69793 (November 21, 2012) (*Pasta from Italy 2010AR*); and see *Pasta from Italy 2011AR*, and accompanying IDM at 13.

⁹⁴ See *Pasta from Italy 2009AR* and accompanying IDM at 16.

⁹⁵ See GSQR2 at 1.

⁹⁶ *Id.*

⁹⁷ *Id.* at 2.

⁹⁸ *Id.*

⁹⁹ See GQR at 7-8; see LQR at 13 and Exhibit CVD-10(a).

¹⁰⁰ See LQR at 13.

¹⁰¹ See GSQR2 at 1.

For the final results, we are relying on the documentation provided by La Molisana and the GOI in response to our supplemental questionnaires, which reflects that the benefits in question were provided under Article 14 of Law 46/1982, and not under the ERDF.¹⁰² However, in its supplemental response after the *Preliminary Results*, the GOI reported that Ferro was actually the direct beneficiary under this program.¹⁰³ We confirmed this against La Molisana's questionnaire responses, in which La Molisana reported that Ferro received benefits under this program in 2006 to improve technological innovation.¹⁰⁴ Although we attributed these benefits to La Molisana in the *Preliminary Results*, for these final results we are attributing the benefits received under this program to Ferro, because the record reflects that Ferro was the beneficiary. We requested from La Molisana the historical sales totals of Ferro in order to properly calculate the benefit in accordance with our methodology, and La Molisana provided Ferro's historical sales for the AUL.¹⁰⁵

In accordance with 19 CFR 351.524(c), we are treating this grant as a non-recurring subsidy, and we performed the "0.5 percent test" described in 19 CFR 351.524(b). Because the grant under Article 14 of Law 46/1982 exceeded 0.5 percent of Ferro's total sales in the year the grant was approved, we allocated the benefit over the AUL using the grant methodology described in 19 CFR 351.524(d). We divided the amount allocated to the POR by Ferro's and La Molisana's total sales, net of intracompany transfers, during the POR. On this basis, we determine the countervailable subsidy from the grant under Law 46/1982 to be 0.03 percent *ad valorem* for La Molisana.

5. European Social Fund – Arte Bianca Training Project

De Matteis reported receiving a grant in 2013 under Arte Bianca, with two disbursements of funds authorized by the Regione Campania government, contingent on the realization of a training project. The GOI also reported that De Matteis was granted a contribution under the European Social Fund for an "Arte Bianca" training project. De Matteis explained that the Regione Campania government disbursed the funds after an agreement was concluded between the Regione Campania government (which partially financed the training project), De Matteis (which incurred the costs of the project), and the "SME Service Promoter Company" (which carried out the training activities and charged De Matteis). De Matteis also reported that in order to be eligible to participate in the program, a company had to be located in a specific region and carry out a training project. The amount of assistance provided by the Regione Campania government is directly related to the costs incurred by the company through the realization of the project.

The reimbursement of costs under this program constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act because it is a direct transfer of funds, and a benefit is conferred in the amount of the financial contribution, in accordance with 19 CFR 351.509(a).

¹⁰² *Id.*

¹⁰³ *Id.* at 1.

¹⁰⁴ See LQR at Exhibit 10(a).

¹⁰⁵ See LSQR3 at Exhibit SSSCVD-1.

Finally, the program is specific within the meaning of 771(5A)(D)(iv) of the Act because it is limited to certain geographical regions in Italy.

In accordance with 19 CFR 351.524(c), we are treating this grant as a non-recurring subsidy, and we performed the “0.5 percent test” provided in 19 CFR 351.524(b). De Matteis reported the total amount approved by the Regione Campania government in 2009 and the amount disbursed in 2013.¹⁰⁶ We divided the total amount of the grant by De Matteis’ total sales in the year of approval. Because the benefits do not exceed 0.5 percent of De Matteis’ sales, we are allocating the grant to the year of receipt, the POR.¹⁰⁷ To determine De Matteis’ subsidy rate, we divided the 2013 disbursed amount by De Matteis’ total sales in the POR. On this basis, we determine the countervailable subsidy rate of 0.07 percent *ad valorem* for De Matteis.¹⁰⁸

6. Law 289/02 – Article 62 - Investments in Disadvantaged Areas

Article 62 of Law 289/02 provides a benefit in the form of a credit towards direct taxes, indirect taxes, or social security contributions.¹⁰⁹ The credit must be used within three years. The law was established to promote investment in disadvantaged areas by providing credits to companies that undertake new investment by purchasing capital goods, equipment, patents, licenses, or “know how.” The granting of new benefits under Article 62 of Law 289/02 expired as of December 31, 2006, but credits obtained prior to this date may be used in future years.¹¹⁰

In *Pasta from Italy 2005AR*, we determined that Article 62 of Law 289/02 confers a countervailable subsidy.¹¹¹ The credits are a financial contribution within the meaning of section 771(5)(D)(ii) of the Act because they constitute revenue foregone that is otherwise due to the GOI, and a benefit is conferred in the amount of the tax savings, in accordance with 19 CFR 351.509(a). Finally, the program is specific within the meaning of 771(5A)(D)(iv) of the Act because it is limited to certain enterprises located within designated geographical regions in Italy, specifically, the regions of Calabria, Campania, Basilicata, Puglia, Sicilia, and Sardegna; certain municipalities in the Abruzzo and Molise regions; and certain municipalities in central and northern Italy.¹¹² No new information has been placed on the record of this review that would cause us to depart from this treatment.¹¹³

De Matteis is located in Campania and took advantage of this program.¹¹⁴ It did so by constructing a new semolina milling facility, including wheat silos, by-product storage silos, semolina silos, and milling equipment. A tax credit for De Matteis was approved in 2005 and a portion was used to reduce the company’s income taxes in 2005, 2006, and 2007.¹¹⁵

¹⁰⁶ See DQR at 18 and 20 and Exhibit 12.

¹⁰⁷ See 19 CFR 351.524(b)(1) and (d).

¹⁰⁸ See De Matteis Final Calculation Memorandum.

¹⁰⁹ See *Pasta from Italy 2007AR*.

¹¹⁰ *Id.*

¹¹¹ See *Pasta from Italy 2005AR*.

¹¹² *Id.*

¹¹³ See *Live Swine from Canada*, 61 FR at 52420.

¹¹⁴ See *Pasta from Italy 2012AR* and accompanying IDM at 25.

¹¹⁵ *Id.*

In previous reviews, the Department treated the amount credited against 2005 income as a non-recurring grant in accordance with the criteria set forth in 19 CFR 351.524(c)(2)(i)-(iii).¹¹⁶ Specifically, the Department found that the tax credit is exceptional because it was only available for a limited period of time, and was dependent upon companies making specific investments. Further, the tax credit required the GOI's authorization, and was tied to capital assets of the firm.¹¹⁷

In accordance with 19 CFR 351.524(b), we determined that the tax credit received by De Matteis exceeded 0.5 percent of its sales in each year in which the tax credit was approved. Therefore, consistent with our determination in *Pasta from Italy 2007AR*, we treated the portion of the tax credit used to offset income in 2005, 2006, and 2007, as a grant received in each of these years and allocated the benefit over the AUL using the formula described in 19 CFR 351.524(d).¹¹⁸ We then divided the total of the benefits allocated to the POR from the 2005, 2006, and 2007 grants by De Matteis' total sales in the POR. On this basis, we find the countervailable subsidy from Law 289/02, Article 62, to be 0.30 percent *ad valorem* for De Matteis.¹¹⁹

7. Law 488/92 – Industrial Development Grants

In 1986, the European Union (the EU) initiated an investigation of the GOI's regional subsidy practices.¹²⁰ As a result of this investigation, the GOI included in the regions eligible for regional subsidies depressed areas in central and northern Italy in addition to the Mezzogiorno. After this change, the areas eligible for regional subsidies are the same as those classified by the EU as Objective 1 (underdeveloped regions), Objective 2 (declining industrial regions), or Objective 5(b) (declining agricultural regions) areas. The new policy was given legislative form in Law 488/92 under which Italian companies in the eligible regions and sectors (manufacturing, mining, and certain business services) could apply for industrial development grants.¹²¹

Law 488/92 grants are made only after a preliminary examination by a bank authorized by the Ministry of Industry.¹²² On the basis of the findings of this preliminary examination, the Ministry of Industry ranks the companies applying for grants. The ranking is based on indicators such as the amount of capital the company will contribute from its own funds, the number of jobs created, regional priorities, *etc.* Grants are then made based on this ranking.¹²³

In *Pasta from Italy 1997AR*, the Department found that this grant confers a countervailable benefit within the meaning of section 771(5)(D)(i) of the Act and that the benefit, equal to the

¹¹⁶ See *Pasta from Italy 2005AR*; see also *Pasta from Italy 2007AR*.

¹¹⁷ See *Pasta from Italy 2005AR*.

¹¹⁸ See *Pasta from Italy 2007AR*.

¹¹⁹ See De Matteis Final Calculation Memorandum.

¹²⁰ See *Certain Pasta From Italy: Final Results of the Second Countervailing Duty Administrative Review*, 64 FR 44489 (August 16, 1999) (*Pasta from Italy 1997AR*).

¹²¹ *Id.*

¹²² See, e.g., *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386 (June 29, 2010) (*Pasta from Italy 2008AR*).

¹²³ *Id.*

amount of the grant, provided by these industrial development grants are non-recurring.¹²⁴ Also, we found that the grant is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because it is limited to companies located within certain regions. No new information has been placed on the record of this review that would cause us to depart from this treatment.¹²⁵

De Matteis received grants under Law 488/92 in years covered by the AUL and which conferred benefits during the POR.¹²⁶ De Matteis stated it received no additional assistance under this program during the POR.¹²⁷ In accordance with 19 CFR 351.524(c), we are treating this one-time grant as a non-recurring subsidy, and we performed the “0.5 percent test” of 19 CFR 351.524(b).¹²⁸ We divided the total amount of the grant by De Matteis’ total sales in the year of approval/receipt. Because the resulting percentage is greater than 0.5 percent, we are allocating the grant over the AUL.¹²⁹ To determine De Matteis’ subsidy rate, we divided the amount allocated to the POR by De Matteis’ total sales in the POR. On this basis, we determine the countervailable subsidy rate of 0.08 percent *ad valorem* for De Matteis.¹³⁰

8. POR FESR Molise 2007/2013

The GOI reported that this program makes funds available for improving technological innovation to small and medium sized enterprises in the Molise region. The GOI reported that 150 of the 250 companies that applied for grants met the eligibility criteria and were approved for benefits.¹³¹

We found ERDF programs countervailable in prior administrative reviews.¹³² The ERDF is one of the European Union’s Structural Funds, created under the authority in Article 130 of the Treaty of Rome to reduce regional disparities in socio-economic performance within the European Union. After the *Preliminary Results*, we requested additional information from the GOI regarding this program. In response to the Department’s supplemental questionnaire, the GOI confirmed that this program is financed from ERDF resources.¹³³ The GOI reported that these programs have not changed in the POR.¹³⁴

La Molisana reported that it received a grant to upgrade its production capacity under a program it identified as POR FESR Molise 2007/2013 (POR FESR Molise), a regional program of the ERDF prior to the POR.¹³⁵ The GOI confirmed that La Molisana received benefits under POR

¹²⁴ See *Pasta from Italy 1997AR*.

¹²⁵ See *Live Swine from Canada*, 61 FR at 52420.

¹²⁶ See DSQR2 at Exhibit 1.

¹²⁷ See DQR at 13.

¹²⁸ In *Pasta from Italy 2005AR*, the Department treated the *Patti Territoriali* grant as a non-recurring subsidy.

¹²⁹ See 19 CFR 351.524(b)(1) and (d).

¹³⁰ See De Matteis Prelim Calculation Memorandum.

¹³¹ See GQR at 17 and Exhibit 14.

¹³² See *Certain Pasta From Italy: Preliminary Results of the Countervailing Duty Administrative Review; 2011*, 78 FR 49256 (August 13, 2013) (*Pasta from Italy 2011AR*), and accompanying IDM at 10-11 (the ERDF programs are “Measure 3.14 of the POR Sicilia 2000/2006,” and “PO FESR Measure 4.1.1.1.”).

¹³³ See GSQR2 at 1.

¹³⁴ See GSQR1 at 9.

¹³⁵ See LQR at 13 and Exhibit CVD-9(b).

FESR Molise.

We determine that POR FESR Molise confers a countervailable subsidy. The grant provided is a financial contribution within the meaning of section 771(5)(D)(i) as a direct transfer of funds. We determine that this program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act, because its availability is limited to companies located in a specific region and the GOI has reported that there have been no changes that would warrant reconsideration of our previous specificity findings. For purposes of these final results, we are treating the amount of the grant as the benefit to La Molisana.

In accordance with 19 CFR 351.524(c), we are treating this one-time grant as a non-recurring subsidy, and we performed the “0.5 percent test” provided in 19 CFR 351.524(b). Because the amount of the grant that was approved exceeded 0.5 percent of the reported total sales in the year of approval, we are allocating the benefits over the AUL; thus, we allocated the disbursements received in 2012 over the AUL, in accordance with 19 CFR 351.524(b) to determine the benefit allocable to the POR. We divided the benefit allocated to the POR by the value of the total sales in the POR to determine the rate for the countervailable subsidy during the POR. On this basis, we determine the countervailable subsidy from the grant under POR FESR Molise 2007/2013 to be 0.04 percent ad valorem for La Molisana.¹³⁶

B. Tax Programs

9. Certain Social Security Reductions and Exemptions – Sgravi

Italian law allows companies, particularly those located in the Mezzogiorno (*i.e.*, the south of Italy), to use a variety of exemptions from and reductions of payroll contributions that employers make to the Italian social security system for health care benefits, pensions, *etc.*¹³⁷ These social security reductions and exemptions, known as Sgravi benefits, are regulated by a complex set of laws and regulations, and are sometimes linked to conditions such as job creation. We have found in prior administrative reviews of this *Order* that benefits under some of these laws (*e.g.*, Law 1089) are available only to companies located in the Mezzogiorno and other “disadvantaged” regions.¹³⁸ Certain other laws (*e.g.*, Law 407/90) provide benefits to companies throughout Italy, but the level of benefits is higher for companies in the Mezzogiorno and other “disadvantaged” regions than for companies in other parts of the country.¹³⁹ Other laws provide benefits that are not linked to any region.

In the *Pasta from Italy Determination* and subsequent reviews,¹⁴⁰ the Department determined that certain types of social security reductions and exemptions confer countervailable subsidies within the meaning of section 771(5) of the Act. The Sgravi benefits provide a financial

¹³⁶ See Memorandum to the File, “2013 Final Results Calculation Memorandum for La Molisana, S.p.A.,” dated February 12, 2016 (La Molisana Final Calculation Memorandum).

¹³⁷ See *Final Affirmative Countervailing Duty Determination: Certain Pasta (“Pasta”) From Italy*, 61 FR 30288 (June 14, 1996) (*Pasta from Italy Determination*).

¹³⁸ *Id.*

¹³⁹ *Id.* at 30294.

¹⁴⁰ See, *e.g.*, *Pasta From Italy 2009AR*, and accompanying IDM at 22.

contribution under section 771(5)(D)(ii) of the Act in the form of revenue foregone by the GOI conferring a benefit in the amount of the tax savings received by the companies. Also, certain types of the Sgravi benefits were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because they were limited to companies in the Mezzogiorno or because the higher levels of benefits were limited to companies in the Mezzogiorno.¹⁴¹

As discussed below, we determine the total countervailable subsidy from the particular Sgravi laws under which De Matteis or Agritalia reported receiving benefits, identified in subsections (i) to (iv) below, to be 0.27 percent *ad valorem* for De Matteis¹⁴² (including the countervailable subsidy received by Agritalia and cumulated with the subsidy received by De Matteis).¹⁴³

a. Law 223/91 (Article 25, Paragraph 9)

Law 223/91 is designed to increase employment by providing benefits to companies that hire unemployed workers on a special mobility list.¹⁴⁴ The mobility list identifies recently fired workers in certain sectors of the economy, and companies in any sector may hire workers named on the mobility list. Under Law 223/91, Article 25, Paragraph 9, an employer is exempted from social security contributions for a period of 18 months when a worker is hired from the mobility list on a permanent basis.¹⁴⁵

The Department has previously determined that Law 223/91, Article 25, Paragraph 9, conferred a countervailable subsidy within the meaning of section 771(5) of the Act.¹⁴⁶ Specifically, we treated the reduction or exemption of taxes as revenue forgone and, therefore, a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. The benefit was calculated as the amount of tax savings in accordance with 19 CFR 351.509(a). Additionally, we found that the program was regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because it was limited to companies in the Mezzogiorno.¹⁴⁷

In GSQ1, we noted that De Matteis reported receiving benefits under Sgravi Program: Law 223/91 Article 25, Paragraph 9 and we asked the GOI to report any changes made to this program and if changes had occurred, then to complete the Standard Questions Appendix and the Tax Programs Appendix.¹⁴⁸ The GOI stated that the law was not replaced during the POR, but further noted that this program would be repealed under Law 92/2012 with an effective date of January 2017.¹⁴⁹ The GOI did not provide Law 92/2012 in its response. The GOI submitted information on both Law 223/91, Article 25, Paragraph 9 and Law 276/2003, articles 54-59. The GOI provided a description of Law 223/91, Article 25, Paragraph 9 in the submitted

¹⁴¹ *Id.*

¹⁴² See De Matteis Final Calculation Memorandum.

¹⁴³ See Agritalia Final Calculation Memorandum.

¹⁴⁴ See *Pasta from Italy 2006AR* and accompanying IDM at 8.

¹⁴⁵ *Id.* at 12.

¹⁴⁶ See *Certain Pasta from Italy: Final Results of the Seventh Countervailing Duty Administrative Review*, 69 FR 70657 (December 7, 2004) (*Pasta from Italy 2002AR*), and accompanying IDM at 20.

¹⁴⁷ See *Pasta from Italy Determination*, 61 FR at 30293.

¹⁴⁸ See GSQ1 at 4.

¹⁴⁹ See GSQR1 at 5.

appendices; however the GOI did not provide any information, such as Law 92/2012, that warrants reconsidering our prior determination of countervailability. Furthermore, no other interested party provided new information which would warrant reconsideration of our determination that these tax reductions or exemptions are countervailable subsidies.

De Matteis reported receiving Sgravi benefits during the POR under Law 223/91 (Article 25, Paragraph 9).¹⁵⁰ In accordance with 19 CFR 351.524(c) and consistent with our methodology in the *Pasta from Italy Determination* and in subsequent administrative reviews,¹⁵¹ we treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy, we divided De Matteis' savings in social security contributions during the POR by De Matteis' total sales during the POR.¹⁵² On this basis, we determine the countervailable subsidy rate of 0.13 percent *ad valorem* for De Matteis.¹⁵³

b. Law 167/2011

Under Law 167/2011, companies can receive Sgravi benefits in the form of tax reductions or exemptions. In *Pasta from Italy 2012AR*, because the GOI did not provide information we requested that was necessary to our analysis of this program, we relied on facts available with an adverse inference to determine that this program conferred a countervailable subsidy.¹⁵⁴ We requested this information again in this administrative review. As summarized above, due to the GOI's non-cooperation with respect to its failure to provide information concerning this Sgravi program, we are again relying on AFA in finding that the social security tax reductions/exemptions conferred under Law 167/2011 constitute a financial contribution within the meaning of section 771(5)(D)(ii) of the Act as revenue forgone and are specific within the meaning of section 771(5A) of the Act. The benefit is the difference between the amount of taxes the respondent would have paid absent the program, and the amount the respondent actually paid in light of the program, *i.e.*, the amount of tax savings, in accordance with 19 CFR 351.509(a).

In accordance with 19 CFR 351.524(c), we treated social security tax reductions and exemptions as recurring benefits. To calculate the countervailable subsidy for De Matteis, we first summed the company's monthly contributions under this law. Next, we multiplied the total contributions in 2013 by the percentage refunded by the GOI to arrive at a POR benefit.¹⁵⁵ We then divided the total benefit by De Matteis' total sales in the POR.¹⁵⁶ On this basis, we determine the countervailable subsidy rate of 0.14 percent *ad valorem* for De Matteis.¹⁵⁷

10. Article 42 of Law 78/2010

¹⁵⁰ See DQR at 15-16 and Exhibit 11, and see DSQR1 Exhibit 3.

¹⁵¹ See, e.g., *Pasta from Italy 2002AR* and *Pasta from Italy 2006AR*.

¹⁵² See De Matteis Final Calculation Memorandum.

¹⁵³ *Id.*

¹⁵⁴ See *Pasta From Italy 2012AR* and accompanying IDM at 18.

¹⁵⁵ See GQR at Exhibit 10.

¹⁵⁶ See De Matteis Preliminary Calculation Memorandum.

¹⁵⁷ *Id.*

La Molisana reported that, under Article 42 of Law 78/2010, companies can receive a fiscal and financial benefit in the form of a deferral of tax when the companies form a “network of enterprises” and deposit a certain minimum investment of profit.¹⁵⁸ Under this program, taxes are deferred until the network implements new investments, and then withdrawals of these deposits are potentially taxed, unless they are used for specific purposes.¹⁵⁹ La Molisana and Ferro reported receiving a deferral of taxes under this program during the POR.¹⁶⁰

We find that such deferral of taxes is a financial contribution in accordance with section 771(5)(D)(ii) of the Act, in the form of the foregoing or not collecting of revenue that is otherwise due through the suspension of tax collection. Further, we determine that benefits under this program are specific in accordance with section 771(5A)(D)(iv) of the Act because it is limited to certain enterprises located within designated geographical regions.

We are directed by 19 CFR 351.509(a)(2) to treat the deferral of taxes otherwise due as a government-provided interest-free loan. Accordingly, using the benchmark interest rate discussed in the, “Loan Benchmarks and Discount Rates,” section, above, we calculated the interest that would have been paid by La Molisana and by Ferro on a comparable commercial loan in the amount of the taxes deferred. We divided the benefit to La Molisana in the POR by La Molisana’s sales and we divided the benefit to Ferro by La Molisana’s and Ferro’s POR total sales, net of intercompany sales. We added the resulting rates together to determine an *ad valorem* countervailable subsidy rate of 0.16 percent during the POR for La Molisana.¹⁶¹

C. Loans

11. Article 14 of Law 46/82 (*Fondo Innovazione Tecnologica*) - Loans

Article 14 of Law 46/1982 authorized the creation of a revolving fund for technology innovation, also known as the “FIT Program.” Through the fund, the Ministry of Economic Development provides aid for experimental and industrial research projects in the form of soft loans, grants against interest, and capital grants. After an application is submitted to one of the banks approved by the Ministry to administer the program, the application is evaluated on a number of scientific, technological and economic criteria. Subject matter experts in relevant fields may be asked to help evaluate the technical merits of the proposal. Within 90 days from the submission of an application, the bank is required to report to the Ministry of Economic Development whether it believes the project is feasible. Projects that pass this examination are funded in order of the highest to lowest score, until all the resources appropriated for the program have been exhausted.¹⁶² Because this program provides benefits in the form of grants and loans, we discussed the grant portion of this program above under “A. Grants” and we discuss the loan portion here.

¹⁵⁸ See LQR at 15 and Exhibits CDV-11 and -12; see also LSQR2.

¹⁵⁹ See LQR Exhibit CDV-11.

¹⁶⁰ *Id.*

¹⁶¹ See La Molisana Final Calculation Memorandum.

¹⁶² See *Pasta from Italy 2009AR* and accompanying IDM at 16.

In prior administrative reviews, the Department has found that this program provides countervailable subsidies.¹⁶³ The Department found that loans provided under Article 14 of Law 46/1982 are financial contributions and specific under section 771(5)(D)(i) and 771(5A)(D) of the Act, and to have a benefit under 19 CFR 351.505(a). No new information has been provided that warrants reconsideration of this determination.

Both La Molisana and De Matteis reported that they paid interest on a loan under this program that was outstanding during the POR. In accordance with 19 CFR 351.505(c)(2), we calculated the benefit on these loans by calculating the difference between the interest payments the companies made during the POR and the interest payments the companies would have made at the benchmark interest rate. For each company, we divided the resulting benefit received by the company's total sales in the POR. On this basis, we determine the countervailable subsidy from the Law 46/82 research loan to be 0.01 percent ad valorem for De Matteis and 0.03 percent ad valorem for La Molisana.

2) Programs Determined Not to Confer a Measurable Benefit During the POR

12. Certain Social Security Reductions and Exemptions – Sgravi

As described in detail above, Italian law allows companies, particularly those located in the Mezzogiorno (*i.e.*, the south of Italy), to use a variety of exemptions from and reductions of payroll contributions that employers make to the Italian social security system for health care benefits, pensions, *etc.*, also known as Sgravi benefits.¹⁶⁴

i. Law 407/90

Law 407/90 grants an exemption from social security taxes for three years when a company hires a worker who (1) has received wage supplementation for a period of at least two years, or (2) has been previously unemployed for a period of two years. A 100-percent exemption is allowed for companies in the Mezzogiorno, while companies located in the rest of Italy receive a 50-percent reduction.¹⁶⁵ We previously found this program countervailable,¹⁶⁶ and no interested party provided new information that would warrant reconsideration of that determination. Agritalia reported it received a benefit from this program during the POR.¹⁶⁷ We calculated the countervailable subsidy received by Agritalia to cumulate with De Matteis' countervailable subsidies.¹⁶⁸ However, based on this calculation, we find that this program did not provide a measurable benefit to De Matteis during the POR.¹⁶⁹

ii. Law 276/03 and Law 25/55

¹⁶³ *Id.* at 16-18; *see also* *Pasta from Italy 2011AR* and accompanying IDM at 13.

¹⁶⁴ *See Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") From Italy*, 61 FR 30288 (June 14, 1996)(*Pasta from Italy Determination*).

¹⁶⁵ *See, e.g., Pasta From Italy 2009AR*, and accompanying IDM at 22.

¹⁶⁶ *Id.*

¹⁶⁷ *See* AQR at 17-18 and Exhibit 10.

¹⁶⁸ *See* Agritalia Final Calculation Memorandum.

¹⁶⁹ *See* De Matteis Prelim Calculation Memorandum.

Under this program, the employer received a total exemption from its social security contribution.¹⁷⁰ Legislative Decree 276/03 (L.D. 276/03) was found to be a modification of Law 25/55 in *Pasta from Italy 2007AR* and no evidence of *de facto* specificity was found. In the *Pasta from Italy 2012AR*, we determined that this program conferred a countervailable subsidy.¹⁷¹ Specifically, we stated that because of the GOI's lack of cooperation in responding to the Department's information requests about this program, we were unable to examine the distribution of benefits under this program in order to determine whether there remained no evidence of *de facto* specificity in POR covered by *Pasta from Italy 2012AR*.

Similarly, in this review, as described above, despite requesting this information from the GOI, the GOI failed to provide the requested information for the Department's evaluation of *de facto* specificity. Therefore, as discussed in the "Use of Facts Otherwise Available and Adverse Inferences" section above, we are relying on the application of AFA for purposes of determining that this program is specific within the meaning of section 771(5A)(D)(iii) of the Act. Further, as AFA we find that the reduction or exemption of taxes under this program is revenue foregone that is otherwise due, and, thus, constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.

De Matteis reported receiving a benefit under this program during the POR.¹⁷² We divided the benefit, the total 2013 amount which the GOI refunded, by De Matteis' total sales during the POR.¹⁷³ Based on this calculation, we find that this program did not provide a measurable benefit to De Matteis during the POR.¹⁷⁴

3) **Programs Determined To Have Been Not Used By Respondents or Not To Provide Benefits During The POR**

We also determine the following programs to have been not used by the respondents:

- Industrial Development Grants Under Law 183/76
- Industrial Development Grants Under Law 341/95
- Industrial Development Grants Under Law 488/92
- Industrial Development Grants Under Law 64/86
- Law 236/93 Training Grants
- Development Grants Under Law 30/84¹⁷⁵
- Article 23 of Legislative Decree 38/2000¹⁷⁶
- Region of Sicily: Measure 3.14 of the POR Sicilia 2000/2006
- Social Security Reductions and Exemptions – *Sgravi*
 - Law 223/91

¹⁷⁰ *Id.*

¹⁷¹ See *Pasta From Italy 2012AR* and accompanying IDM at 18.

¹⁷² See DQR at 15-16.

¹⁷³ See De Matteis Preliminary Calculation Memorandum.

¹⁷⁴ *Id.*

¹⁷⁵ May have also been called "Development Grants Under Law 30 of 1984."

¹⁷⁶ May have also been called "Article 23 of Legislative Decree 38/00."

- Article 8, Paragraph 4
 - Law 449/97
 - Law 448/98
 - Law 56/87
 - Law 56/97
- Duty-Free Import Rights
- Law 289/02, Article 63 - Increase in Employment
- Tax Credits Under Article 280 of Law 296/06
- Law 317/91 Benefits for Innovative Investments
- Interest Subsidies Under Law 598/94
- Law 908/55 *Fondo di Rotazione Iniziative Economiche* (Revolving Fund for Economic Initiatives) Loans
- Law 1329/65 Interest Contributions (Sabatini Law) (Formerly Lump-Sum Interest Payment Under the Sabatini Law for Companies in Southern Italy)
- Law 341/95 Interest Contributions on Debt Consolidation Loans (Formerly Debt Consolidation Law 341/95)
- Article 23 of Legislative Decree 38/2000¹⁷⁷
- Region of Sicily: Regional Law 15/93, as Amended by Regional Law 66/1995
- Region of Sicily: Regional Law 34/88
- Export Restitution Payments
- Grant Received Pursuant to the Community Initiative Concerning the Preparation of Enterprises for the Single Market (PRISMA)
- ERDF Grants
- ERDF *Programma Operativo Plurifondo* Grant
- ERDF *Programma Operativo Multiregionale* Grant
- European Social Fund
- Ministerial Decree 87/02
- Law 10/91 Grants to Fund Energy Conservation
- Export Credits Under Law 227/77
- Capital Grants Under Law 675/77
- Retraining Grants Under Law 675/77
- Interest Contributions on Bank Loans Under Law 675/77
- Preferential Financing for Export Promotion Under Law 394/81
- Urban Redevelopment Under Law 181
- Law 113/86 Training Grants
- European Agricultural Guidance and Guarantee Fund
- Interest Grants Financed by IRI Bonds
- Law 317/91 Benefits for Innovative Investments
- Brescia Chamber of Commerce Training Grants
- C.C. Article 44 of Law 448/01
- PO FESR Measure 4.1.1.1.
- Tremonti Ter

¹⁷⁷ May have also been called “Article 23 of Legislative Decree 38/00.”

- Regional Law 35/96
- Training Grants from the Fondo Impresa
- Piano Operativo Nazionale (National Operating Plan)
- Bandi Monosettoriali Ob. 2.1.1.b
- Aid to Economic Development
- Interest Contributions Under Law 488/92

X. Analysis of Comments

Comment 1: Whether to Rescind the Review of LMIA

La Molisana argues that the Department cannot rescind the review of LMIA because the Department did not initiate a review of LMIA, and therefore the Department has no basis to rescind a non-existent review.¹⁷⁸ We received no other comments on this issue.

Department’s Position: We do not agree with La Molisana’s contention that there is no basis to rescind the review of LMIA because no review was initiated for LMIA. In its administrative review request, La Molisana indicated that certain of its entries of the subject merchandise had been imported under the company-specific case number assigned to LMIA. Moreover, La Molisana stated that any notice of duty assessment and liquidation of entries should address both La Molisana and LMIA.¹⁷⁹ In response to La Molisana’s review request, the Department initiated a review for La Molisana on August 29, 2014, and for LMIA on September 30, 2014.¹⁸⁰ Therefore, contrary to La Molisana’s assertions, a review has been initiated for LMIA.

Comment 2: Entries Covered in La Molisana’s Liquidation Instructions

La Molisana argues that the Department should include specific direction to CBP in La Molisana’s liquidation instructions to ensure that its entries recorded under the company-specific case number established for LMIA are properly assessed countervailing duties and liquidated. La Molisana suggested the following line for inclusion in the Department’s liquidation instructions to CBP:

In addition to any entries made under the specific case number of La Molisana SpA, entries may also have been made under the under C-475-819-000 or C-475-819-015. For purposes of this review, La Molisana SpA may also be known as La Molisana

¹⁷⁸ See La Molisana’s Case Brief at 2-3.

¹⁷⁹ See Letter to the Department, “Certain Pasta From Italy: Request for review by La Molisana, S.p.A.,” (July 30, 2014) at 2.

¹⁸⁰ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 51548 (August 29, 2014). The Department subsequently corrected its first initiation notice because only one of the two names in La Molisana’s administrative review request was included in the initiation notice. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 58729, 58738 (September 30, 2014).

Alimentari S.P.A.or La Molisana Industrie Alimentari S.p.A.

Department’s Position: As a company subject to review, we will instruct CBP to assess duties on entries produced and/or exported by La Molisana at the rate established for La Molisana in this review. Therefore, we intend that our instructions to CBP will capture all entries produced and/or exported by La Molisana, regardless of the company-specific case number under which the entries were recorded (in other words, duties on entries produced and/or exported by La Molisana that entered under the case number applicable to LMIA will be assessed at the rate determined for La Molisana in this review). We also intend to de-activate the case number assigned to LMIA to ensure that no future entries can be made under this company-specific case number or at the countervailing duty rate established for LMIA.

With respect to La Molisana’s suggestion that the Department indicate in its liquidation instructions that La Molisana “may also be known as La Molisana Alimentari S.P.A. or La Molisana Industrie Alimentarie S.p.A.,” we disagree that such an instruction would be appropriate. As explained above in the section entitled, “Partial Rescission of the Administrative Review,” the record reflects that LMIA was not in existence during the period of review. Moreover, the Department has made no determination that La Molisana is the successor-in-interest to LMIA for purposes of countervailing duty law. To the extent that entry documents submitted to CBP contain incorrect information regarding the producer and/or exporter of the subject merchandise, La Molisana should seek resolution of this matter with CBP.

Comment 3: Application of the Appropriate Sales Denominator

La Molisana argues that Department erred in calculating the countervailable subsidy for La Molisana because it used, for the denominator, the total sales of La Molisana and not the consolidated company total sales, which include the total sales of La Molisana and its parent company, Ferro. Because both companies are involved in the production of pasta during the POR (Ferro, the parent company, provided subject merchandise inputs to La Molisana), La Molisana argues it is appropriate to use the consolidated company sales total as the denominator in calculating the countervailable subsidy rate for any program under which La Molisana received benefits.

Department’s Position: As summarized in the “Attribution of Subsidies,” section above, the Department’s regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

Consistent with 19 CFR 351.525(b)(6)(iii), because we find that Ferro is the parent company to La Molisana, we continue to use the combined sales of both La Molisana and Ferro, excluding

inter-company sales, in calculating the countervailable subsidy rate only for programs under which La Molisana's parent company, Ferro, received benefits. However, for programs under which La Molisana *itself* received benefits, we do not find that any of alternative attribution rules of 19 C.F.R. 351.525(b)(6)(ii) or (iv) apply. Accordingly, we attributed the subsidies received by La Molisana only to La Molisana's sales, consistent with 19 CFR 351.525(b)(6)(i). See the section, "Attribution of Subsidies," *supra*.


XI. Recommendation

We recommend applying the above methodology for these final results.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

12 FEBRUARY 2016
(Date)