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Washington, D.C. 20230

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Administrative Review
POR: 01/01/2012 – 12/31/2012
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February 23, 2015

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) has conducted an administrative review of the countervailing duty (CVD) order on certain pasta (pasta) from Italy.[1] The period of review (POR) is January 1, 2012, through December 31, 2012. We find that the mandatory respondent, DeMatteis Agroalimentare S.p.A. (also known as, De Matteis Agroalimentare SpA) (DeMatteis), received countervailable subsidies during the POR. We also find that the mandatory respondent, Fratelli DeCecco di Filippo Fara San Martino S.p.A. (also known as. F.lli DeCecco di Filippo Fara San Martino S.p.A.) (DeCecco), received *de minimis* countervailable subsidies during the POR. Because DeCecco received *de minimis* countervailable subsidies during the POR, we are applying DeMatteis' CVD rate to the other firms subject to this review and not individually examined.

II. BACKGROUND

On August 25, 2014, we published the *Preliminary Results* of this administrative review, in which we signaled our intent to conduct a post-preliminary analysis of certain programs.[2] On September 2, 2014, the Government of Italy (the GOI) submitted its response to our fourth supplemental questionnaire issued prior to the *Preliminary Results*.[3] We issued a fifth

[1] *See Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") From Italy*, 61 FR 38544 (July 24, 1996) (*Order*).
[2] *See Certain Pasta From Italy: Preliminary Results and Partial Rescission of the Countervailing Duty Administrative Review; 2012*, 79 FR 50618 (August 25, 2014) (*Preliminary Results*), and accompanying Decision Memorandum, dated August 18, 2014.
[3] *See* Letter from the GOI, "Response to the Fourth Questionnaire of the Administrative Review POR 2012" (September 2, 2014) (GOI 4SQR).

supplemental questionnaire to the GOI on September 5, 2014, to which the GOI responded on September 22, 2014.[4]

On October 22, 2014, we extended the time limit for these final results by 60 days to no later than February 21, 2015, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213(h)(2).[5] Because this date falls on a Saturday, the final results are due on the next business day, Monday, February 23, 2015.[6]

On October 30, 2014, we issued a Post-Preliminary Analysis,[7] and invited interested parties to file comments on the *Preliminary Results* and the Post-Preliminary Analysis. On November 10, 2014, the GOI submitted a case brief.[8] No other comments were received.

The "Analysis of Programs" and "Subsidy Valuation Information" sections below describe the subsidy programs and the methodologies used to calculate the subsidy rates for these final results. Additionally, we analyzed the comments submitted by the GOI in its case brief in the "Analysis of Comments" section below, which contains our responses to the issues raised by the GOI. We recommend that you approve the positions we have described in this memorandum. Below is the issue in this review for which we received comments from the GOI:

Comment: Application of Adverse Facts Available (AFA) for *Sgravi* Programs

III. 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 Instituto Mediterraneo Di Certificzione, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, by

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[4] *See* Letter from the GOI, "Response to the Fifth Supplemental Questionnaire of the Administrative Review POR 2012" (September 22, 2014) (GOI 5SQR).

[5] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Pasta from Italy: Extension of Deadline for Final Results of Countervailing Duty Administrative Review; 2012" (October 22, 2014).

[6] *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as Amended*, 70 FR 24533 (May 10, 2005).

[7] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Post-Preliminary Analysis in the Countervailing Duty Administrative Review: Certain Pasta from Italy" (October 30, 2014) (Post-Preliminary Analysis).

[8] *See* Letter from GOI, "Presentation of GOI's case brief" (November 10, 2014) (GOI Brief).

Associazion Italiana per l'Agricoltra Biologica, or by Ambientale.[9] 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*.[10] Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the *Order*.[11]

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.

<u>Rulings Relevant to Scope</u>

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 the scope of the *Order*.[12]

(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*.[13]

(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*.[14]

(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).[15]

(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*.[16]

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[9] *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 7046 of the main Department building.
[10] *See Certain Pasta From Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634 (May 12, 2011).
[11] *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).
[12] *See* Memorandum to Richard Moreland, dated August 25, 1997, which is on file in the CRU.
[13] *See* Letter from Susan H. Kuhbach to Joseph A. Sidari Company Inc., dated July 30, 1998, which is on file in the CRU.
[14] *See* Memorandum to Richard Moreland, dated May 24, 1999, which is on file in the CRU.
[15] *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).
[16] *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).

IV. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

Sections 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, apply "facts otherwise available" 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 provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information.

Analysis

A. Application of AFA: Social Security Reductions and Exemptions 1089/68 (Unico) and Subsequent Laws – *Sgravi*

As discussed in the *Preliminary Results*, the GOI did not respond to our third supplemental questionnaire, issued on July 8, 2014, wherein we requested information regarding subsidy programs known as *Sgravi* benefits.[17] By failing to respond to our third supplemental questionnaire, the GOI withheld necessary information that was requested by the Department and failed to provide information by the deadlines for submission of the information. Thus, we must rely on facts otherwise available in accordance with section 776(a)(1) and (2)(A) and (B) of the Act.

In selecting from among the facts available for analyzing the relevant *Sgravi* benefits, we continue to find that an adverse inference is warranted, pursuant to section 776(b) of the Act. By failing to submit a response to our third supplemental questionnaire, the GOI did not act to the best of its ability to comply with these requests for the necessary information. For example, in the third supplemental questionnaire to the GOI, dated July 8, 2014, we stated on page 3:

> Beginning on page 13 of the {GOI IQR}, the GOI discusses the "Social Security Reductions and Exemptions 1089/68 (Unico) and Subsequent Laws—Sgravi." Please respond to the Tax Programs Appendix for ***each*** of the programs that you report the respondents received benefits during the period of review.
>
> Please note that the Tax Program Appendix requests specific information for the "Sgravi" programs. We have attached the Tax Program Appendix for your convenience. (emphasis in original)

Such information is essential for the Department to conduct its required analyses of financial contribution and specificity under sections 771(5)(D) and 771(5A) of the Act, respectively. By not completing the requested appendix and responding to our requests for information, we find

[17] *See Preliminary Results*, and accompanying Decision Memorandum at 5-7.

that the GOI failed to cooperate by not acting to the best of its ability to comply with our requests for information in our third supplemental questionnaire to the GOI, and as such, these final results are based on partial AFA.

As partial AFA, we continue to find that the reduced tax revenue due to the GOI, through the *Sgravi* benefits which DeCecco and DeMatteis received under Laws 276/03 and 167/2011 of the "Social Security Reductions and Exemptions 1089/68 (Unico) and Subsequent Laws – *Sgravi*" program during the POR, constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act as revenue forgone.

In drawing an adverse inference, we also continue to find that the *Sgravi* benefits which DeCecco and DeMatteis received under Laws 276/03 and 167/2011, are specific within the meaning of 771(5A) of the Act.

With respect to Law 276/03, we note that in the *12th Administrative Review*, the GOI provided usage information that enabled the Department to conduct a *de facto* specificity analysis and conclude that *Sgravi* benefits under Law 276/03 were not *de facto* specific during that POR.[18] However, in the instant review, the GOI failed to submit a response to the Department's questions in the third supplemental questionnaire regarding the use of *Sgravi* benefits under, *inter alia*, Law 276/03. As a result, the Department lacked the usage information necessary for conducting a *de facto* specificity analysis for this POR. While we would normally rely on information from the government to determine whether subsidies under the *Sgravi* programs are specific within the meaning of section 771(5A) of the Act,[19] the GOI elected not to respond to our questions regarding usage of these benefits. Thus, as described above, we are applying partial AFA to the GOI and finding that *Sgravi* benefits under Law 276/03 are specific within the meaning of section 771(5A)(D)(iii) of the Act.

B. Application of Facts Available: Article 1 of Law 296/06

As discussed in the Post-Preliminary Analysis, in the GOI 4SQR, the GOI did not provide the relevant laws or regulations governing Article 1 of Law 296/06.[20] Thus, in our fifth supplemental questionnaire to the GOI, we stated "please be sure to include the laws and regulations governing {Article 1 of Law 296/06}, as they were not included in the GOI 4SQR."[21] Subsequently, in the GOI 5SQR, the GOI submitted that "{n}o translated copies of the Regulations are currently available. Law 27 Decembre 2006 n. 296 may be found at the following link: http://www.camera.it/parlam/leggi/06296l.htm."[22] In the Post-Preliminary

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[18] *See Certain Pasta from Italy: Preliminary Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 25489, 25495-96 (May 28, 2009) (*12th Administrative Review Preliminary Results*), unchanged in *Certain Pasta from Italy: Final Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 47204 (September 15, 2009) (*12th Administrative Review Final Results*) (collectively, *12th Administrative Review*).
[19] *See, e.g.*, *Certain Magnesia Carbon Bricks From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 45472 (August 2, 2010) (*Bricks from the PRC*), and accompanying Issues and Decision Memorandum (IDM) at Comment 6.
[20] *See*, *generally*, GOI 4SQR.
[21] *See* Letter from the Department, "Administrative Review of the Countervailing Duty Order on *Certain Pasta from Italy*" (September 5, 2014) at 3.
[22] *See* GOI 5SQR at 1.

Analysis, we noted that a hyperlink to a website, as the GOI submitted in the GOI 5SQR, is not an acceptable response to our questions because a mere citation to a hyperlink does not constitute the provision of information on the record of a proceeding, because information accessible *via* a hyperlink is subject to change.[23]

By failing to provide information in the form and manner requested by the Department in our fourth and fifth supplemental questionnaires, *i.e.*, translated copies of the laws and regulations governing Article 1 of Law 296/06 within the GOI 5SQR, we continue to rely on facts otherwise available in accordance with section 776(a)(1) and (2)(B) of the Act.

In selecting from among the facts available, we continue to 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 DeMatteis reported receiving disbursements from the GOI under this program, during the allocation period that corresponds to the average useful life (AUL) of assets in the pasta industry, that equaled to the amount approved in 2008.[24]

C. Application of AFA: Article 42 of Law 78/2010

In the Post-Preliminary Analysis, we found that the benefit conferred under Article 42 of Law 78/2010 was less than 0.005 percent and, therefore, we did not determine whether Article 42 of Law 78/2010 constituted a financial contribution or was specific.[25] However, as noted in our Post-Preliminary Analysis, the GOI did not complete the sections of our standard questions appendix regarding usage and eligibility information for Article 42 of Law 78/2010.[26] These questions are essential to our analysis of this subsidy program's specificity under section 771(5A) of the Act. Due to the GOI's incomplete response to these sections for Article 42 of Law 78/2010, in our fifth supplemental questionnaire to the GOI, we stated:

> We note that your response in the GOI 4SQR did not include complete appendices. Please provide a complete **Standard Questions Appendix**, as well the **Grant Information Appendix** and/or **Tax Programs Appendix**, for this program pertaining to ***any*** usage during the AUL (*i.e.*, January 1, 2001 through December 31, 2012) by DeCecco, DeMatteis, or any of their respective cross-owned affiliates. For your convenience, we have attached these three appendices to this questionnaire. (emphasis in original)

In response to this, in the GOI 5SQR, the GOI stated that this information was "not available" without further elaboration.[27] Additionally, the GOI provided "Decree Law n. 78/2010 (*bonus reti*) article 42, point 2-quarter" in Italian, with no accompanying English translation.[28] While

[23] *See*, *generally*, 19 CFR 351.104(a) and 351.303.
[24] *See*, *e.g.*, Letter from DeMatteis, "Pasta From Italy; De Matteis Third Supplemental Questionnaire Response" (July 29, 2014) (DeMatteis 3SQR) at 3-8.
[25] *See* Post-Preliminary Analysis at 4-5. Because the benefit amount for this program as stated in the Post-Preliminary Analysis was incorrect and is more than 0.005 percent, as discussed on page 18, *infra*, for these final results we are considering whether this subsidy program constitutes a financial contribution and is specific within the meaning of the Act.
[26] *See*, *e.g.*, GOI 4SQR at 6-9.
[27] *See*, *e.g.*, GOI 5SQR at 2-5.
[28] *Id*., at Exhibit 1.

we normally rely on information from the government to determine whether assistance provided under a law is specific within the meaning of section 771(5A) of the Act,[29] the GOI elected not to submit the relevant usage information for subsidies conferred under Article 42 of Law 78/2010. Thus, necessary information is not available on the record. Additionally, where the GOI withheld information that has been requested, and failed to provide such information in the form and manner requested by the Department, we are relying on facts available in accordance with sections 776(a)(1) and (2)(A) and (B) of the Act. Furthermore, in selecting from among the facts available, we find that an adverse inference is warranted, pursuant to section 776(b) of the Act because the GOI failed to cooperate to the best of its ability in responding to our requests related to Article 42 of Law 78/2010. As such, we are finding as partial AFA that DeCecco's receipt of subsidies under this law is specific within the meaning of section 771(5A)(D)(iii) of the Act.

Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information when selecting among facts available, rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise."[30] Our determinations regarding the specificity elements of the above-identified *Sgravi* programs and Article 42 of Law 78/2010, are based on an adverse inference, under section 776(b) of the Act, arising from the failure of the GOI to provide requested necessary information pertaining to the access to, or the distribution of, the subsidies. Because the facts available determinations described above do not rely on secondary information, the corroboration requirement of section 776(c) of the Act is not applicable.

The Department's reliance on facts available is limited to the GOI's failure to provide adequate responses to certain requests for information regarding financial contribution and specificity. However, respondents have fully cooperated in this review and consistent with the Department's practice, we will rely on the information provided by respondents in order to calculate a benefit for each program. Thus, for details on the calculation of the subsidy rate for the respondents, *see* below at "Analysis of Programs."

V. SUBSIDIES VALUATION INFORMATION

A. Allocation Period

The AUL period in this proceeding, as described in 19 CFR 351.524(d)(2), is 12 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System, as revised.[31] No party in this proceeding disputed this allocation period.

[29] *See, e.g.*, *Bricks from the PRC*, and accompanying IDM at Comment 6.
[30] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994), at 870.
[31] *See Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") From Italy*, 61 FR 30288,

B. Attribution of Subsidies

The Department's regulations at 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) directs that the Department will attribute subsidies received by certain other companies to the combined sales of the recipient and other companies if: (1) cross-ownership exists between the companies; and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company.

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.[32]

Thus, the Department's regulations make clear that 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 another company in essentially the same way it could use its own subsidy benefits.[33]

DeCecco

DeCecco was established in 1887 by the DeCecco family and in 1968, became a public company.[34] In this review, DeCecco responded on behalf of itself and three other members of

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30289 (June 14, 1996) (*Investigation Final*) (referencing U.S. Internal Revenue Service Publication 946 (2008), *How to Depreciate Property*, at Table B-2: Table of Class Lives and Recovery Periods, publicly available at http://www.irs.gov/publications/p946/ar02.html).

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

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

[34] *See* Letter from DeCecco, "Certain Pasta from Italy (C-475-819) CVD Questionnaire Response of De Cecco" (February 18, 2014) (DeCecco IQR) at 1-5.

the DeCecco group of companies: Molino e Pastificio De Cecco S.p.A. (Pescara), Centrale Elettrica F.lli De Cecco S.r.L. (Centrale), and Consorzio Elettrico Imprese De Cecco (C.E.I.D.).[35]

DeCecco and Pescara manufacture pasta for sale in Italy, to third-country markets, and to the United States.[36] All of Pescara's subject merchandise was distributed by DeCecco during the POR.[37] Additionally, Pescara purchased semolina for the production of pasta, which was used by DeCecco during the POR.[38] We find that cross-ownership exists between DeCecco and Pescara within the meaning of 19 CFR 351.525(b)(6)(vi) through common ownership,[39] and we attributed subsidies received by DeCecco and Pescara to the combined sales of both, excluding inter-company sales, pursuant to 19 CFR 351.525(b)(6)(ii) and 19 CFR 351.525(b)(6)(iv).

Centrale, which is majority-owned by members of the DeCecco family, is an electrical power company that sells all of its production to C.E.I.D., a consortium consisting of Centrale and DeCecco.[40] Neither Centrale nor C.E.I.D. received subsidies during the POR or AUL period.[41] Therefore, we do not reach the issue of whether cross-ownership exists or whether subsidies to Centrale or C.E.I.D. would be attributable to the pasta sold by DeCecco under 19 CFR 351.525(b)(6).

Effective January 1, 1999, Molino F.lli De Cecco di Filippo S.p.A. (Molino), another member of the DeCecco group on whose behalf DeCecco responded in the *Fourth Administrative Review*, was merged with DeCecco and ceased to be a separate entity.[42] Since the *Fourth Administrative Review*, the Department has considered countervailable any benefits received by Molino in past administrative review periods and allocated over a period that extends into or beyond the current POR as benefits attributable to DeCecco.[43] Molino was approved for a grant prior to the merger which was disbursed during the AUL, and which is allocated to the POR.[44]

<u>DeMatteis</u>

DeMatteis reported being wholly-owned by De Matteis Costruzioni S.r.l. (Costruzioni) during the entirety of the AUL, including the POR.[45] DeMatteis also reported that Costruzioni is

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[35] *Id*.
[36] *Id*., at 7.
[37] *Id*.
[38] *Id*., at 2.
[39] *Id.*, at 1-5.
[40] *Id*., at 1.
[41] *See* Letter from DeCecco, "Certain Pasta from Italy (C-475-819) Supplemental Questionnaire Response of De Cecco" (May 28, 2014) (DeCecco 1SQR) at 1.
[42] *See Certain Pasta From Italy: Final Results of the Fourth Countervailing Duty Administrative Review*, 66 FR 64214 (December 12, 2001) (*Fourth Administrative Review*).
[43] *See, e.g.*, *Certain Pasta From Italy: Final Results of the 2009 Countervailing Duty Administrative Review*, 77 FR 7129 (February 10, 2012) (*14th Administrative Review Final Results*), and accompanying IDM at "Attribution of Subsidies."
[44] *See* DeCecco IQR at Exhibit 11.
[45] *See* Letter from DeMatteis, "Pasta From Italy; De Matteis Questionnaire Response" (February 17, 2014) (DeMatteis IQR) at 3 and 5.

wholly-owned by two Italian families.[46] DeMatteis states that, in 1993, Costruzioni purchased a mill and pasta factory from an unaffiliated company, and, in 1994, changed the company's name to DeMatteis Agroalimentare S.p.A.[47]

We note that despite Costruzioni's 100 percent ownership of DeMatteis, we do not reach the issue of whether cross-ownership exists or whether subsidies to Costruzioni would be attributable to the pasta sold by DeMatteis under 19 CFR 351.525(b)(6) because Costruzioni did not receive subsidies during the POR or the AUL period.[48] Thus, we are attributing subsidies received by DeMatteis to its sales, in accordance with 19 CFR 351.525(b)(6).

DeMatteis reported that it made export sales of pasta to the United States through an unaffiliated trading company, Agritalia S.r.L. (Agritalia), during the POR.[49] DeMatteis states that, at the time of sale, it knew that its pasta was destined for the United States, and thus, at the Department's request, Agritalia submitted a complete questionnaire response and responded to a supplemental questionnaire.[50] In the *Preliminary Results*, we stated our intent to reexamine the approach we used regarding treatment of subsidies to Agritalia in the *Tenth Administrative Review*,[51] and we solicited comments in that regard.[52] We received no comments on this issue.

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, for these final results, we are cumulating the benefits from subsidies received by Agritalia with the benefits from subsidies received by DeMatteis based on the ratio of Agritalia's exports to the United States of subject merchandise produced by DeMatteis during the POR to Agritalia's total exports of subject merchandise to the United States during the POR (based on volume).[53] While we note that this approach differs from that used regarding the treatment of subsidies to Agritalia in the *Tenth Administrative Review*, we find that cumulating Agritalia's benefits with those received by DeMatteis for purposes of this review comports with 19 CFR 351.525(c), a regulation that we did not discuss with respect to Agritalia in the *Tenth Administrative Review*.

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[46] *Id*.
[47] *Id*., at 5.
[48] *See generally* DeMatteis IQR and Letter from DeMatteis, "Pasta From Italy; De Matteis Supplemental Questionnaire Response" (May 20, 2014) (DeMatteis 1SQR).
[49] *See* DeMatteis IQR at 7.
[50] *Id*.
[51] *See Certain Pasta from Italy: Preliminary Results of the Tenth Countervailing Duty Administrative Review*, 72 FR 43616, 43622 (August 6, 2007) (*Tenth Administrative Review Preliminary Results*), unchanged in *Certain Pasta From Italy: Final Results of the Tenth (2005) Countervailing Duty Administrative Review*, 73 FR 7251 (February 7, 2008) (*Tenth Administrative Review Final Results*) (collectively, *Tenth Administrative Review*).
[52] *See Preliminary Results*, 79 FR 50619.
[53] *See* Letter from Agritalia, "Pasta From Italy; Agritalia Questionnaire Response" (May 20, 2014) (Agritalia IQR) at Exhibit 2. *See also* Memorandum to the File, "Final Results Cumulative Memorandum for Agritalia S.r.L.," dated concurrently with this memorandum (Agritalia Cumulative Memorandum).

C. Loan Benchmarks and Discount Rates

Section 771(5)(E)(ii) of the Act explains 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.[54] If the firm did not have any comparable commercial loans during the period, the Department's regulations provide that we "may use a national average interest rate for comparable commercial loans."[55]

Neither DeCecco nor DeMatteis 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 used as our benchmark a national average interest rate for comparable commercial loans. For the years 1995 through 1998, we used the information from the Italian Bankers' Association (ABI) from a prior administrative review.[56] For loans received in the years 1999 through 2004, we used the ABI's prime interest rate (as reported by the Bank of Italy), to which we added the average spread charged by banks on loans to commercial customers and an amount for bank charges.[57] The Bank of Italy ceased reporting this rate in 2004.[58] Thus, for the years 2005 through 2011, we 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.[59] For the POR, we relied, in part, on Bank of Italy information supplied in the GOI 1SQR.[60] We placed on the record of this review the additional months to complete 2012 not included in the GOI 1SQR.[61] Consistent with our prior practice, we added to these rates the average spread and the bank charges described above.[62]

Also, neither DeCecco nor DeMatteis reported long-term loan interest rates that could be used as discount rates.[63] Therefore, we used the above-discussed interest rates as discount rates for allocating non-recurring benefits over time pursuant to 19 CFR 351.524(d)(3)(i)(B).

[54] *See* 19 CFR 351.505(a)(3)(i).
[55] *See* 19 CFR 351.505(a)(3)(ii).
[56] *See Certain Pasta From Italy: Preliminary Results of the Countervailing Duty Administrative Review; 2011*, 78 FR 49256 (August 13, 2013) (*16th Administrative Review Preliminary Results*), unchanged in *Certain Pasta From Italy; Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 12154 (March 4, 2014) (*16th Administrative Review Final Results*) (collectively, *16th Administrative Review*), included in Memorandum to File, "Interest Rate Benchmarks" (August 18, 2014) (Benchmark Memorandum) at Attachment I.
[57] *See* Letter from the GOI, "Seventeenth Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy (January 1. 2012 - December 31.2012) Response to the Administrative Review Questionnaire" (February 17, 2014) (GOI IQR) 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), included in the Benchmark Memorandum at Attachment III.
[58] *See* GOI IQR at 7.
[59] *See* Benchmark Memorandum at Attachment I.
[60] *See* Letter from the GOI, "Sixteenth {*sic*} Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy (January l, 2011-December 31, 2011) {*sic*} Response to the First Supplemental Questionnaire" (May 16, 2013) {*sic*} (GOI 1SQR) at Exhibit 1, Section 3, Table 3.3.
[61] *See* Benchmark Memorandum at Attachment II.
[62] *See, e.g., 16th Administrative Review*.
[63] *See* 19 CFR 351.524(d)(3)(i)(A).

VI. ANALYSIS OF PROGRAMS

Based upon our analysis and the responses to our questionnaires, we find the following:

A. Programs Found To Be Countervailable

Tax Programs

1. Certain Social Security Reductions and Exemptions – *Sgravi*

As stated in the *Investigation Final*,[64] 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*. These social security reductions and exemptions, also 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 found in previous proceedings that benefits under some of these laws (*e.g.*, Law 1089) are available only to companies located in the Mezzogiorno and other "disadvantaged" regions.[65] 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.[66] Still other laws provide benefits that are not linked to any region.

In the *Investigation Final* and subsequent reviews,[67] the Department found that certain types of social security reductions and exemptions constitute a financial contribution within the meaning of section 771(5)(D)(ii) of the Act in the form of revenue foregone by the GOI and confer a benefit in the amount of the savings received by the companies. Also, they 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.[68]

In this review, no party challenged our determinations in the *Investigation Final* and subsequent reviews that *Sgravi* benefits, *generally*, were countervailable for companies located within the Mezzogiorno. As stated in *Live Swine from Canada*, "it is well-established that where the Department has determined that a program is (or is not) countervailable, it is the Department's policy not to re-examine the issue of that program's countervailability in subsequent reviews unless new information or evidence of changed circumstances is submitted which warrants reconsideration."[69] In the instant review, neither the GOI nor the respondent companies

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[64] *See Investigation Final*, 61 FR at 30293.
[65] *Id*.
[66] *Id.*, at 30294.
[67] *See, e.g., Certain Pasta From Italy: Preliminary Results of the 14th (2009) Countervailing Duty Administrative Review*, 76 FR 48130, 48139-40 (August 8, 2011) (*14th Administrative Review Preliminary Results*), unchanged in *14th Administrative Review Final Results*, and accompanying IDM (collectively, *14th Administrative Review*).
[68] *Id*.
[69] *See Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews*, 61 FR 52408, 52420 (October 7, 1996) (*Live Swine from Canada*).

provided new information which would warrant reconsideration of our determination that *Sgravi* benefits are countervailable subsidies.

Sgravi benefits were provided during the POR to DeCecco under Laws 407/90, 223/91, and 167/2011.[70] DeMatteis reported receiving *Sgravi* benefits during the POR under Laws 276/03 and 167/2011.[71] Additionally, Agritalia reported receiving *Sgravi* benefits during the POR under Law 407/90.[72] Laws 407/90 and 223/91 (Article 25, Paragraph 9) have been previously investigated,[73] and we previously treated the reduction or exemption of taxes to be revenue foregone that is otherwise due which constituted a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.[74] Additionally, we found Laws 407/90 and 223/91 (Article 25, Paragraph 9) to be regionally specific under section 771(5A)(D)(iv) of the Act because companies located in the Mezzogiorno pay lower contributions.[75] The GOI did not provide any information that would lead us to revisit our prior countervailability finding regarding these laws.

With regard to the *Sgravi* benefits provided under Laws 276/03 and 167/2011, as explained in detail above under "Use of Facts Otherwise Available and Adverse Inferences," we are relying in part on facts otherwise available with an adverse inference pursuant to sections 776(a) and (b) of the Act. As AFA, we find that the provision of *Sgravi* benefits under these laws constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. Moreover, as AFA, we also find that the GOI's *Sgravi* benefits under 167/2011 is specific within the meaning of section 771(5A) of the Act, and Law 276/03 is *de facto* specific within the meaning of section 771(5A)(D)(iii) of the Act.

Because our adverse inference relates solely to the GOI's non-cooperation, we are relying on the respondents' usage information in the calculation of a benefit, as discussed below.

i. Law 407/90

As stated in previous reviews of the *Order*, 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.[76]

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[70] *See* GOI IQR at 13, DeCecco 1SQR at 5 and Letter from DeCecco, "Certain Pasta from Italy (C-475-819) Supplemental Questionnaire Response of De Cecco" (July 14, 2014) at Exhibit S2-6.
[71] *See* GOI IQR at 13 and DeMatteis IQR at 26.
[72] *See* Agritalia IQR at 16-17.
[73] *See, e.g., 14th Administrative Review*; *Certain Pasta from Italy: Preliminary Results of the 11th (2006) Countervailing Duty Administrative Review*, 73 FR 45721, 45724-26(August 6, 2008) (*11th Administrative Review Preliminary Results*), unchanged in *Certain Pasta from Italy: Final Results of the Eleventh (2006) Countervailing Duty Administrative Review*, 74 FR 5922 (February 3, 2009) (*11th Administrative Review Final Results*) (collectively, *11th Administrative Review*), and accompanying IDM at "Law 223/91" and at "Article 25, Paragraph 9."
[74] *See 14th Administrative Review*; *11th Administrative Review*.
[75] *See 14th Administrative Review*; *11th Administrative Review.*
[76] *See, e.g., 14th Administrative Review Preliminary Results*, 76 FR at 48140, unchanged in *14th Administrative Review Final Results*.

In the *Investigation Final*, we determined that Law 407/90 confers a countervailable subsidy within the meaning of section 771(5) of the Act.[77] Here, consistent with the *Investigation Final*, we find that the reduction or exemption of taxes is revenue foregone that is otherwise due and is, therefore, a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. The benefit is the difference in the amount of the tax savings between companies located in the Mezzogiorno and companies located in the rest of Italy, in accordance with 19 CFR 351.509(a). Additionally, the program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because the higher level of benefit is limited to companies in the Mezzogiorno.[78]

In accordance with 19 CFR 351.524(c), and consistent with our methodology in the *Investigation Final* and subsequent administrative reviews, we treated the reductions and exemptions of social security taxes as recurring benefits.[79] To calculate the benefit for DeCecco, we determined the difference during the POR between the savings for the respondent company located in the Mezzogiorno (*i.e.*, DeCecco) and the savings a company located in the rest of Italy would have received. This amount was divided by DeCecco's and Pescara's combined sales (less inter-company sales) during the POR.[80]

To calculate the countervailable subsidy received by Agritalia to cumulate with DeMatteis' benefits, we first multiplied the total amount of *Sgravi* payments paid by Agritalia by the percentage of savings (*i.e.*, 29.98 percent) the GOI refunded of Agritalia's *Sgravi* payments made during the POR. This amount was then divided by Agritalia's sales during the POR. We then multiplied this subsidy rate by the ratio of Agritalia's exports to the United States of subject merchandise produced by DeMatteis during the POR to Agritalia's total exports of subject merchandise to the United States during the POR (based on volume).[81] The resulting net subsidy rate was then cumulated with the rate we calculated for DeMatteis.

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

As stated in the *11th Administrative Review*, Law 223/91 is designed to increase employment by providing benefits to companies that hire unemployed workers on a special mobility list.[82] 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.[83]

In the *Seventh Administrative Review*, we affirmed our findings from the *Investigation Final* that Law 223/91 conferred a countervailable subsidy within the meaning of section 771(5) of the Act.[84] The reduction or exemption of taxes was treated as revenue forgone and is, therefore, a

[77] *See Investigation Final*, 61 FR at 30294.
[78] *Id.*
[79] *See*, *e.g.*, *14th Administrative Review*; *see also Investigation Final*, 61 FR at 30294.
[80] *See* Memorandum to the File, "Final Results Calculation Memorandum for F.lli DeCecco di Filippo Fara San Martino S.p.A." dated concurrently with this memorandum (DeCecco Final Calculation Memorandum).
[81] *See* Agritalia Cumulative Memorandum.
[82] *See 11th Administrative Review Final Results*, and accompanying IDM at "Law 223/91."
[83] *Id.*, at "Article 25, Paragraph 9."
[84] *See Certain Pasta from Italy: Preliminary Results and Partial Rescission of the Seventh Countervailing Duty*

financial contribution within the meaning of section 771(5)(D)(ii) of the Act. The benefit is 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 or because the higher level of benefits was limited to companies in the Mezzogiorno.[85] Because the GOI did not provide any new information or evidence of changed circumstances, we did not reconsider our prior finding that benefits under Law 223/91 are countervailable.[86] Thus, we continue to find the exemptions provided under Law 223/91, Article 25, Paragraph 9, countervailable.

In its IQR, the GOI stated that "DeCecco received benefits under Law … 223/91 … during the POR."[87] Exhibit 8 of the GOI IQR shows that benefits under Law 223/91 were received by DeCecco pursuant to Article 25, Paragraph 9.[88] In accordance with 19 CFR 351.524(c) and consistent with our methodology in the *Investigation Final* and in subsequent administrative reviews,[89] we treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy, we divided DeCecco's savings in social security contributions during the POR by DeCecco's and Pescara's combined sales (less inter-company sales) during the POR.[90]

iii. Law 276/03

In the *12th Administrative Review*, we stated that Legislative Decree 276/03 (L.D. 276/03) is aimed at making the labor market more flexible by providing incentives to companies hiring workers under apprentice contracts that combine work and training components.[91] Specifically, the three categories of employee contracts recognized under this decree are: (1) working toward completion of compulsory schooling; (2) working toward completion of trade schooling; and (3) high-level training of special skills for a worker.[92] Except for a weekly flat fee paid by the employer on behalf of the employee, the employer receives a total exemption from its social security contribution.[93] The contributions are applied in equal measure across Italy and the decree may be used in all economic sectors.[94]

In the *11th Administrative Review*, the GOI argued that L.D. 276/03 is a continuation of Law 25/55, a program we previously found countervailable in the *Seventh Administrative Review*.[95]

Administrative Review, 69 FR 45676, 45682-83 (July 30, 2004) (*Seventh Administrative Review Preliminary Results*), unchanged in *Certain Pasta from Italy: Final Results of the Seventh Countervailing Duty Administrative Review*, 69 FR 70657 (December 7, 2004) (*Seventh Administrative Review Final Results*) (collectively, *Seventh Administrative Review*), and accompanying IDM at "Social Security Reductions and Exemptions – Sgravi."

[85] *See Investigation Final*, 61 FR at 30293.

[86] *See Live Swine from Canada*, 61 FR at 52420.

[87] *See* GOI IQR at 11.

[88] *Id*., at Exhibit 8.

[89] *See, e.g.*, *Seventh Administrative Review* and *11th Administrative Review*.

[90] *See* DeCecco Final Calculation Memorandum.

[91] *See 12th Administrative Review Preliminary Results*, 74 FR at 25495-96, unchanged in *12th Administrative Review Final Results*.

[92] *Id*., at 74 FR 25495.

[93] *Id*.

[94] *Id*.

[95] *See 11th Administrative Review Final Results*, and accompanying IDM at "Legislative Decree ("L.D.") 276/03."

However, in the *12th Administrative Review*, we found this program to be not specific and, hence, not countervailable.[96] We stated that Law 25/55 as modified by L.D. 276/03 evidences no *de jure* or regional specificity, and found no evidence of *de facto* specificity. We stated that, during the POR, there were numerous recipients of the benefits and neither pasta companies nor DeMatteis were predominant users or received a disproportionately large share of the benefits. Further, during the POR covered by the *12th Administrative Review*, the benefits provided to the "Industry" economic sector were not disproportionate.[97]

Because of the GOI's lack of cooperation in responding to the Department's information requests about this program, we are unable to undergo a similar specificity analysis regarding the distribution of benefits under this program during this POR. Therefore, notwithstanding our findings in the *12th Administrative Review*, the GOI did not provide the information requested regarding the usage of the program in this administrative review. 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 partial 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. The benefit is the amount of the tax obligation relieved by the GOI, *i.e.*, the difference between what DeMatteis paid and what DeMatteis should have paid, in accordance with 19 CFR 351.509(a).

In accordance with 19 CFR 351.524(c), we treated social security reductions and exemptions as recurring benefits. To calculate the benefit for DeMatteis, we first totaled DeMatteis' monthly contributions under this law. Next, we multiplied DeMatteis' total contributions for 2012 by the percentage refunded by the GOI to arrive at a POR benefit.[98] This POR benefit matched what DeMatteis reported in the DeMatteis IQR.[99] Finally, we divided the benefit, the total 2012 amount which the GOI refunded, by DeMatteis' total sales during the POR.[100]

iv. Law 167/2011

The Department has not previously investigated benefits received under Law 167/2011. Due to the GOI's non-cooperation with respect to information concerning the *Sgravi* programs, we are relying on facts available with an adverse inference in finding that these social security reductions/exemptions conferred under Law 167/2011 constitute a financial contribution within the meaning of section 771(5)(D)(ii) of the Act 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

See also Seventh Administrative Review Preliminary Results, 69 FR at 45683, unchanged in *Seventh Administrative Review Final Results*.

[96] *See 12th Administrative Review Preliminary Results*, 74 FR 25495, unchanged in *12th Administrative Review Final Results*.

[97] *Id*.

[98] *See* GOI IQR at Exhibit 9.

[99] *See* DeMatteis IQR at 26.

[100] *See* Memorandum to the File, "Final Results Calculation Memorandum for DeMatteis Agroalimentare S.p.A. (DeMatteis)" dated concurrently with this memorandum (DeMatteis Final Calculation Memorandum).

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 reductions and exemptions as recurring benefits. To calculate the countervailable subsidy for DeCecco and DeMatteis, we first totaled each company's monthly contributions under this law. Next, we multiplied their total contributions in 2012 by the percentage refunded by the GOI to arrive at a POR benefit.[101] This POR benefit matched what DeCecco and DeMatteis reported in the DeCecco IQR and the DeMatteis IQR, respectively.[102] Finally, for DeCecco, we divided the benefit, the total 2012 amount refunded by the GOI, by DeCecco's and Pescara's combined POR sales (less intercompany sales). For DeMatteis, we divided the benefit, the total 2012 amount the GOI relieved, by DeMatteis' total sales in the POR.[103]

On the above bases, we find the total countervailable subsidy from the *Sgravi* laws identified in subsections (i) to (iv) above to be 0.05 percent *ad valorem* for DeCecco,[104] 0.07 percent *ad valorem* for DeMatteis,[105] (which includes the countervailable subsidy received by Agritalia and cumulated with the benefits to DeMatteis).[106]

2. Article 42 of Law 78/2010

DeCecco reported that, under Article 42 of Law 78/2010, companies can receive a deferral of income tax when the companies create a corporate network with the purpose of pooling their profits in non-distributed reserves.[107] Under this program, income taxes are deferred until the network implements new investments.[108] DeCecco reported receiving a deferral of income tax under this program during the POR.[109]

We requested that the GOI provide a response to our Standard Questions Appendix and Tax Program Appendix regarding this program. Although the GOI submitted responses to our supplemental questions, the information it provided was incomplete. For example, the GOI did not provide the requested laws in its GOI 4SQR.[110] In response to our fifth supplemental questionnaire, the GOI submitted the relevant laws, in Italian only, and stated that translated copies were unavailable.[111] Additionally, the GOI did not provide complete responses to the sections of the relevant appendices which address eligibility criteria and usage information. Rather, the GOI left these sections blank in the GOI 4SQR and simply stated "information not

[101] *See* GOI IQR at Exhibit 9.
[102] *See* DeCecco IQR at Exhibit 13 and DeMatteis IQR at 26.
[103] *See* DeCecco Final Calculation Memorandum and DeMatteis Final Calculation Memorandum.
[104] *See* DeCecco Final Calculation Memorandum.
[105] *See* DeMatteis Final Calculation Memorandum.
[106] *See* Agritalia Cumulative Memorandum.
[107] *See* Letter from DeCecco, "Certain Pasta from Italy (C-475-819) Supplemental Questionnaire Response of De Cecco" (July 14, 2014) (DeCecco 2SQR) at 9-10.
[108] *See* DeCecco 2SQR at 9-10 and Exhibit S2-7.
[109] *Id*.
[110] *See, generally*, GOI 4SQR.
[111] *See* GOI 5SQR at Exhibit 1.

available" in the GOI 5SQR,[112] thereby failing to provide information necessary for our specificity analysis.

Based on the limited information supplied by the GOI, we are able to ascertain that this program constitutes a financial contribution under section 771(5)(D)(ii) of the Act in the form of the forgoing or not collecting of revenue that is otherwise due through the suspension of tax collection as described by the GOI.[113] Further, as discussed above, due to the GOI's failure to provide the requested laws and regulations governing this program, as AFA, we find that this program is specific within the meaning of section 771(5A)(D)(iii) of the Act.

Notwithstanding the GOI's incomplete responses, DeCecco provided necessary information for us to perform a benefit calculation. 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 section above, "Loan Benchmarks and Discount Rates," we calculated the interest that would have been paid on a comparable commercial loan in the amount of the taxes deferred and we divided that amount by DeCecco's POR total sales. In the Post-Preliminary Analysis, we incorrectly stated that the calculation results in an *ad valorem* benefit of less than 0.005 percent during the POR.[114] The calculation results in an *ad valorem* benefit of 0.01 percent during the POR for DeCecco, and we have included this program in our net subsidy rate for DeCecco for these final results.[115]

Grant Programs

3. Article 1 of Law 296/06

DeMatteis reported that under Article 1 of Law 296/06, it was eligible to apply for a tax credit for realizing an investment project due to its location in Campania.[116] DeMatteis reported applying for and receiving approval to complete an investment under this program in 2008[117] and, subsequently, constructing pasta manufacturing facilities (including plant and machinery) during the AUL.[118] In the GOI 4SQR, the GOI states that this law established a tax credit for companies who carried out new investments in manufacturing facilities located in the "disadvantaged areas" of Abbruzzo, Basilicata, Calabria, Campania, Molise, Puglia, Sardinia and Sicily, during the years 2007 through 2013.[119]

As discussed above, due to the GOI's failure to provide the requested laws and regulations governing this program, as facts available, we find that this program constitutes a financial contribution under section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.

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[112] *See* GOI 4SQR at 7-9 and GOI 5SQR at 2-5.
[113] *See* GOI 5SQR at 5.
[114] *See* Post Preliminary Analysis at 5. *See also* Memorandum to the File, "Post-Preliminary Analysis Calculation Memorandum for Fratelli DeCecco di Filippo Fara San Martino S.p.A. (DeCecco)" (October 30, 2014) at 2.
[115] *See* DeCecco Final Calculation Memorandum.
[116] *See* DeMatteis 3SQR at 3 and Exhibit 4 (indicating that under paragraph 273 of Article 1, due to it being located in the region of, *inter alia*, Campania, as prescribed in paragraph 271 of Article 1, it was eligible for the subsidy).
[117] *Id*., at 4 and Exhibits 5-6.
[118] *Id*., at 5-7. *See also* GOI 4SQR at 5.
[119] *See* GOI 4SQR at 4, 7-8.

DeMatteis reported receiving disbursements from the GOI during the AUL that equaled the amount approved in 2008,[120] thereby conferring a benefit under 19 CFR 351.504(a) in the amount of the disbursed funds. Finally, we find that the program is specific within the meaning of section 771(5A)(D)(iv) of the Act because it is limited to certain enterprises located within designated geographical regions of Italy, *i.e.*, the "disadvantaged areas" of Abbruzzo, Basilicata, Calabria, Campania, Molise, Puglia, Sardinia and Sicily.[121]

To determine whether the benefit conferred under this program was recurring or non-recurring in nature, 19 CFR 351.524(c)(2) provides criteria which should be considered, namely: (i) whether the subsidy is exceptional in the sense that the recipient cannot expect to receive additional subsidies under the same program on an ongoing basis from year to year; (ii) whether the subsidy required or received the government's express authorization or approval (*i.e.*, receipt of benefits is not automatic); or (iii), whether the subsidy was provided for, or tied to, the capital structure or capital assets of the firm.[122] Since the subsidy DeMatteis received was exceptional,[123] not automatic,[124] and was provided for, or tied to, its capital structure or capital assets,[125] we find that the subsidy provided under this program was non-recurring in nature.

To calculate the benefit, we first determined whether the subsidy received by DeMatteis exceeded 0.5 percent of its sales in the year in which it was approved under 19 CFR 351.524(b)(2). Because the benefits that DeMatteis received in each year 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 benefit allocated to the POR by DeMatteis' total sales in the POR. On this basis, we find that DeMatteis received a countervailable subsidy rate of 0.75 percent *ad valorem*.[126]

4. Industrial Development Grants Under Law 488/92

As stated most recently in the *16th Administrative Review*[127] of this *Order*, in 1986, the EU initiated an investigation of the GOI's regional subsidy practices. 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.[128]

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[120] *See*, *e.g.*, DeMatteis 3SQR at 3-8.
[121] *See* GOI 4SQR at 4-9.
[122] *See* 19 CFR 351.524(c)(2)(i)-(iii).
[123] *See* DeMatteis 3SQR at 6.
[124] *Id*.
[125] *See* GOI 4SQR at 5.
[126] *See* DeMatteis Final Calculation Memorandum.
[127] *See 16th Administrative Review Preliminary Results* and accompanying Decision Memorandum at "Industrial Development Grants Under Law 488/92," unchanged in *16th Administrative Review Final Results*.
[128] *See Certain Pasta from Italy: Preliminary Results of Countervailing Duty Administrative Review*, 64 FR 17618, 17620 (April 12, 1999) (*Second Administrative Review Preliminary Results*), unchanged in *Certain Pasta From*

Law 488/92 grants are made only after a preliminary examination by a bank authorized by the Ministry of Industry. 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.[129] DeCecco and DeMatteis received grants under Law 488/92 in years covered by the AUL and which conferred benefits during the POR.[130]

In the *Second Administrative Review*, the Department determined that Law 488/92 grants confer a countervailable subsidy within the meaning of section 771(5) of the Act.[131] They are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant.[132] Also, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act.[133]

Consistent with *Live Swine from Canada*,[134] our policy is reflected in the standard questionnaire the Department uses in CVD administrative reviews which states that "absent new information or evidence of changed circumstances, we do not intend to reexamine the countervailability of programs previously found to be countervailable."[135] In this review, neither the GOI nor the respondent companies provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.

In the *Second Administrative Review*, the Department treated the benefits provided by these industrial development grants as non-recurring.[136] No new information has been placed on the record of this review that would cause us to depart from this treatment. Therefore, we followed the methodology described in 19 CFR 351.524(b) which directs us to allocate over time those non-recurring grants whose total authorized amount exceeds 0.5 percent of the recipient's sales in the year of authorization. Because the grants received by DeCecco and DeMatteis under Law 488/92 exceeded 0.5 percent of their respective sales in the year in which the grants were approved, we allocated the benefits over the AUL period using the allocation methodology described in 19 CFR 351.524(d). For DeCecco, we divided the amounts allocated to the POR by

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Italy: Final Results of the Second Countervailing Duty Administrative Review, 64 FR 44489 (August 16, 1999) (*Second Administrative Review Final Results*) (collectively, *Second Administrative Review*).

[129] *See, e.g.*, *Certain Pasta From Italy: Preliminary Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 18806, 18809 (April 13, 2010) (*13th Administrative Review Preliminary Results*), unchanged in *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386 (June 29, 2010) (*13th Administrative Review Final Results*) (collectively, *13th Administrative Review*).

[130] *See* DeCecco IQR at 13 and DeMatteis IQR at Exhibit 10.

[131] *See Second Administrative Review Preliminary Results*, 64 FR at 17620, unchanged in *Second Administrative Review Final Results*.

[132] *See* section 771(5)(D)(i) of the Act; 19 CFR 351.504(a).

[133] *See Second Administrative Review Preliminary Results*, 64 FR at 17620, unchanged in *Second Administrative Review Final Results.*

[134] *See Live Swine from Canada*, 61 FR at 52420.

[135] *See generally* Letter from the Department, "Administrative Review of the Countervailing Duty Order on *Certain Pasta from Italy*: Initial Questionnaire" (December 9, 2013).

[136] *See Second Administrative Review Preliminary Results*, 64 FR at 17620, unchanged in *Second Administrative Review Final Results.*

DeCecco's and Pescara's combined sales (less inter-company sales) during the POR, and for DeMatteis, we divided the amounts allocated to the POR by DeMatteis' total sales during the POR.

On this basis, we find the countervailable subsidy from the Law 488/92 industrial development grants to be 0.01 percent *ad valorem* for DeCecco,[137] and 0.08 percent *ad valorem* for DeMatteis.[138]

5. Industrial Development Grants Under Law 64/86

As stated in the *14th Administrative Review*, Law 64/86 provided assistance to promote development in the Mezzogiorno.[139] Grants were awarded to companies constructing new plants or expanding or modernizing existing plants. Pasta companies were eligible for grants to expand existing plants but not to establish new plants because the market for pasta was deemed to be close to saturated. Grants were made only after a private credit institution chosen by the applicant made a positive assessment of the project.[140]

In 1992, the Italian Parliament abrogated Law 64/86 and replaced it with Law 488/92 (*see supra*). This decision became effective in 1993. However, companies whose projects had been approved prior to 1993 were authorized to continue receiving grants under Law 64/86 after 1993.[141]

In the *Investigation Final*,[142] the Department determined that these grants constituted a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, and conferred a benefit in the amount of the grant.[143] Also, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act.[144] In this review, neither the GOI nor the respondent companies provided new information that would warrant reconsideration of our determination that these grants are countervailable subsidies.[145]

In the *Investigation Final*, the Department treated these industrial development grants as non-recurring.[146] No new information has been placed on the record of this review that would cause us to depart from this treatment. Therefore, we followed the methodology described in 19 CFR 351.524(b), which directs us to allocate over time those non-recurring grants whose total authorized amount exceeds 0.5 percent of the recipient's sales in the year of authorization. Where the total amount authorized is less than 0.5 percent of the recipient's sales in the year of authorization, the benefit is expensed in the year of receipt. In the *14th Administrative Review*,

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[137] *See* DeCecco Final Calculation Memorandum.
[138] *See* DeMatteis Final Calculation Memorandum.
[139] *See 14th Administrative Review Preliminary Results*, 76 FR at 48134, unchanged in *14th Administrative Review Final Results*.
[140] *Id*.
[141] *Id*.
[142] *See Investigation Final*, 61 FR at 30292-93.
[143] *See* 19 CFR 351.504(a).
[144] *See Investigation Final*, 61 FR at 30292-93.
[145] *See Live Swine from Canada*, 61 FR at 52420.
[146] *See Investigation Final*, 61 FR at 30292-93.

we determined that certain grants received by DeCecco under Law 64/86 exceeded 0.5 percent of DeCecco's sales in the years in which the grants were approved.[147]

We divided the amounts allocated to the POR by DeCecco's and Pescara's combined sales (less inter-company sales) in the POR. On this basis, we determine the countervailable subsidy from the Law 64/86 industrial development grants to be 0.07 percent *ad valorem* for DeCecco.[148]

6. Law 662/96 – *Patti Territoriali*

As stated in the *12th Administrative Review*, *Patti Territoriali* grants (Law 662/96 Article 2, Paragraph 203, Letter d) are being provided to companies for entrepreneurial initiatives such as new plants, additions, modernization, restructuring, conversion, reactivation, or transfer.[149] To be eligible for these grants, companies must be involved in mining, manufacturing, production of thermal or electric power from biomasses, service companies, tourist companies, agricultural, maritime and salt-water fishing businesses, aquaculture enterprises, or their associations.

The *Patti Territoriali* 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. 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.[150]

DeMatteis was approved for a grant under the *Patti Territoriali* on January 29, 1999, and it received disbursements of this grant in 2004 and 2007.[151]

In the *Tenth Administrative Review*, the Department found that this grant confers 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.[152] 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.[153] In the instant review, neither the GOI nor DeMatteis provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.[154]

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[147] *See 14th Administrative Review Preliminary Results*, 76 FR at 48134, unchanged in *14th Administrative Review Preliminary Results*.
[148] *See* DeCecco Final Calculation Memorandum.
[149] *See 12th Administrative Review Preliminary Results*, 74 FR at 25494, unchanged in *12th Administrative Review Final Results*.
[150] *Id.*
[151] *See* DeMatteis IQR at Exhibit 10.
[152] *See Tenth Administrative Review Preliminary Results*, at 72 FR 43616; unchanged in *Tenth Administrative Review Final Results*, 73 FR 7251.
[153] *Id.*
[154] *See Live Swine from Canada*, 61 FR at 52420.

In the *Tenth Administrative Review*, the Department treated the *Patti Territoriali* grant as a non-recurring subsidy. No new information has been placed on the record of this review that would cause us to depart from this treatment. As such, we followed the methodology described in 19 CFR 351.524(b) which directs us to allocate over time those non-recurring grants whose total authorized amount exceeds 0.5 percent of the recipient's sales in the year of authorization. We determined that the grant received by DeMatteis under Law 662/96 exceeded 0.5 percent of its sales in the year in which the grant was approved.

We used the allocation methodology described in 19 CFR 351.524(d) to allocate the benefits over time. We divided the amount allocated to DeMatteis in POR by its total sales in the POR. On this basis, we find the countervailable subsidy from the *Patti Territoriali* grant to be 0.06 percent *ad valorem* for DeMatteis.[155]

7. Law 662/96 – *Contratto di Programma*

As stated in the *12th Administrative Review*, the GOI describes *Contratto di Programma* (Law 662/96, Article 2, Paragraph 203, Letter e) as an instrument providing 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.[156] 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.

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.[157]

DeMatteis 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.[158]

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155 *See* DeMatteis Final Calculation Memorandum.
156 *See 12th Administrative Review Preliminary Results*, 74 FR at 25494-95, unchanged in *12th Administrative Review Final Results*.
157 *Id.*
158 *See* DeMatteis IQR at Exhibit 10.

In the *12th Administrative Review*, the Department found that this grant confers a countervailable subsidy within the meaning of section 771(5) of the Act.[159] It is 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, this 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.[160]

We followed the methodology described in 19 CFR 351.524(b) which directs us to allocate over time those non-recurring grants whose total authorized amount exceeds 0.5 percent of the recipient's sales in the year of authorization. We determined that the grant received by DeMatteis under the *Contratto di Programma* exceeded 0.5 percent of its sales in the year in which the grant was approved. Thus, we used the allocation methodology described in 19 CFR 351.524(d) to allocate the benefits over time. We divided the benefit allocated to the POR by DeMatteis' sales during the POR. On this basis, we find the countervailable subsidy from the *Contratto di Programma* grant to be 0.40 percent *ad valorem* for DeMatteis.[161]

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

As stated in the *12th Administrative Review*, Article 62 of Law 289/02 provides a benefit in the form of a credit towards direct taxes, indirect taxes, or social security contributions.[162] 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.[163]

In the *Tenth Administrative Review*, we determined that Article 62 of Law 289/02 confers a countervailable subsidy.[164] 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

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[159] *See 12th Administrative Review Preliminary Results*, 74 FR at 25494-95, unchanged in *12th Administrative Review Final Results*.
[160] *Id*.
[161] *See* DeMatteis Final Calculation Memorandum.
[162] *See 12th Administrative Review Preliminary Results*, 74 FR at 25493, unchanged in *12th Administrative Review Final Results*.
[163] *Id*.
[164] *See Tenth Administrative Review Preliminary Results*, 72 FR at 43620, unchanged in *Tenth Administrative Review Final Results*.

northern Italy.[165] No new information has been placed on the record of this review that would cause us to depart from this treatment.[166]

DeMatteis is located in Campania and took advantage of this program.[167] 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 DeMatteis was approved in 2005 and a portion was used to reduce the company's income taxes in 2005, 2006, and 2007.

In the *Tenth Administrative Review* and the *12th Administrative Review*, 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). 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.[168]

In accordance with 19 CFR 351.524(b), we determined that the tax credit received by DeMatteis exceeded 0.5 percent of its sales in each year in which the tax credit was approved. Therefore, consistent with our determination in the *12th Administrative Review*, 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).[169] We then divided the benefit allocated to the POR from the 2005, 2006, and 2007 grants over DeMatteis' total sales in the POR. On this basis, we find the countervailable subsidy from Law 289/02, Article 62, to be 0.34 percent *ad valorem* for DeMatteis.[170]

Loan Programs

9. Interest Contributions Under Law 488/92

In the *Second Administrative Review*, we found that "loans are not provided under Law 488/92."[171] However, in the *13th Administrative Review*, the GOI provided documentation showing that a May 14, 2005, Law at Article 80 and implementing decree changed this practice to permit companies to obtain loans, in addition to grants, for initiatives in the areas eligible for such assistance under Law 488/92.[172] The preliminary examination of companies' loan applications by an authorized bank, the ranking by the Ministry of Economic Development, and

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[165] *Id.*
[166] *See Live Swine from Canada*, 61 FR at 52420.
[167] *See* DeMatteis IQR at Exhibit 10.
[168] *See Tenth Administrative Review Preliminary Results*, 72 FR at 43620, unchanged in *Tenth Administrative Review Final Results*.
[169] *See 12th Administrative Review Preliminary Results*, 74 FR at 25493, unchanged in *12th Administrative Review Final Results*.
[170] *See* DeMatteis Final Calculation Memorandum.
[171] *See Second Administrative Review Preliminary Results*, 64 FR at 17620, unchanged in *Second Administrative Review Final Results*.
[172] *See 13th Administrative Review Preliminary Results*, 75 FR at 18809, unchanged in *13th Administrative Review Final Results*.

the award of loans based on the ranking are similar to the process described for Law 488/92 grants.[173] In addition, the bank is responsible for evaluating the company's credit.[174]

Under this modification to Law 488/92, the loans must have a duration not exceeding 15 years and not less than six years. The fixed-interest rates on these long-term loans are set at a rate of 0.50 percent with the GOI covering the difference in interest between 0.50 percent and the market rate. DeCecco received interest contributions under Law 488/92 during the POR.[175]

In the *13th Administrative Review*, the Department found that these interest contributions confer a countervailable subsidy within the meaning of section 771(5) of the Act.[176] They constitute a financial contribution in the form of a direct transfer of funds from the GOI under section 771(5)(D)(i) of the Act and confer a benefit in the amount of the difference between the benchmark interest rate and the interest rate paid by the companies.[177] Also, these interest contributions are regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because they are limited to companies located within regions which meet the criteria of Objective 1, Objective 2, and Objective 5(b) areas determined by the EU.[178] No new information has been placed on the record of this review that would cause us to depart from this finding of countervailability.[179]

In accordance with 19 CFR 351.505(c)(2), we calculated the benefit for the POR by calculating the difference between the amount of interest paid during the POR by DeCecco on its Law 488/92 loans and the amount of interest DeCecco would have paid at the benchmark interest rate. We divided the benefit received by DeCecco in the POR by DeCecco's and Pescara's combined sales (less inter-company sales) in the POR.

On this basis, we find the countervailable subsidy from the Law 488/92 interest contributions to be 0.04 percent *ad valorem* for DeCecco.[180]

10. Article 14 of Law 46/82 (*Fondo Innovazione Tecnologica*) – Loans

This program is part of "Article 14 of Law 46/82 (*Fondo Innovazione Tecnologica*) – Grants" program described below, and the Department has previously determined that loans under this program provide countervailable subsidies, most recently in the *16th Administrative Review*.[181] DeMatteis reported that it had a loan under this program that was outstanding during the POR.[182]

[173] *See, e.g., 16th Administrative Review Preliminary Results* and accompanying Decision Memorandum at "Industrial Development Grants Under Law 488/92," unchanged in *16th Administrative Review Final Results*.
[174] *Id.*
[175] *See* DeCecco IQR at 14.
[176] *See 13th Administrative Review Preliminary Results*, 75 FR at 18809, unchanged in *13th Administrative Review Final Results*.
[177] *Id.*
[178] *Id.*
[179] *See Live Swine from Canada*, 61 FR at 52420.
[180] *See* DeCecco Final Calculation Memorandum.
[181] *See 16th Administrative Review Preliminary Results*, 78 FR 49256, and accompanying Decision Memorandum at "Article 14 of Law 46/1982 (*Fondo Innovazione Tecnologica*)," unchanged in *16th Administrative Review Final Results*.
[182] *See* DeMatteis IQR at 20-24.

In the *14th Administrative Review,* upon which our findings in the *16th Administrative Review* were based, we found loans provided under this program to be countervailable.[183] No new information has been placed on the record of this review that would cause us to depart from our previous findings with regard to this program.[184] Consistent with the *14th Administrative Review*, we continue to find that loans under Article 14 of Law 46/82 convey a countervailable subsidy within the meaning of section 771(5) of the Act because they provide a benefit from the GOI in the amount of the difference between the interest a company paid on the loan and the interest the company would have paid on a comparable commercial loan, are specific within the meaning of section 771(5A)(D) of the Act, and are financial contributions because they are a direct transfer of funds from the GOI.[185] In accordance with 19 CFR 351.505(c)(2), we calculated the benefit DeMatteis received from the loan outstanding under this program in the POR by computing the difference between the interest payments DeMatteis made on the loan during the POR and the interest payments DeMatteis would have made at the benchmark interest rate. We divided the benefit received by DeMatteis by its total sales in the POR.

On this basis, we determine the countervailable subsidy from Law 46/82 research loan to be 0.02 percent *ad valorem* for DeMatteis.[186]

B. <u>Programs Found to Be Not Used or Provided No Benefit During the POR</u>

1. Article 14 of Law 46/82 (*Fondo Innovazione Tecnologica*) – Grants

The Department has previously found this program to be countervailable, most recently in the *16th Administrative Review*.[187] DeMatteis reported that, since the company was last reviewed in the *12th Administrative Review*,[188] it received grants under Article 14 of Law 46/82 in 2008 and 2011 that were approved in 2006.[189]

We have previously treated grants conferred under this program as "non-recurring," and allocated the benefits over time.[190] However, because the grants received by DeMatteis under Article 14 of Law 46/82 do not exceed 0.5 percent of its sales in the year the grant was approved, we have not allocated the benefit over time and have expensed the grants to the year of receipt. Therefore, we find that this program did not provide a benefit to DeMatteis during the POR.

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[183] *See 14th Administrative Review Preliminary Results,* 76 FR at 48137, unchanged in *14th Administrative Review Final Results*.
[184] *See Live Swine from Canada*, 61 FR at 52420.
[185] *See 14th Administrative Review Preliminary Results*, 76 FR at 48137, unchanged in *14th Administrative Review Final Results*; *see also* section 771(5)(D)(i) of the Act.
[186] *See* DeMatteis Final Calculation Memorandum.
[187] *See 16th Administrative Review Preliminary Results*, 78 FR 49256, and accompanying Decision Memorandum at "Article 14 of Law 46/1982 (*Fondo Innovazione Tecnologica*)," unchanged in *16th Administrative Review Final Results*.
[188] *See* DeMatteis IQR at 14-24.
[189] *Id*., at 18-19.
[190] *See Preliminary Results of the 15th (2010) Countervailing Duty Administrative Review and Rescission, In Part*, 77 FR 45582, 45585-86 (August 1, 2012) (*15th Administrative Review Preliminary Results*), unchanged in *Certain Pasta From Italy; Final Results of Countervailing Duty Administrative Review; 2010*, 77 FR 69793 (November 21, 2012) (*15th Administrative Review Final Results*) (collectively, *15th Administrative Review*); *see also* 19 CFR 351.524(b).

2. Integrated Supply Chain Project (P.I.F.) Grant

DeMatteis reported that, in 2009 and 2010, it carried out an integrated supply chain project (also called a "P.I.F.") for the Regione Campania, and that as the leader of the project, it had the right to ask for reimbursement of expenses incurred for the startup, animation, and planning of the project.[191] However, DeMatteis states that, as of the end of the POR, it had not received any financial assistance or benefit in relation to this project from the GOI.[192] Based on DeMatteis' responses, we sought information from the GOI regarding this program, to which the GOI did not respond. However, DeMatteis submitted information to substantiate that, as of the end of the POR, it had yet to receive any disbursement of funds under this program.[193] Thus, notwithstanding the GOI's lack of a response to our request for information, we find that record information submitted by DeMatteis demonstrates that there is no evidence of the existence of a financial contribution conferred during the POR within the meaning of section 771(5)(D) of the Act. Therefore, we find this program to be not used.

3. Arte Bianca Training Project Grant

DeMatteis reported receiving one-time assistance in the form of a disbursement of funds authorized by the Regione Campania government, contingent on the realization of a training project.[194] DeMatteis submits that the funds were disbursed from the Regione Campania government once an agreement was in place between the Regione Campania government (which partially financed the training project), DeMatteis (which incurred the costs of the project), and the "SME Service Promoter Company" (which carried out the training activities and charged DeMatteis).[195] According to DeMatteis, in order to be eligible to participate in the program, it had to be located in a specific region and carry out a training project; further, the amount of assistance was directly related to the costs incurred by DeMatteis through the realization of the project.[196]

Based on the information supplied by DeMatteis, we requested that the GOI complete the Standard Questions Appendix and Grant Information Appendix regarding this program. However, the GOI failed to provide any information regarding this program.[197] Nonetheless, DeMatteis provided necessary information for us to perform a benefit calculation. Because the amount of funds approved by the Regione Campania government in 2009 did not exceed 0.5 percent of DeMatteis' sales in 2009, the benefit from the grant is expensed in the year of receipt, pursuant to 19 CFR 351.524(b)(2). Thus, this this program did not provide any benefits to DeMatteis during the POR.

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[191] *See* DeMatteis 1SQR at 5 and Letter from DeMatteis, "Pasta From Italy; De Matteis Second Supplemental Questionnaire Response" (July 7, 2014) (DeMatteis 2SQR) at 3.
[192] *See* DeMatteis 1SQR at 5.
[193] *Id.*
[194] *See* DeMatteis 2SQR at Exhibit 3, and Letter from DeMatteis, "Pasta From Italy; De Matteis Fourth Supplemental Questionnaire Response" (August 4, 2014) (DeMatteis 4SQR) at 2.
[195] *See* DeMatteis 4SQR at 2.
[196] *See* DeMatteis 2SQR at 1-2.
[197] *See, generally,* GOI 4SQR and GOI 5SQR.

4. Other Programs

DeCecco and DeMatteis reported that they did not receive benefits under the programs listed below during the POR or over the AUL period. Therefore, we find that these programs are not used.

- Industrial Development Grants Under Law 183/76
- Industrial Development Grants Under Law 341/95
- Law 236/93 Training Grants
- Development Grants Under Law 30/84[198]
- Article 23 of Legislative Decree 38/2000[199]
- Region of Sicily: Measure 3.14 of the POR Sicilia 2000/2006
- Social Security Reductions and Exemptions – *Sgravi*
  - Law 223/91
    - Article 8, Paragraph 4
  - Law 449/97
  - Law 448/98
  - Law 56/87
  - Law 56/97
  - Law 25/55
- 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 38/2000[200]
- 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)
- European Regional Development Fund (ERDF) Grants
- ERDF *Programma Operativo Plurifondo* Grant
- ERDF *Programma Operativo Multiregionale* Grant
- European Social Fund

[198] May have also been called "Development Grants Under Law 30 of 1984."
[199] May have also been called "Article 23 of Legislative Decree 38/00."
[200] May have also been called "Article 23 of Legislative Decree 38/00."

- 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
- 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

VII. ANALYSIS OF COMMENT

Comment: Application of Adverse Facts Available (AFA) for *Sgravi* Programs

The GOI argues that it did not respond to the Department's questionnaires because it did not receive notification that the Department had issued questionnaires because the email address for the designated recipient of service had been deactivated.[201] According to the GOI, it did, however, exhibit "goodwill to respond" by submitting a response to the second supplemental questionnaire on September 2, 2014.[202] As further evidence of good will, the GOI notes that it has submitted timely responses to both the fourth and fifth supplemental questionnaires, thereby demonstrating that the GOI would have willingly responded to the second and third supplemental questionnaires had it received them.

As such, the GOI objects to the Department's finding in the *Preliminary Results* that the GOI did not cooperate to the best of its ability such that the Department was warranted in its application of facts available and reliance on adverse inferences. Additionally, the GOI submits that the GOI 1SQR contained information regarding the *Sgravi* benefits at issue, including information indicating that Law 1089/68 was repealed in 2010, and that Law 276/03 was found not to be *de facto* specific in the *12th Administrative Review*.

[201] *See* GOI Brief at 4-5.
[202] *Id.*

Department Position:

In the *Preliminary Results*, we found that by failing to submit a response to our second or third supplemental questionnaires, the GOI withheld information that was requested by the Department and failed to provide information by the deadlines for submission of the information.[203] Thus, we relied on facts otherwise available in accordance with section 776(a)(1) and (2)(A) and (B) of the Act.[204] Moreover, pursuant to section 776(b) of the Act, we found that by failing to submit a response to our second or third supplemental questionnaires, the GOI did not act to the best of its ability to comply with a request for information in this administrative review.[205] Contrary to its contention, the GOI only submitted an incomplete response to the second supplemental questionnaire after the *Preliminary Results*, and this response was submitted well past the original deadline established in that questionnaire.

In our letter to the GOI of August 29, 2014,[206] we stated that, pursuant to 19 CFR 351.302(b) (2013), the GOI had not established that there was good cause to warrant granting the GOI two retroactive extensions,[207] *i.e.*, extensions to file responses to our second and third supplemental questionnaires subsequent to the deadline. We further explained that the GOI had not identified circumstances that prevented it from timely filing responses to our questionnaires or requests to extend the relevant questionnaire deadlines.[208] Moreover, the GOI has not identified any new circumstances establishing good cause warranting a retroactive extension under 19 CFR 351.302(b). The GOI contends that it did not receive notification of the second and third supplemental questionnaires. As we stated in the August 29, 2014, letter to the GOI, the Department's ACCESS system sent automated notifications that both of the questionnaires at issue had been released by the Department to the GOI's designated recipient of service. Regarding the GOI's statement that the e-mail address for its designated recipient of service had been deactivated, we do not find that this constitutes good cause under 19 CFR 351.302(b) for granting retroactive extensions because the GOI could have, for example, requested that the Department change the GOI's selected designee. As a result, for reasons explained above in the section "Use of Facts Otherwise Available and Adverse Inferences," we continue to find that our reliance in part on facts available and application of an adverse inference is consistent with sections 776(a) and 776(b) of the Act.

Additionally, the GOI points to its responses to the fourth and fifth supplemental questionnaires and to its belated submission of a response to the Department's second supplemental questionnaire to demonstrate that it was not unwilling to respond to the Department's requests for information. However, our partial AFA determination regarding the *Sgravi* programs is not based on the GOI's behavior in connection with the fourth and fifth supplemental questionnaires, nor is it based on a determination that the GOI was completely unwilling to respond to the second and third questionnaires. Rather, our determination stems from the fact that the GOI did

[203] *See Preliminary Results*, and accompanying Decision Memorandum at 5-7.
[204] *Id.*, at 5.
[205] *Id.*, at 5-6.
[206] *See* Letter from the Department, "Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy: Request for Retroactive Deadline Extensions for 2nd and 3rd Supplemental Questionnaires" (August 29, 2014).
[207] *Id.*, at 2.
[208] *Id.*

not submit a response to the Department's third supplemental questionnaire and did not timely request an extension of the deadline for that submission.[209]

Regarding the GOI's contention that Law 276/03 is not specific, in the *12th Administrative Review*, the usage information provided by the GOI enabled the Department to conduct a *de facto* specificity analysis and conclude that *Sgravi* benefits under Law 276/03 were not *de facto* specific during that POR.[210] We note that the SAA directs the Department to "seek and consider information relevant" to all four of the factors of section 771(5A)(D)(iii) of the Act.[211] Moreover, under section 771(5A)(D)(iii)(I) of the Act, we may find a subsidy program *de facto* specific if the actual recipients of a subsidy, whether on an enterprises or industry basis, are limited in number. Therefore, the analysis of whether a program is *de facto* specific based on a limited number of subsidy recipients is one that is conducted by a review of the actual recipients of the program. In the instant review, the GOI withheld and failed to submit such information that was requested by the Department in the third supplemental questionnaire regarding the use of *Sgravi* benefits under, *inter alia*, Law 276/03. As a result, we were unable to conduct a *de facto* specificity analysis for this POR. As AFA we have found that Law 276/03 is specific within the meaning of section 771(5A)(D)(iii) of the Act.

Finally, regarding the GOI's arguments on Law 1089/68, we note that this law is not at issue in this review because neither DeCecco nor DeMatteis reported receiving *Sgravi* benefits under that law.

VIII. RECOMMENDATION

We recommend approving all of the above positions and adjusting all related countervailable subsidy rates accordingly. If these Department positions are accepted, we will publish the final results in the *Federal Register*.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

23 FEBRUARY 2015
(Date)

[209] We note that our partial AFA determination regarding certain *Sgravi* programs stems from the GOI's failure to respond to questions asked in our third supplemental questionnaire only.

[210] *See 12th Administrative Review Preliminary Results*, 74 FR 25489, 25495-96, unchanged in *12th Administrative Review Final Results*, 74 FR 47204.

[211] *See* Statement of Administrative Action (SAA) accompanying H.R. 5110, H.R. Doc. No. 316, 103d Cong., 2d Sess. 911, 931 (1994).