68 FR 48599, August 14, 2003

C-475-819
Administrative Review
POR: 2001
Public Document

MEMORANDUM

DATE: August 7, 2003

TO: James J. Jochum
Assistant Secretary
for Import Administration

FROM: Jeffrey May
Deputy Assistant Secretary
Group I, Import Administration

SUBJECT: Issues and Decision Memorandum: Final Results of the 2001 Countervailing Duty Administrative Review of Certain Pasta from Italy

Summary

We have analyzed the brief submitted by F.lli De Cecco di Fillipo Fara S. Martino S.p.A. ("De Cecco"), a respondent in the administrative review of the countervailing duty order on certain pasta from Italy. The "Subsidies Valuation Methodology" and "Analysis of Programs" sections below describe the decisions made in this review. Also below is the "Analysis of Comments" section which contains the Department of Commerce's response to the issue raised in the brief. We recommend that you approve the positions we have developed in this memorandum.

I. Subsidies Valuation Methodology

1. Benchmarks for Long-term Loans and Discount Rates

In accordance with sections 351.505(a)(1) and 351.524(d)(3) of the regulations, we have used the amount the company actually paid on a comparable commercial loan as the benchmark/discount rate, when the company had a commercial loan in the same year as the government loan or grant. However, there were several instances where a company did not take out any loans which could be used as benchmarks/discount rates in the years in which the government grants or loans under review were received. In these instances, consistent with section 351.505(a)(3)(ii) of the regulations, we used a national average interest rate for a comparable commercial loan. Specifically, for years prior to 1995, we used the Bank of Italy reference rate, adjusted upward to reflect the mark-up an Italian commercial bank would charge a corporate customer, as the benchmark interest rate for long-term loans and as the discount rate. For subsidies received in 1995 and later, we used the Italian Bankers' Association ("ABI") interest rate, increased by the average spread charged by banks on loans to commercial customers plus an amount for bank charges.

2. Allocation Period

Consistent with the policy articulated in Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod from Germany, 67 FR 55808 (August 30, 2002) and accompanying Issues and Decision Memorandum, we have continued to allocate previously allocated non-recurring subsidies over the original allocation periods. These original allocation periods were either a company-specific life of assets or 12 years, which is the average useful life ("AUL") of renewable physical assets in the food-processing industry, as provided in the Internal Revenue Service's 1977 Class Life Asset Depreciation Range System ("the IRS tables").

In the current review, no respondent has contested the 12-year AUL in the IRS tables. Therefore, we are assigning a 12-year allocation period to non-recurring subsidies received in the POR, as well as any non-recurring subsidies received in prior years by companies that were not included in previous reviews.

No interested party has objected to this allocation methodology or commented on this issue.

3. Attribution

De Cecco: De Cecco has responded on behalf of two members of the De Cecco Group: F.lli De Cecco di Filippo Fara San Martino S.p.A. ("Pastificio") and Molino e Pastificio F.lli De Cecco S.p.A. ("Pescara"). Pastificio and Pescara manufacture pasta for sale in Italy and the United States. Pastificio and Pescara are directly or indirectly 100 percent-owned by members of the De Cecco family. Effective January 1, 1999, Molino F.lli De Cecco di Filippo S.p.A. ("Molino"), a third member of the De Cecco Group on whose behalf De Cecco responded in the fourth administrative review, was merged with Pastificio and ceased to be a separate entity. The Department will continue to consider countervailable any benefits received by Molino in past administrative reviews and allocated over a period that extends into or beyond the current POR. In accordance with section 351.525(b)(6)(i) and (ii) of the regulations, we are attributing subsidies received by Pastificio and Pescara to the combined sales of both.

Italian American Pasta Company, S.r.L.: Italian American Pasta Company, S.r.L. ("IAPC") has no affiliated companies located in Italy and has, therefore, responded only on its own behalf.

No interested party has objected to our attribution methodology or commented on this issue.

II. Analysis of Programs

A. Programs Previously Determined to Confer Subsidies

1. Law 64/86 Industrial Development Grants

In Certain Pasta from Italy: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review, 68 FR 17346 (April 9, 2003) ("Preliminary Results"), we determined that De Cecco received countervailable subsidies during the POR from industrial development grants given under Law 64/86. See Preliminary Results, 68 FR at 17347. No new information, evidence of changed circumstances, or comments from interested parties were received on this program.

We continue to find these grants to be countervailable. Thus, the net subsidies for this program are 0.97 percent *ad valorem* for De Cecco.

2. Law 488/92 Industrial Development Grants

In the Preliminary Results, we determined that De Cecco received countervailable subsidies during the POR from industrial development grants given under Law 488/92. See Preliminary Results, 68 FR at 17348. No new information, evidence of changed circumstances, or comments from interested parties were received on this program.

We continue to find these grants to be countervailable. Thus, the net subsidies for this program are 0.40 percent *ad valorem* for De Cecco.

3. Industrial Development Loans Under Law 64/86

In the Preliminary Results, we determined that De Cecco received countervailable subsidies during the POR from industrial development loans given under Law 64/86. See Preliminary Results, 68 FR at 17348. No new information, evidence of changed circumstances, or comments from interested parties were received on this program.

We continue to find these loans to be countervailable. Thus, the net subsidies for this program are 0.41 percent *ad valorem* for De Cecco.

4. Law 341/95 Interest Contributions on Debt Consolidation Loans

In the Preliminary Results, we determined that De Cecco received countervailable subsidies during the POR from interest contributions given under Law 341/95. See Preliminary Results, 68 FR at 17349. No new information, evidence of changed circumstances, or comments from interested parties were received on this program.

We continue to find these interest contributions to be countervailable. Thus, the net subsidy for this program is 0.01 percent *ad valorem* for De Cecco.

5. Social Security Reductions and Exemptions–*Sgravi*

In the Preliminary Results, we determined that De Cecco received countervailable subsidies during the POR from social security reductions and exemptions. See Preliminary Results, 68 FR at 17349. In its case brief, De Cecco states that the Department made a clerical error in the calculation of the countervailable benefit received by De Cecco under this program. We agree with De Cecco and have revised the net subsidies for this program. See the "Analysis of Comments" section below.
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We continue to find these social security reductions and exemptions to be countervailable. Thus, the net subsidies for this program are 0.13 percent *ad valorem* for De Cecco.

6. IRAP Exemptions

In the Preliminary Results, we determined that De Cecco received countervailable subsidies during the POR from IRAP tax exemptions. See Preliminary Results, 68 FR at 17349. No new information, evidence of changed circumstances, or comments from interested parties were received on this program.

We continue to find these tax exemptions to be countervailable. Thus, the net subsidies for this program are 0.08 percent *ad valorem* for De Cecco.

7. Export Restitution Payments

In the Preliminary Results, we determined that De Cecco received countervailable subsidies during the POR from export restitution payments. See Preliminary Results, 68 FR at 17349. No new information, evidence of changed circumstances, or comments from interested parties were received on this program.

We continue to find these restitution payments to be countervailable. Thus, the net subsidies for this program are 0.01 percent *ad valorem* for De Cecco.

B. Programs Determined to Be Not Used

1. Law 64/86 VAT Reductions
2. Export Credits under Law 227/77
3. Capital Grants under Law 675/77
4. Retraining Grants under Law 675/77

5. Interest Contributions on Bank Loans under Law 675/77
6. Interest Grants Financed by IRI Bonds
7. Preferential Financing for Export Promotion under Law 394/81
8. Urban Redevelopment under Law 181
9. Grant Received Pursuant to the Community Initiative Concerning the Preparation of Enterprises for the Single Market ("PRISMA")
10. Law 183/76 Industrial Development Grants
11. Law 598/94 Interest Subsidies
12. Law 236/93 Training Grants
13. European Regional Development Fund ("ERDF")
14. Duty-Free Import Rights
15. Remission of Taxes on Export Credit Insurance Under Article 33 of Law 227/77
16. Law 1329/65 Interest Contributions ("Sabatini Law")
17. European Social Fund ("ESF")
18. Corporate Income Tax (IRPEG) Exemptions
19. Export Marketing Grants under Law 304/90

No new information, evidence of changed circumstances, or comments from interested parties were received on these programs. Therefore, we continue to determine that these programs were not used by the respondents in this review.

III. Analysis of Comments

Comment : Clerical Error

De Cecco states that the Department made a clerical error in the calculation of the benefits received by De Cecco from social security reductions and exemptions. Specifically, De Cecco asserts that the Department did not limit the benefits received by De Cecco and make adjustments to the benefits to reflect the amount that exceeded the benefit available to companies in other parts of Italy, as the Department stated in its Preliminary Results and consistent with section 351.503(d)(1) of the Department's regulations. De Cecco states that only 75 percent of the benefits received by De Cecco under Law 863/84 and 50 percent under Law 407/90 should be subject to countervailing duties.

Department's Position: We agree with De Cecco. In the Preliminary Results, we stated that we calculated the countervailable subsidy for the social security reductions and exemptions received by De Cecco by dividing De Cecco's savings in social security contributions during the POR by its total sales in the POR. We further stated that in those instances where the applicable law provided a higher level of benefits to companies based on their location, we divided the amount of "sgravi" benefits that exceeded the amount available to companies in other parts of Italy by the recipient company's total sales in the POR. See Preliminary Results, 68 FR at 17349. However, in our preliminary calculation of the benefits, we failed to limit De Cecco's benefits to reflect the amount that exceeded the benefit available to companies in other parts of Italy. We have corrected this error and revised our calculation of the benefits and rate under this program.

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review and the final net subsidy rates for the reviewed producers/exporters of the subject merchandise in the Federal Register.

________ Agree

________ Disagree

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James J. Jochum
Assistant Secretary
for Import Administration

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Date