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Investigation
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August 25, 2017

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Affirmative
Determination of the Countervailing Duty Investigation of Carbon
and Alloy Steel Wire Rod from Italy

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of carbon and alloy steel wire rod (wire rod) from Italy, as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Initiation and Case History

On March 28, 2017, the Department received countervailing duty (CVD) and antidumping duty (AD) petitions concerning imports of wire rod from Italy, filed in proper form on behalf of Gerdau Ameristeel US Inc., Nucor Corporation (Nucor), Keystone Consolidated Industries, Inc., and Charter Steel (collectively, the petitioners).¹ On April 17, 2017, the Department initiated the

¹ See “Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, the Republic of South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom - Petitions for the Imposition of Antidumping and Countervailing Duties,” dated March 28, 2017 (Petitions).



CVD investigation of wire rod from Italy.² The initial allegations and supplements to the Petition are described in the CVD Initiation Checklist.³

In the *Initiation Notice*, we stated that, following the standard practice in CVD investigations, we would, where appropriate, select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of wire rod during the period of investigation (POI).⁴ The Department obtained data for entries made for U.S. imports under the Harmonized Tariff Schedule of the United States (HTSUS) numbers 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3093, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7227.20.0030, 7227.20.0080, 7227.90.6010, 7227.90.6020, 7227.90.6030, and 7227.90.6035 during the POI, and released the data to the interested parties for comment on April 19, 2017.⁵ On April 26, 2017, Nucor, a petitioner to the investigation, timely filed comments on the CBP data.⁶ Nucor states in its comments that, should the Department rely upon the CBP data for purposes of respondent selection, it should select the two largest producers and/or exporters indicated by the CBP data as mandatory respondents.⁷ No other parties filed comments on the CBP data or rebuttals to Nucor's Comments.

On May 12, 2017, based on our analysis of the CBP data and Nucor's Comments, the Department selected Ferriere Nord S.p.A. (Ferriere Nord) and Ferriera Valsider S.p.A. (Ferriera Valsider) as mandatory respondents in this investigation.⁸ On May 15, 2017, the Department issued the Initial CVD Questionnaire to the Government of Italy.⁹ Ferriere Nord and the Government of Italy timely filed responses to the Initial CVD Questionnaire.¹⁰ Ferriera Valsider failed to file a questionnaire response and did not request an extension of time to do so.

The Government of Italy and Ferriere Nord timely filed responses to additional supplemental questionnaires between June, 19, 2017, and August, 10, 2017, as discussed below.

² See *Carbon and Alloy Steel Wire Rod from Italy and Turkey: Initiation of Countervailing Duty Investigations*, 82 FR 19213 (April 26, 2017) (*Initiation Notice*).

³ See Countervailing Duty Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from Italy, dated April 17, 2017 (CVD Initiation Checklist).

⁴ See *Initiation Notice*, 82 FR at 19216.

⁵ See Department Letter re: Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from Italy: Respondent Selection, dated April 19, 2017.

⁶ See Letter from Nucor re: Carbon and Alloy Steel Wire Rod from Italy: Respondent Selection Comments, dated April 26, 2017 (Nucor's Comments).

⁷ See Nucor's Comments at 2.

⁸ See Memorandum, "Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from Italy: Respondent Selection," dated May 12, 2017 (Respondent Selection Memorandum).

⁹ See Department Letter re: Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from Italy: Countervailing Duty Questionnaire, dated May 15, 2017 (Initial CVD Questionnaire).

¹⁰ See Ferriere Nord's May 30, 2017 Affiliation Response (Ferriere Nord May 30, 2017 AFFR); see also Ferriere Nord's June 26, 2017 Initial Questionnaire Response (Ferriere Nord June 26, 2017 IQR); see also Ferriere Nord's June 27, 2017 Initial Questionnaire Response Supplement (Ferriere Nord June 27, 2017 IQRS); see also Government of Italy's June 29, 2017 Initial Questionnaire Response (Government of Italy June 29, 2017 IQR).

On July 17, 2017, Nucor submitted a new subsidy allegation regarding the provision of electricity for less than adequate remuneration to the Department.¹¹ On August 25, 2017, the Department issued a memorandum declining to initiate an investigation of the alleged program because the evidence submitted by Nucor to support its allegation indicated that the alleged program did not exist during the POI.¹²

B. Postponement of Preliminary Determination

On June 5, 2017, the Department postponed the deadline for the preliminary determination of this investigation to the full 130 days permitted under sections 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).¹³

C. Period of Investigation

The POI is January 1, 2016, through December 31, 2016.

III. SCOPE COMMENTS

In accordance with the preamble to the Department's regulations,¹⁴ we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and we encouraged all parties to submit comments within 20 calendar days of the signature date of that notice.¹⁵

We received comments from interested parties concerning the scope of the AD and CVD investigations of wire rod from Italy.¹⁶ On August 7, 2017, we issued a Preliminary Scope Decision Memorandum.¹⁷ We will incorporate any additional scope decisions from the AD investigations into the scope of the final CVD determination after considering any relevant comments submitted in case and rebuttal briefs.

¹¹ See Letter to the Department, re: Carbon and Alloy Steel Wire Rod from Italy: New Subsidy Allegations, dated July 17, 2017.

¹² See Memorandum "Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from Italy: New Subsidy Allegation," dated August 25, 2017.

¹³ See *Carbon and Alloy Steel Wire Rod from Italy and the Republic of Turkey: Postponement of Preliminary Determinations of Countervailing Duty Investigations*, 82 FR 25771 (June 5, 2017); see also Nucor letter re: Carbon and Certain Alloy Steel Wire Rod from Italy: Request to Postpone Preliminary Determination, dated May 25, 2017.

¹⁴ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

¹⁵ See *Initiation Notice*, 82 FR at 19214.

¹⁶ See Letter from POSCO, re: Comments on Scope of the Investigations, dated May 12, 2017; see also Letter from British Steel Limited re, British Steel's Scope Comments, dated May 12, 2017; see also Letter from the petitioners, re Response to Cooper Tire's Request to Exclude Tire Cord/Tire Bead Wire Rod, dated May 22, 2017; see also Letter from Cooper Tire and Rubber Company, re Carbon and Alloy Steel Wire Rod Trade Petitions against Ten Countries, dated May 26, 2017.

¹⁷ See Memorandum, "Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, the Republic of Turkey, Ukraine, the United Arab Emirates, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations," dated August 7, 2017 (Preliminary Scope Decision Memorandum).

IV. SCOPE OF THE INVESTIGATION

The product covered by this investigation is wire rod from Italy. For a full description of the scope of this investigation, *see* Appendix I of the preliminary determination *Federal Register* notice that accompanies this preliminary decision memorandum.

V. RESPONDENT SELECTION

Section 777A(e)(1) of the Act directs the Department to determine an individual countervailable subsidy rate for each known exporter/producer of subject merchandise. Given the large number of exporters/producers of wire rod from Italy, the Department found that it would not be practicable to individually examine each known exporter and/or producer of subject merchandise in this investigation, consistent with section 777A(e)(2) of the Act and 19 CFR 351.204(c)(2). As a result, the Department selected Ferriere Nord and Ferriera Valsider as mandatory respondents for this investigation.¹⁸

VI. INJURY TEST

Because Italy is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Italy materially injure, or threaten material injury to, a U.S. industry. On May 12, 2017, the ITC preliminarily determined that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of wire rod from Italy and that an industry in the United States is threatened with material injury by reason of imports of wire rod that are alleged to be subsidized by the Government of Italy.¹⁹

VII. SUBSIDIES VALUATION

A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.²⁰ The Department finds the AUL in this proceeding to be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System.²¹ The Department notified the respondents of the AUL in the initial

¹⁸ *See* Respondent Selection Memorandum.

¹⁹ *See Carbon and Certain Alloy Steel Wire Rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the United Arab Emirates, and the United Kingdom*. 701-TA-573-574 and 731-TA-1349-1358 (Preliminary), Publication 4693, May 2017; *see also Carbon and Certain Alloy Steel Wire Rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom; Determinations*, 82 FR 22846 (May 18, 2017).

²⁰ *See* 19 CFR 351.524(b).

²¹ *See* U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

questionnaire and requested data accordingly.²² No party in this proceeding disputed this allocation period.

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

B. Attribution of Subsidies

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

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of the Department’s regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *Preamble*²³ further clarifies the Department’s cross-ownership standard. According to the *Preamble*, relationships captured by the cross-ownership definition include those where:

{T}he 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.²⁴

²² Although the POI is a recent period, we are investigating alleged subsidies received over a time period corresponding to the AUL. See *Final Results of Countervailing Duty Administrative Reviews: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom*, 70 FR 40000 (July 12, 2005), and accompanying IDM at Comment 4.

²³ See, *e.g.*, *Countervailing Duties: Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*Preamble*).

²⁴ *Id.* at 65401.

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.²⁵

Ferriere Nord

Ferriere Nord responded to the Department's original and supplemental questionnaires on behalf of itself, Acciaierie di Verona S.p.A. (AdV), FIN FER S.p.A (FIN FER), and SIAT S.p.A. (SIAT). These companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi), as they are ultimately owned by the Pittini Group, which is an international group of companies specializing in the manufacture of long steel for building and industrial applications.²⁶

In December 2015, FIN FER purchased a steel mill located in Verona, Italy from Riva Acciaio SpA (Riva).²⁷ As part of the acquisition, the steel mill, which Ferriere Nord describes as a Riva production unit, became a legal entity and incorporated on October 6, 2015.²⁸ This steel mill now operates, as part of the FIN FER group of companies, under the name AdV.²⁹ Record information indicates that FIN FER's acquisition of the Riva production unit that subsequently incorporated as AdV did not constitute FIN FER acquiring all or substantially all of the assets of Riva.³⁰ Consequently, for this preliminary determination, we are not considering subsidies that Riva may have received and which could have benefitted FIN FER. Ferriere Nord and AdV were producers of the subject merchandise during the POI and AUL.³¹ Therefore, in accordance with 19 CFR 351.525(b)(6)(ii), we attributed subsidies that these companies received to their combined sales (net of intercompany sales).

SIAT further processed the subject merchandise that was produced by Ferriere Nord and AdV.³² Pursuant to 19 CFR 351.525(b)(6)(iv), we attributed all subsidies received by SIAT to the combined sales of the input and downstream products (net of intercompany sales) produced by each company, respectively.

²⁵ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

²⁶ See Ferriere Nord May 30, 2017 AFFR at Exhibits 1 and 2.

²⁷ *Id.* at 6.

²⁸ See Ferriere Nord's June 26, 2017 Change in Ownership Appendix Response (Ferriere Nord June 26, 2017 CIOAR) at 1.

²⁹ *Id.*

³⁰ See, e.g. the sales value of the Riva production unit, indicated at Ferriere Nord June 26, 2017 CIOAR at 1, relative to Riva's net assets as of December 31, 2015, as indicated in Riva's audited consolidated financial statements at Exhibit SUPPCVD-5; see also Memorandum, "Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from Italy: Preliminary Determination Calculations for Ferriere Nord," dated concurrently with this memorandum (Ferriere Nord Preliminary Calculation Memorandum).

³¹ See Ferriere Nord May 30, 2017 AFFR at 2.

³² *Id.* at 5.

C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, the Department considers the basis for the respondents' receipt of benefits under each program.³³ As discussed in further detail below in the "Programs Preliminarily Determined to be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator (or the total combined sales of the cross-owned affiliates, as described above). Where the program has been found to be contingent upon export activities, we used the recipient's total export sales as the denominator. All sales used in our net subsidy rate calculations are net of intra-company sales. For a further discussion of the denominators used, *see* the Ferriere Nord Preliminary Calculation Memorandum.³⁴

VIII. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

Legal Standard

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 an interested party or any other person: withholds information that has been requested; 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; significantly impedes a proceeding; or provides information that cannot be verified as provided by section 782(i) of the Act.

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

Under the Trade Preferences Extension Act of 2015 (TPEA), numerous amendments to the AD and CVD laws were made. Amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act were included.³⁵ The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.³⁶

³³ See 19 CFR 351.525(b)(1)-(5).

³⁴ See Ferriere Nord Preliminary Calculation Memorandum.

³⁵ See TPEA, Pub. L. No. 114-27, 129 Stat. 362 (2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The text of the TPEA may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

³⁶ See *Applicability Notice*, 80 FR at 46794 – 95.

Section 776(b) of the Act provides that the Department may use an adverse inference in applying 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. In doing so, and under the TPEA, the Department is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.³⁷ Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the countervailing duty investigation, a previous administrative review, or other information placed on the record.³⁸

Section 776(c) of the Act provides that, in general, when the Department relies on secondary information rather than on information obtained in the course of a review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.³⁹ Secondary information is defined as information derived from the petition that gave rise to the investigation, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.⁴⁰ Further, under the TPEA, the Department is not required to corroborate any countervailing duty applied in a separate segment of the same proceeding.⁴¹

Finally, under the new section 776(d) of the Act, when applying an adverse inference, the Department may use a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the Department considers reasonable to use.⁴² The TPEA also makes clear that, when selecting facts available with an adverse inference, the Department is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁴³

Consistent with section 776(d) of the Act and our established practice, when choosing a rate to apply as AFA, we select the highest calculated rate for the same or similar program.⁴⁴ When selecting rates, we first determine if there is an identical program in the investigation and, if so, use the highest calculated rate for the identical program (excluding zero rates). If there is no

³⁷ See Section 776(b)(1)(B) of the Act; TPEA, section 502(1)(B).

³⁸ See also 19 CFR 351.308(c).

³⁹ See also 19 CFR 351.308(d).

⁴⁰ See Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA), H.R. Doc. No. 103-316, Vol. 1 at 870 reprinted at 1994 U.S.C.A.N. 4040, 4199 (1994).

⁴¹ See Section 776(c)(2) of the Act; TPEA, section 502(2).

⁴² See Section 776(d)(1) of the Act; TPEA, section 502(3).

⁴³ See Section 776(d)(3) of the Act; TPEA, section 502(3).

⁴⁴ See, e.g., *Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) and accompanying issues and decision memorandum (Shrimp IDM) at 13; see also *Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (*Essar Steel*) (upholding “hierarchical methodology for selecting an AFA rate”).

identical program with a rate above zero in the investigation, we then determine if an identical program was examined in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical program (excluding rates that are *de minimis*).⁴⁵ If no identical program exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in another CVD proceeding involving the same country, and apply the highest calculated rate for the similar/comparable program.⁴⁶ For purposes of this preliminary determination, we are applying AFA in the circumstance outlined below.

Application of AFA: Ferriera Valsider

As noted above, Ferriera Valsider was selected as a mandatory respondent.⁴⁷ However, Ferriera Valsider did not respond to the Department's Initial CVD Questionnaire and, therefore, withheld information that the Department requested of it. We have, therefore, relied on facts available, in accordance with section 776(a) of the Act, because Ferriera Valsider withheld necessary information requested by the Department and did not participate as a mandatory respondent. Ferriera Valsider significantly impeded the investigation. Thus, we must rely on facts otherwise available in accordance with sections 776(a)(1) and 776(2)(A), (B) and (C) of the Act.

In selecting from among the facts available, the Department determines that an adverse inference is warranted, pursuant to section 776(b)(1) of the Act. Ferriera Valsider refused to submit a response to the Department's Initial CVD Questionnaire. Thus, we find that Ferriera Valsider failed to cooperate by not acting to the best of its ability to comply with the Department's request for information in this investigation, and as such, this preliminary determination with respect to Ferriera Valsider is based on total AFA. Therefore, we are adversely inferring from Ferriera Valsider's decision not to participate in this investigation that it used all the programs on which we initiated an investigation and applying an AFA rate for each program.

Selection of the AFA Rate

It is the Department's practice in CVD proceedings to compute a total AFA rate for noncooperating companies using the highest calculated program-specific rates determined for a cooperating respondent in the same investigation, or, if not available, rates calculated in prior CVD cases involving the same country.⁴⁸ Specifically, the Department applies the highest calculated rate for the identical subsidy program in the investigation if a responding company

⁴⁵ See *Pre-Stressed Concrete Steel Wire Strand from China, Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) and accompanying IDM at 13.

⁴⁶ See *Shrimp* IDM at 13 – 14.

⁴⁷ See Respondent Selection Memorandum at 5.

⁴⁸ See, e.g., *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 73 FR 70971, 70975 (November 4, 2008) (unchanged in *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 29180 (June 19, 2009), and accompanying Issues and Decisions Memorandum (IDM) at "Application of Facts Available, Including the Application of Adverse Inferences"); *Aluminum Extrusions from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011) (*Aluminum Extrusions PRC Final*), and accompanying IDM at "Application of Adverse Inferences: Non-Cooperative Companies."

used the identical program, and the rate is not zero. If there is no identical program match within the investigation, or if the rate is zero, the Department uses the highest non-*de minimis* rate calculated for the identical program in a CVD proceeding involving the same country. If no such rate is available, the Department will use the highest non-*de minimis* rate for a similar program (based on treatment of the benefit) in another CVD proceeding involving the same country. Absent an above-*de minimis* subsidy rate calculated for a similar program, the Department applies the highest calculated subsidy rate for any program otherwise identified in a CVD case involving the same country that could conceivably be used by the non-cooperating companies.⁴⁹

In applying AFA to Ferriera Valsider, we are guided by the Department's methodology detailed above. Because Ferriera Valsider failed to act to the best of its ability in this investigation, as discussed above, we made an adverse inference that it benefitted from the programs appearing below. To calculate the program rate for the alleged income tax program pertaining to either the reduction of income tax paid or the payment of no income tax, we applied an adverse inference that Ferriera Valsider paid no income tax during the POI. The standard income tax rate for corporations in Italy in effect during the POI was 27.50 percent. Thus, the highest possible benefit for the income tax program is 27.50 percent. Accordingly, we are applying 27.50 percent as an AFA rate for Income Tax Deferral Under Article 42 of Law 78/2010. Consistent with past practice, the 27.50 percent AFA rate does not apply to income tax credit and rebate, accelerated depreciation, or import tariff and value add tax exemption programs because such programs may not affect the tax rate.⁵⁰

Further, we are applying the above-zero rates calculated for the other mandatory respondent in this investigation for the following identical programs:

- Exemptions from General Electricity Network Costs
- Energy Interruptibility Contracts

For programs for which we did not calculate an above-zero rate for another mandatory respondent in this proceeding, we are applying the highest non-*de minimis* subsidy rate calculated for the same or, if lacking such rate, for a similar program in a CVD investigation or administrative review involving Italy. We are able to match based on program name, descriptions, and treatment of the benefit, the following program to the same program from other Italian CVD proceedings:

- Technological Innovation Fund Grants Under Law 46/82⁵¹

⁴⁹ *Id.*; see also *Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008), and accompanying IDM at "Selection of the Adverse Facts Available Rate."

⁵⁰ See, e.g., *Aluminum Extrusions PRC Final*, and accompanying IDM at "Application of Adverse Inferences: Non-Cooperative Companies."

⁵¹ See *Certain Pasta from Italy: Final Results of the 2009 Countervailing Duty Administrative Review*, 77 FR 7129 (February 10, 2012) (*Pasta Italy 2009 Final*) and accompanying IDM at Section I.B., where we determined the highest countervailable subsidy for a similar program, i.e. Law 488/92 industrial development grants, to be 3.34 percent *ad valorem* for respondent Tomasello.

- Technological Innovation Fund Loans Under Law 46/82⁵²
- Income Tax Deferral Under Article 42 of Law 78/2010
- Industrial Development Grants Under Law 488/92⁵³
- *Patti Territoriali* Grants Under Law 662/96⁵⁴
- Tax Credits Under Article 1 of Law 296/06⁵⁵
- Tax Credits Under Article 62 of Law 289/02⁵⁶
- Export Credit Subsidies⁵⁷

For this preliminary determination, we are able to match based on program type and treatment of the benefit, the following programs to the highest non-*de minimis* rates for similar programs from other Italy CVD proceedings:

- Grants to Revive Industrial Areas Under Law 181/89⁵⁸
- Preferential Loans to Revive Industrial Areas Under Law 181/89⁵⁹
- Preferential Financing Under Law 266/97⁶⁰

Accordingly, we determine the AFA countervailable subsidy rate for Ferriera Valsider to be 44.18 percent *ad valorem*. The Appendix contains a chart summarizing our calculation of this rate.

⁵² See *Certain Pasta from Italy: Final Results of the Second Countervailing Duty Administrative Review*, 64 FR 44489 (August 16, 1999) (*Pasta Italy 1997*) and accompanying IDM at Section I.B., where we determined the net subsidy for a similar program, *i.e.* Industrial Development Loans Under Law 64/86, to be 0.65 percent *ad valorem* for respondent Delverde/Tamma..

⁵³ See *Pasta Italy 2009 Final* and accompanying IDM at Section I.B., where we determined the highest countervailable subsidy from the Law 488/92 industrial development grants to be 3.34 percent *ad valorem* for respondent Tomasello.

⁵⁴ See *Certain Pasta from Italy: Final Results of Tenth (2005) Countervailing Duty Administrative Review*, 73 FR 7251 (February 7, 2008) (*Pasta Italy 2005*), and accompanying IDM at Section I.F., where we determined the countervailable subsidy from the *Patti Territoriali* grant to be 0.57 percent *ad valorem* for respondent De Matteis

⁵⁵ See *Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 11172 (March 2, 2015) (*Pasta Italy 2012*) and accompanying IDM at Sections IV.B., and VI.A.3., where we found respondent DeMatteis received a countervailable subsidy rate of 0.75 percent *ad valorem* under program Article 1 of Law 296/06.

⁵⁶ See *Pasta Italy 2005* and accompanying IDM at Section I.E.1., where we determined the countervailable subsidy from Law 289/02 Article 62 to be 1.04 percent *ad valorem* for respondent Pallante.

⁵⁷ The Export Credit Subsidies, as initiated, pertain to export credits created under Article 2 of Law 227/77 and administered by the Government of Italy. For the highest countervailable subsidy rate found for Law 227/77 in any Italy CVD proceeding, see *Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod from Italy*, 63 FR 40474 (July 29, 1998) and accompanying IDM at Section I.E., where we determined the countervailable subsidy to be 0.15 percent *ad valorem* for respondent Valbruna/Bolzano.

⁵⁸ See *Pasta Italy 2009 Final*, at Section I.B. Thus, we preliminarily determine to apply the net subsidy calculated in *Pasta Italy 2009 Final* for the grant program “Industrial Development Grants Under Law 488/92” of 3.34 percent *ad valorem* to the initiated program “Industrial Area Revival Grants Under Law 181/89.”

⁵⁹ See *Pasta Italy 1997* and accompanying IDM at Section I.B., where we determined the net subsidy for loan program “Industrial Development Loans Under Law 64/86” of 0.65 percent *ad valorem* for respondent Delverde/Tamma.

⁶⁰ *Id.*

Corroboration of AFA Rate

Section 776(c)(1) of the Act provides that, when the Department relies on secondary information 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 concerning the subject merchandise.”⁶¹ The SAA provides that to “corroborate” secondary information, the Department will satisfy itself that the secondary information to be used has probative value.⁶²

The Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information.⁶³ Furthermore, the Department is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁶⁴

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. The Department will not use information where circumstances indicate that the information is not appropriate as AFA.⁶⁵

In the absence of record evidence from Ferriera Valsider concerning the alleged programs due to its decision not to participate in the investigation, the Department reviewed the information concerning Italian subsidy programs in this and other cases. Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this case. Additionally, the relevance of these rates is that they are actual calculated CVD rates for Italian programs, from which the non-cooperative respondent could actually receive a benefit. Due to the lack of participation by Ferriera Valsider and the resulting lack of record information for Ferriera Valsider concerning these programs, the Department has corroborated the rates it selected to use as AFA to the extent practicable for this preliminary determination.

IX. ANALYSIS OF PROGRAMS

⁶¹ See SAA at 870.

⁶² *Id.*

⁶³ *Id.* at 869-870.

⁶⁴ See section 776(d) of the Act.

⁶⁵ See, e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

Based upon our analysis of the record and the responses to our questionnaires, we preliminarily determine the following:

A. Programs Preliminarily Determined to Be Countervailable

1. Exemptions from General Electricity Network Costs

SIAT reported receiving funds under Exemptions from General Electricity Network Costs during the POI.⁶⁶ Under this program, large-scale consumers of electricity receive rebates for certain excise tax payments from *Cassa per i servizi energetici ed ambientali* (CSEA). The Government of Italy states that CSEA is a public economic body subject to the supervision of the Authority for Electricity and Gas (AEEGSI) and the Ministry of Economy and Finance.⁶⁷ The Government of Italy further explains that:

CSEA is the entity that regulates electricity rates and its principal mission is the collection of certain rate components by operators. These funds are collected in the management accounts and subsequently disbursed to companies operating in different areas: renewable sources, energy efficiency, equalization, nuclear decommissioning, *etc.*⁶⁸

The Government of Italy reported that eligibility for this program is limited only to consumers of electricity that are recognized as *Energivore*, or, large-scale consumers of electricity that, consequently, pay a very high amount of excise tax.⁶⁹ *Energivore* must have an annual use of electricity or other energy of at least 2.4 gigawatts per year, and, simultaneously, a ratio of the cost of energy used in the year, compared to revenue, of not less than two percent.⁷⁰ The Government of Italy reported that “the ratio between the cost of energy and revenues defines the percentage of discount on the electricity cost.”⁷¹ Thus, payments from this program are rebates of the high amount of excise taxes collected from large consumers of electricity, *i.e.* *Energivore*. Further, *Energivores*’ payment amounts increase as their rate of electricity consumption increases.⁷² The laws and regulations governing this program are the Ministerial Decree of April 5, 2013, pursuant to European Union Directive 2003/96/EC of October 27, 2003;⁷³ Ministerial

⁶⁶ See Ferriere Nord June 26, 2017 IQR at 19.

⁶⁷ See Government of Italy June 29, 2017 IQR at 11; *see also* See Government of Italy’s July 17, 2017 Supplemental Questionnaire Response (Government of Italy July 17, 2017 SQR) at Exhibit 1.

⁶⁸ See Government of Italy June 29, 2017 IQR at 11.

⁶⁹ *Id.*

⁷⁰ *Id.*; *see also* Government of Italy July 17, 2017 SQR at 8.

⁷¹ See Government of Italy June 29, 2017 IQR at 11.

⁷² *Id.*

⁷³ *Id.* at Exhibit 3. Article 2 of Ministerial Decree of April 5, 2013, establishes *Energivore* qualification criteria.

Decree March 8, 2006, the Minister of Productive Activities Decree;⁷⁴ and the Regulation on Supplies and Payments.⁷⁵

The language of Ministerial Decree of April 5, 2013 limits eligibility to large-scale consumers of electricity, as detailed above. In order to receive benefits under this program, companies must be on a specific list designating them as *Energivore*.⁷⁶ The Government of Italy states that companies that wish to be placed on this list must provide the quantity of energy used by the company and a code designating its industry.⁷⁷ Further, companies must file an application *via* CSEA's online portal, which provides more detailed company information.⁷⁸ CSEA then authorizes disbursements to applicants after verification of their submitted data.⁷⁹

The SAA states that the specificity test should be applied "in light of its original purpose, which is to function as an initial screening mechanism to winnow out only those subsidies which truly are broadly available and widely used throughout an economy."⁸⁰ Under this program, eligibility is limited by law to only the very large consumers of electricity and cannot therefore be considered "broadly available and widely used throughout" Italy. We, therefore, preliminarily determine that it is *de jure* specific in accordance with section 771(5A)(D)(ii)(III) of the Act.

We preliminarily determine that the reduced tax revenue due to the Government of Italy constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act, as revenue forgone that would otherwise be due. A benefit is conferred under section 771(5)(E) of the Act and 19 CFR 351.510(a)(1) in the amount of the rebate.

In accordance with 19 CFR 351.524(c), we treat tax rebates as recurring benefits. To calculate a benefit under this program, we divided the amount of tax rebate received by SIAT during the POI by the appropriate sales denominator, as described in the above section "Subsidies Valuation." On this basis, we preliminarily determine that Ferriere Nord received a net countervailable subsidy rate of 0.02 percent *ad valorem*.⁸¹

2. Energy Interruptibility Contracts

Ferriere Nord and AdV reported receiving funds under Energy Interruptibility Contracts during the POI.⁸² Under this program, end-users of electricity agree to instantly, or with notice, stop power supply when requested by Terna S.p.A (Terna).⁸³ Terna enters into contracts with end-users through a public tender process on the basis of competitive marginal price mechanism

⁷⁴ *Id.* at Exhibit 4.

⁷⁵ *Id.* at Exhibit 6.

⁷⁶ *Id.* at Exhibit 5.

⁷⁷ *Id.* at 14.

⁷⁸ *Id.* at 23.

⁷⁹ *Id.* at 14, Exhibit 3 at Article 6, and Exhibit 6 at "CSEA Regulation on Supplies and Payments."

⁸⁰ See Statement of Administrative Action (SAA) accompanying H.R. 5110, H.R. Doc. No. 316, 103d Cong., 2d Sess. 911, 929 (1994).

⁸¹ See Ferriere Nord Preliminary Calculation Memorandum.

⁸² See Ferriere Nord June 26, 2017 IQR at 13.

⁸³ See Government of Italy June 29, 2017 IQR at 26.

procedures.⁸⁴ In order to participate, the end-user must meet specific electricity qualification criteria: minimum interruptible power of 1 MegaWatt, medium or high connection voltage, and minimum consumption thresholds.⁸⁵ The Government of Italy states that, on the basis of Law 99 of 2009, the relevant rules that govern this program are established by AEEGSI. The Government of Italy confirmed that Ferriere Nord and its cross-owned entity, AdV, had Energy Interruptibility Contracts in effect during the POI.⁸⁶

The Government of Italy reports that the AEEGSI drafts and approves the standard contract that Terna must use for acquiring interruptibility services from the companies through the tender procedure which Terna manages.⁸⁷ The AEEGSI also sets out the technical requirements for the interruptibility program.⁸⁸ Thus, the AEEGSI sets the general program rules and approves the standard program contract. Terna later approves and signs the contracts with the companies that participate in this program.⁸⁹

According to Terna's 2016 Annual Report, it acts as the Italian Transmission System Operator (TSO) with a monopoly under government license in accordance with the regulations of the National Authority and the guidelines of the Ministry of Economic Development.⁹⁰ Terna's 2016 Annual Reports states that Terna falls within the definition of "Government-related Entities."⁹¹ Cassa Depositi e Prestiti Reti S.p.A. (CDP Reti) is the largest shareholder in Terna, and maintains a 29.85 percent ownership interest.⁹² CDP Reti's largest shareholder is Cassa Depositi e Prestiti S.p.A. (CDP), which maintains a 59.1 percent ownership interest.⁹³ CDP's largest shareholder is the Italian Ministry of Economy and Finance, which maintains an 82.77 percent ownership interest.⁹⁴ Terna's Annual Report explains that the company is "*de facto*" controlled by its single largest government shareholder, CDP Reti.⁹⁵ Furthermore, Terna acts as the Italian TSO pursuant to a 25-year concession granted to it by the Ministry for Productive Activities and Ministry of Economic Development, pursuant to the December 15, 2010 Ministerial Decree, respectively, in order to facilitate public utility objectives.⁹⁶ Given the above, and the information regarding the Government of Italy legal instruments that vest Terna to carry out the operation of this program, we preliminarily determine that Terna acted as a government authority in its administration of this program, and that this program provided a financial contribution within the meaning of section 771(5)(D)(i) of the Act because Terna's payments constitute a direct transfer of funds to program participants.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.* at 27.

⁸⁷ See Government of Italy July 17, 2017 SQR at 11 and Exhibit 6.

⁸⁸ *Id.* at 11.

⁸⁹ *Id.* at Exhibit 6.

⁹⁰ *Id.* at Exhibit 5 at 167, "A. Accounting policies and measurement criteria."

⁹¹ *Id.* at Exhibit 5 at 220, "G. Related-party transactions."

⁹² *Id.* at Exhibit 5 at 24.

⁹³ See Government of Italy's August 10, 2017 Supplemental Questionnaire Response (Government of Italy August 10, 2017 SQR) at 7.

⁹⁴ *Id.*

⁹⁵ See Government of Italy July 17, 2017 SQR at Exhibit at 220.

⁹⁶ See Government of Italy August 10, 2017 SQR at Exhibits 1 and 2.

During the 2015-2017 period, the Government of Italy reported that 299 companies participated in this program.⁹⁷ Given that the actual recipients of the benefits under this program are limited in number, we preliminarily determine that the program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act.⁹⁸

With regard to the allocation of the benefit, while grants are normally treated as non-recurring, certain grants may be treated as recurring pursuant to 19 CFR 351.524(c)(2). That regulation directs the Department to consider the following when determining whether to treat a grant as recurring: whether the subsidy is an exception in the sense that the recipient can expect to receive additional subsidies under the same program on an ongoing basis from year to year; whether the subsidy requires the government's express approval; and whether the subsidy was provided for the capital structure of the recipient. Here, the subsidy is not exceptional in accordance with section 351.524(c)(2)(i), in the sense that Ferriere Nord and AdV can expect to receive additional subsidies under this program on an ongoing basis from year to year during the three-year contract.⁹⁹ Second, the benefit is automatic and did not require or receive a formal application and/or specific government approval prior to the provision of each yearly benefit.¹⁰⁰ Third, record evidence does not indicate that the subsidy was provided for or tied to the capital structure or capital assets of Ferriere Nord or AdV.¹⁰¹ Finally, record evidence indicates that Ferriere Nord and AdV received the subsidy under two conditions: 1) annually, for participating in the program, and 2) monthly, for the actual interruptions experienced by the companies.¹⁰² In its response, Ferriere Nord cites Article 6.1 of its contract with Terna as the basis for the remuneration tied to program participation.¹⁰³ Articles 6 and 7 apparently state that the remuneration received for program participation is calculated on an annual basis.¹⁰⁴ Record information indicates that the benefit for this program changes from year to year, depending on a calculation that involves an annual unit fee, and is received in two parts – annually for participation and monthly for interruptions.¹⁰⁵ Thus, we preliminarily determine to treat this grant as recurring.

To calculate the net countervailable subsidy rate, we first summed all of the payments received under this program by the company respondents during the POI, based on the date of receipt, and then divided this amount by the appropriate sales denominator for the POI, as described in the above section “Subsidies Valuation.” On this basis, we preliminarily determine the net countervailable subsidy rate to be 1.68 percent *ad valorem* for Ferriere Nord.¹⁰⁶

B. Programs Preliminarily Determined to Not Be Countervailable

⁹⁷ See Government of Italy June 29, 2017 IQR at 32.

⁹⁸ See also, Statement of Administrative Action (SAA) accompanying H.R. 5110, H.R. Doc. No. 316, 103d Cong., 2d Sess. 911, 929 (1994).

⁹⁹ See Ferriere Nord June 26, 2017 IQR at Exhibits CVD-10 and CVD-11.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.* at 37.

¹⁰⁴ *Id.* at Articles 6.1 and 7.2.

¹⁰⁵ *Id.* at Exhibit CVD-6.

¹⁰⁶ See Ferriere Nord Preliminary Calculation Memorandum.

1. Certain Social Security Reductions and Exemptions (“Sgravi” Benefits)

Ferriere Nord, FIN FER, and SIAT reported receiving benefits under Laws 208/2015, 190/2014, and 247/2007 as sub-types of the *Sgravi* Benefits program during the POI.¹⁰⁷ Under the three sub-types of the *Sgravi* Benefits program, the Italian National Institute for Social Security (INPS) exempts employers from payment of certain social security contributions for certain time periods and up to certain maximum exemption amounts.¹⁰⁸ Specifically, the Government of Italy reports that Law 208/2015 provides an exemption from the 40 percent of the payment of social security employer contributions for a period of 24 months for each worker hired on a permanent basis during the period January 1, 2016, to December 31, 2016.¹⁰⁹ The Government of Italy states that the purpose of this program is to promote stable forms of employment.¹¹⁰ The conditions for this program are established by Article 1, Paragraph 178, of Italian Law 208/2015 and by INPS Circular Letter 57/2016.¹¹¹ Law 190/2014 provides an exemption from the payment of social security employer contributions for a period of 36 months for each worker hired on a permanent basis during the period January 1, 2015, to December 31, 2015.¹¹² The Government of Italy states that the purpose of this program is to promote stable forms of employment.¹¹³ The conditions for this program are established by Article 1, Paragraph 118, of Italian Law 190/2014, by INPS Circular Letter 17/2015 and by INPS Message 1144/2015.¹¹⁴ Lastly, Law 247/2007 establishes social security relief on payments required under company-level and second-level collective agreements.¹¹⁵ The Government of Italy states that the purpose of this program is to reduce the cost of work to increase competitiveness and incentivize the use of performance-related pay.¹¹⁶ The conditions for this program are established by Article 1, Paragraph 67, of Italian Law 247/2007, by INPS Circular Letter 82/2008 and by the Interministerial Decree 7th May 2008.¹¹⁷

The Government of Italy states that exemptions provided under Laws 208/2015 and 190/2014 apply to all national territory and to all private employers within all sectors.¹¹⁸ It states that exemptions provided under Law 247/2007 apply to all sectors, independent of location within Italy.¹¹⁹ We requested that the Government of Italy provide information regarding the total amount of assistance approved for all companies under the program, industry-specific usage data, and the total number of companies that applied for, but were denied, assistance under this program. The Department requires this information in order to conduct a potential *de facto* specificity analysis. The Government of Italy states that it requested this information from the

¹⁰⁷ See Ferriere Nord June 26, 2017 IQR at 16 – 17.

¹⁰⁸ See Government of Italy June 29, 2017 IQR at 93, 101, and 109.

¹⁰⁹ *Id.* at 93.

¹¹⁰ *Id.*

¹¹¹ *Id.* at 95 and Exhibit 11.

¹¹² *Id.* at 101.

¹¹³ *Id.*

¹¹⁴ *Id.* at 101 and at Exhibit 11.

¹¹⁵ *Id.* at 109.

¹¹⁶ *Id.*

¹¹⁷ *Id.* at 111.

¹¹⁸ *Id.* at 93, 101 and Exhibit 11.

¹¹⁹ See Government of Italy July 17, 2017 SQR at 18.

INPS, but that the requested data are unavailable because INPS verifications are ongoing.¹²⁰

Record information indicates that these alleged programs are available by law to companies in all sectors throughout Italy. The Government of Italy states that it is unable to furnish nationwide usage data at this time because, as noted above, usage data verification and compilation by the INPS has not yet been completed.¹²¹ Consequently, we preliminarily determine that *Sgravi* Benefits under Laws 208/2015, 190/2014, and 247/2007 are not specific in accordance with section 771(5A) of the Act.¹²² Because we preliminarily determine that the aforementioned sub-types of *Sgravi* Benefits are not specific, the issues of financial contribution and benefit are moot. If the Department's finding for these programs remains unchanged in the final determination, we will continue to examine these programs in any future administrative reviews with respect to whether actual usage by the programs is limited to certain enterprises, industries or groups thereof.

2. "Other Subsidies" - Contributions for Solar Energy

Ferriere Nord self-reported receiving funds from GSE S.p.A. (GSE), a company owned and controlled by the Italian Minister of Economy and Finance, during the POI as a result of producing electricity from solar resources.¹²³ In 2012, Ferriere Nord completed the construction of a photovoltaic plant.¹²⁴ According to Ferriere Nord, the production of electric energy from solar resources generated by such a plant is incentivized by the "*Quarto Conto Energia*" Program, Ministerial Decree 5, May 2011.¹²⁵ Specifically, for each KW/h of solar energy produced, Ferriere Nord received an incentive amount from GSE. The Government of Italy reported that, as of December 21, 2016, a total number of 550,587 plants, *i.e.* solar energy producers, were operating under this program and that in 2016, 2.21 billion Euro were disbursed under this program.¹²⁶ The Government of Italy provided the GSE 2016 Activity Report regarding this program and legislation governing it, *i.e.* the May 5, 2011 Interministerial Decree and July 5, 2012 Interministerial Decree.¹²⁷ These pieces of legislation indicate that natural persons, legal persons, public entities, and multi-dwelling units or buildings can benefit from the tariffs set under this program.¹²⁸ Record evidence indicates that this program is generally available in law and in fact. Thus, we preliminarily determine that it is not specific in accordance with section 771(5A) of the Act, and is therefore not a countervailable subsidy.

¹²⁰ See Government of Italy June 29, 2017 IQR at 98-99 and 106-107; *see also* Government of Italy July 17, 2017 SQR at 17-18; *see also* Government of Italy August 10, 2017 SQR at 7.

¹²¹ *Id.* The Department will closely verify the Government of Italy's statements that usage data regarding *Sgravi* Benefits under Laws 208/2015, 190/2014, and 247/2007 was unavailable, and that the Government of Italy was therefore unable to provide it, pursuant to section 782(i)(1) of the Act.

¹²² The Department intends to continue to examine the actual distribution of *Sgravi* Benefits under Laws 208/2015, 190/2014, and 247/2007 in any future proceedings in light of the Government of Italy's claims that the requested information is not yet available.

¹²³ See Ferriere Nord June 26, 2017 IQR at 17-18.

¹²⁴ *Id.* at 18.

¹²⁵ *Id.*

¹²⁶ See Government of Italy July 17, 2017 SQR at 18.

¹²⁷ *Id.* at Exhibit 13; *see also* Government of Italy August 10, 2017 SQR at Exhibit 3.

¹²⁸ See May 5, 2011 Interministerial Decree and July 5, 2012 Interministerial Decree, Government of Italy August 10, 2017 SQR at Exhibit 3.

C. Programs Preliminarily Determined to Be Not Used by Ferriere Nord During the POI

The following programs were reported by Ferriere Nord as tied to the production of non-subject merchandise, not used for the production of subject merchandise, or not received during the POI or the AUL. We intend to verify Ferriere Nord's claims of non-use.

1. Industrial Development Grants Under Law 488/92
2. Technological Innovation Grants Under Law 46/82
3. Grants to Revive Industrial Areas Under Law 181/89
4. *Patti Territoriali* Grants Under Law 662/96
5. Technological Innovation Loans Under Law 46/82
6. Preferential Financing Under Law 266/97
7. Industrial Area Revival Loans Under Law 181/89
8. Income Tax Deferral Under Article 42 of Law 78/2010
9. Tax Credits Under Article 1 of Law 296/06
10. Tax Credits Under Article 62 of Law 289/02
11. Export Credit Subsidies

X. ITC NOTIFICATION

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

XI. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.¹²⁹ Case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the last verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.¹³⁰

¹²⁹ See 19 CFR 351.224(b).

¹³⁰ See 19 CFR 351.309(c)(1)(i) and (d)(1).

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹³¹ This summary should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.¹³² Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined. Prior to the date of the hearing, the Department will contact all parties that submitted case or rebuttal briefs to determine if they wish to participate in the hearing. The Department will then distribute a hearing schedule to the parties prior to the hearing and only those parties listed on the schedule may present issues raised in their briefs.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.¹³³ Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,¹³⁴ on the due dates established above.

XII. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the factual information submitted in response to the Department's questionnaires.

¹³¹ See 19 CFR 351.309(c)(2) and (d)(2).

¹³² See 19 CFR 351.310(c).

¹³³ See 19 CFR 351.303(b)(2)(i).

¹³⁴ See 19 CFR 351.303(b)(1).

XIII. CONCLUSION

We recommend that you approve the preliminary findings described above.



Agree

Disagree

8/25/2017

X

Gary Taverman

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

APPENDIX

AFA Rate Calculation

	Program Name	AFA Rate	Source
1.	Exemptions from General Electricity Network Costs	0.02%	Calculated – Ferriere Nord
2.	Energy Interruptibility Contracts	1.68%	Calculated – Ferriere Nord
3.	Industrial Development Grants Under Law 488/92	3.34%	Highest Rate for Similar Program Based on Benefit Type
4.	Technological Innovation Fund Grants Under Law 46/82	3.34%	Highest Rate for Similar Program Based on Benefit Type
5.	Technological Innovation Fund Loans Under Law 46/82	0.65%	Highest Rate for Similar Program Based on Benefit Type
6.	Preferential Financing Under Law 266/97	0.65%	Highest Rate for Identical Program Based on Benefit Type
7.	Grants to Revive Industrial Areas Under Law 181/89	3.34%	Highest Rate for Identical Program Based on Benefit Type
8.	Preferential Loans to Revive Industrial Areas Under Law 181/89	0.65%	Highest Rate for Identical Program Based on Benefit Type
9.	<i>Patti Territoriali</i> Grants Under Law 662/96	0.57%	Highest Rate for Similar Program Based on Benefit Type
10.	Income Tax Deferral Under Article 42 of Law 78/2010	27.50%	Highest Rate for Similar Program Based on Benefit Type
11.	Tax Credits Under Article 1 of Law 296/06	0.75%	Highest Rate for Similar Program Based on Benefit Type
12.	Tax Credits Under Article 62 of Law 289/02	1.04%	Highest Rate for Similar Program Based on Benefit Type
13.	Export Credit Subsidies	0.65%	Highest Rate for Similar Program Based on Benefit Type

Total AFA Rate: 44.18%