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International Trade Administration
Washington, D.C. 20230

C-475-819
Administrative Review
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August 3, 2018

MEMORANDUM TO: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

FROM: Abdelali Elouaradia
Acting Senior Director, Office I
Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Countervailing Duty Administrative Review and Partial Rescission: Certain Pasta from Italy; 2016

I. Summary

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on certain pasta (pasta) from Italy. The period of review (POR) is January 1, 2016, through December 31, 2016. We preliminarily find that the sole mandatory respondent, GR.A.M.M. S.r.l. (GR.A.M.M.) received countervailable subsidies during the POR.

II. Background

On July 24, 1996, Commerce published the *Order* on certain pasta from Italy.[1] On July 3, 2017, we published a notice of Opportunity to Request Administrative Review of the *Order*.[2] We received review requests from the following nine producers/exporters of the subject merchandise: (1) Alessio Panarese Societa Agricola; (2) Antico Pastificio Morelli 1860 S.r.l.;

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[1] *See Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta from Italy*, 61 FR 38544 (July 24, 1996) (*Order*).
[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 82 FR 30833 (July 3, 2017).

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(3) Colussi Spa; (4) Ghigi 1870 S.p.A.; (5) GR.A.M.M.; (6) Industria Alimentare Colavita, S.p.A.; (7) Pastificio Fratelli DeLuca S.r.l.; (8) Pastificio Mennucci SpA; and (9) Tesa SrL.[3]

In accordance with 19 CFR 351.221(c)(1)(i), Commerce published a notice initiating a review of those nine producers/exporters on September 13, 2017.[4] On September 25, 2017, we released data obtained from U.S. Customs and Border Protection (CBP) regarding entries of the subject merchandise from Italy during the POR.[5] Tesa SrL and Ghigi 1870 S.p.A. withdrew their review requests on October 10 and 17, 2017, respectively, leaving seven producers or exporters of subject merchandise subject to this review.[6]

On October 30, 2017, we selected one mandatory respondent, Industria Alimentare Colavita, S.p.A. (Indalco).[7] On December 10, 2017, Indalco withdrew its request for administrative review.[8]

Similarly, on December 12, 2017, Pastificio Mennucci SpA, Colussi Spa, Alessio Panarese Societa Agricola, Pastificio Fratelli DeLuca S.r.l., and Antico Pastificio Morelli 1860 S.r.l. withdrew their requests for administrative reviews of themselves.[9] The only request for review that remained outstanding was the request filed by GR.A.M.M. and, therefore, GR.A.M.M. is the only producer/exporter subject to this administrative review.

On December 14, 2017, we issued the initial questionnaires to the Government of Italy (GOI) and GR.A.M.M.[10] GR.A.M.M. submitted responses to our affiliation questions on

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[3] *See* GR.A.M.M.'s, Alessio Panarese Societa Agricola's, Pastificio Fratelli DeLuca S.r.l.'s, and Antico Pastificio Morelli 1860 S.r.l.'s Letter, "Certain Dry Pasta from Italy, C-475-819; Modified Request for Review," dated July 31, 2017; Colussi Spa's Letter, "Pasta from Italy; Request for Administrative Review," dated July 31, 2017; Ghigi 1870 S.p.A.'s Letter," Pasta from Italy; Request for Administrative Review," dated July 31, 2017; Industria Alimentare Colavita, S.p.A.'s Letter, "Certain Pasta From Italy: Request for Administrative Reviews on Behalf of Industria Alimentare Colavita, S.p.A.," dated July 31,2017; Pastificio Mennucci SpA's Letter, "Pasta from Italy; Request for Administrative Review," dated July 31, 2017; and Tesa SrL's Letter, "Pasta from Italy; Request for Administrative Review," dated July 31, 2017.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 42974 (September 13, 2017) (*Initiation Notice*).

[5] *See* Memorandum, "Countervailing Duty Administrative Review: Certain Pasta from Italy; Release of Customs and Border Protection (CBP) Entry Data to Interested Parties for Comment," dated September 25, 2017.

[6] *See* Tesa SrL's Letter, "Pasta from Italy; Withdrawal of Request for Administrative Review," dated October 10, 2017; *see also* Ghigi 1870 S.p.A.'s Letter, "Pasta from Italy; Withdrawal of Request for Administrative Review," dated October 17, 2017.

[7] *See* Memorandum, "Countervailing Duty Review of Certain Pasta from Italy: Respondent Selection," dated October 30, 2017.

[8] *See* Indalco's Letter, "Certain Pasta from Italy: Withdrawal of Request for CVD Administrative Review of Indalco S.p.A.," dated December 10, 2017.

[9] *See* Pastificio Mennucci SpA's Letter, "Pasta from Italy; Withdrawal of Request for Administrative Review," dated December 12, 2017; *see also* Colussi Spa's Letter, "Pasta from Italy; Withdrawal of Request for Administrative Review," dated December 12, 2017; *see also* Alessio Panarese Societa Agricola's, Pastificio Fratelli DeLuca S.r.l.'s, and Antico Pastificio Morelli 1860 S.r.l.'s Letter, "Certain Dry Pasta from Italy, C-475-819; Withdrawal of Request for Review," dated December 12, 2017.

[10] *See* Commerce Letter re: Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy: Initial Questionnaire, dated December 14, 2017.

December 26, 2017,[11] and its initial questionnaire response on February 2, 2018.[12] The GOI timely responded to the initial questionnaire on February 5, 2018.[13]

We issued supplemental questionnaires to GR.A.M.M. and the GOI on April 10, 2018 and April 16, 2018, [14] respectively, and received timely responses.[15] On June 25, 2018, we issued a second supplemental questionnaire to GR.A.M.M. and the GOI[16] and received responses on July 6, 2018 and July 7, 2018, respectively.[17]

On March 29, 2018, we extended the deadline for the preliminary results of this administrative review by 120 days to no later than August 3, 2018.[18]

We are conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act).

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. 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*.[19] 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*.[20] Effective January 1, 2012,

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[11] *See* GR.A.M.M.'s December 26, 2017 Affiliated Parties Response (Affiliated Parties' Response).
[12] GR.A.M.M.'s February 2, 2018 Initial Questionnaire Response (GR.A.M.M. IQR)
[13] *See* GOI February 5, 2018 Initial Questionnaire Response (GOI IQR).
[14] *See* Commerce Letter re: 2016 Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy: Supplemental Questionnaire, dated April 10, 2018; *see also* Commerce Letter re: Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy: Supplemental Questionnaire, dated April 16, 2018.
[15] *See* GOI's May 7, 2018 First Supplemental Questionnaire Response (GOI 1SQR); *see also* GR.A.M.M.'s May 8, 2018 First Supplemental Questionnaire Response.
[16] *See* Commerce Letter, re: Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy: {Second} Supplemental Questionnaire," dated June 25, 2018; *see also* Commerce Letter re: 2016 Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy: {Second} Supplemental Questionnaire," dated June 25, 2018.
[17] *See* GR.A.M.M.'s July 6, 2018 Second Supplemental Questionnaire Response; *see also* GOI's July 7, 2018 Second Supplemental Questionnaire Response (GOI 2SQR).
[18] *See* Memorandum, "Certain Pasta from Italy: Extension of Time Limit for Preliminary Results of the Countervailing Duty Administrative Review," dated March 29, 2018
[19] *See* Memorandum to Richard Moreland, dated August 25, 1997, which is on file in the CRU.
[20] *See Certain Pasta from Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634 (May 12, 2011).

ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the *Order*.[21]

Also excluded are imports of organic pasta from Italy that are certified by an EU authorized body in accordance with the United States Department of Agriculture's National Organic Program for organic products. The organic pasta certification must be retained by exporters and importers and made available to U.S. Customs and Border Protection or the Department of Commerce upon request.

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.

IV. Partial Rescission of the Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party that requested the review withdraws the request within 90 days of the date of publication of the notice initiating the review. As explained above, the administrative review requests for Alessio Panarese Societa Agricola, Antico Pastificio Morelli 1860 S.r.l., Colussi SpA, Ghigi 1870 S.p.A., Industria Alimentare Colavita, S.p.A., Pastificio Fratelli DeLuca S.r.l., Pastificio Mennucci SpA, and Tesa SrL were timely withdrawn. Therefore, Commerce is rescinding the review, in part, with respect to these companies.

V. Subsidy Valuation Information

Allocation Period

Pursuant to 19 CFR 351.524(d)(2), we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1997 Class Life Asset Depreciation Range System, as updated by the Department of the Treasury. The presumption will apply unless a party claims and establishes that the IRS tables do not reasonably reflect the company-specific AUL or the country-wide AUL for the industry under examination and that the difference between the company-specific and/or country-wide AUL and the AUL from the IRS tables is significant. The AUL period in this proceeding, as described in 19 CFR 351.524(d)(2), is 12 years according to the IRS Tables at Table B-2: Table of Class Lives and Recovery Periods.[22] No party in this proceeding has disputed this allocation period.

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

Attribution of Subsidies and Denominators

In accordance with 19 CFR 351.525(a), we calculated *ad valorem* subsidy rates by dividing the amount of the benefit allocated to the POR by the appropriate sales value during the same period. We have determined sales values on a free-on-board basis. In accordance with 19 CFR 351.525(b)(3), we have attributed domestic subsidies to all products sold by the firm, including products that were exported.

As provided in 19 CFR 351.525(b)(6)(i), Commerce 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 Commerce will attribute subsidies received by certain other companies to a respondent 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 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 Commerce's regulations further clarifies the 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.[23]

Thus, the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.[24]

GR.A.M.M.

GR.A.M.M. S.R.L. is the business name for Gruppo Alimentare Mediterraneo Milo, a family owned company, located in Palombaio-Bitonto, Italy. GR.A.M.M. was incorporated in 1996 and

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[23] *See Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*Preamble*).
[24] *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (Ct. Int'l Trade 2001).

started producing pasta on January 1, 1998.[25] In 2012, GR.A.M.M. began production of baked products. GR.A.M.M. produces and sells baked products, and fresh and dried pasta. GR.A.M.M. produces both subject and non-subject pasta (*i.e*., organic pasta, egg pasta, and gluten free pasta). The family group also owns Primeolive, a producer, packager, and seller of olive oil.[26]

While GR.A.M.M and Primeolive are both owned by the same family group, we are not examining subsidies that may have been provided to Primeolive because GR.A.M.M. reported that Primeolive is neither a holding company nor parent company of GR.A.M.M.; it does not produce subject merchandise, or supply an input used by GR.A.M.M. in the production of subject merchandise; and it has not received a subsidy that it transferred to GR.A.M.M. during, or prior to, the POR. Therefore, we are attributing subsidies received by GR.A.M.M. to its sales, in accordance with 19 CFR 351.525(b)(6)(i).

Discount Rates

For purposes of allocating non-recurring benefits over time pursuant to 19 CFR 351.524(d)(3)(i)(A), we are using as the discount rates the GOI's "Government Bond Yield: Long Term" interest rates as published by International Financial Statistics.[27]

VI. Analysis of Programs

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

A. Programs Preliminarily Determined To Be Countervailable

1. Grant Programs

a. Law 488/92 - Industrial Development Grants

Under Law 488/92, Italian companies in eligible regions in depressed areas in central and northern Italy, in addition to the southern Italian Mezzogiorno, and eligible sectors (manufacturing, mining, and certain business services) may apply for industrial development grants.[28]

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[25] *See* GR.A.M.M. IQR at 5-6.
[26] *Id.* at 5-7.
[27] *See* International Financial Statistics, Country Notes 2016 and Yearbook 2016, published by the International Monetary Fund.
[28] *See Certain Pasta From Italy: Preliminary Results of the Countervailing Duty Administrative Review,* 64 FR 17618, 17620 (April 12, 1999) (*Second Administrative Review Prelim*), unchanged in *Certain Pasta From Italy: Final Results of the Second Countervailing Duty Administrative Review*, 64 FR 44489, 44491 (August 16, 1999) (*Second Administrative Review Final*); *see also Certain Pasta from Italy: Preliminary Results of Countervailing Duty Administrative Review; 2015*, 82 FR 34481 (July 25, 2017) (*2015 Administrative Review Prelim*) and accompanying Preliminary Decision Memorandum at 7-8, unchanged in *Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review; 2015*, 82 FR 48060 (October 16, 2017) (*2015 Administrative Review*

Law 488/92 grants are provided only after a preliminary examination by a bank authorized by the Ministry of Industry. On the basis 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.[29]

GR.A.M.M. submitted an application for a grant in 2002, in order to enlarge and increase the productivity of its factory.[30] GR.A.M.M. was approved for the grant under Law 488/92 in 2003. The approved grant amount was provided in multiple disbursements during the AUL period.[31]

Most recently, in the *2015 Administrative Review*, we found that these industrial development grants provided financial contributions in the form of a direct transfer of funds, within the meaning of section 771(5)(D)(i) of the Act, and conferred benefits in the amount of the grant pursuant to 19 CFR 351.504(a).[32] We also found that these grants are regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because they are limited to companies located within certain regions. No new information has been placed on the record of this review that would warrant reconsideration of this finding. [33]

In accordance with 19 CFR 351.524(c), we are treating GR.A.M.M.'s grant as a non-recurring subsidy and we performed the "0.5 percent test" pursuant to 19 CFR 351.524(b), by dividing the total amount of the grant approved in 2003 by GR.A.M.M.'s total sales in the year of approval. Because the approved grant amount is greater than 0.5 percent, we are allocating each grant disbursement over the AUL.[34] To determine GR.A.M.M.'s subsidy rate, we summed the benefit amounts allocated to the POR pursuant to 19 CFR 351.524(d), and we divided this amount by GR.A.M.M.'s total sales in the POR. On this basis, we preliminarily determine the countervailable subsidy rate of 0.15 percent *ad valorem* for GR.A.M.M. under this program.[35]

b. ERDF ROP 2000-2006, Action 4.1 - Real Services to Businesses

GR.A.M.M. reported that it benefited from Action 4.1 Action (A) of the ROP Puglia 2000-2006 referred to as the Globalization System. According to the GOI, this was a regional program in Puglia during 2000-2006, which aimed to increase companies' competitiveness and productivity, promote product innovation, foster the establishment of new businesses, and encourage the

Final).

[29] *See 2015 Administrative Review Prelim*, 82 FR at 34481 and accompanying Preliminary Decision Memorandum at 7-8, unchanged in *2015 Administrative Review Final*, 82 FR at 48060.

[30] See GR.A.M.M. IQR at Exhibit CVD-9.

[31] *Id.*

[32] *See 2015 Administrative Review Prelim*, 82 FR at 34481 and accompanying Preliminary Decision Memorandum at 7-8, unchanged in *2015 Administrative Review Final*, 82 FR at 48060.

[33] *See* GOI IQR at II-5.

[34] *See* 19 CFR 351.524(b)(1) and (d).

[35] *See* Memorandum, "Preliminary Results Calculation Memorandum for GR.A.M.M. S.r.l.," dated concurrently with this memorandum (GR.A.M.M. Preliminary Calculation Memorandum).

internationalization of Apulian companies.[36] In its initial questionnaire response, the GOI indicated this program is funded primarily with ERDF funds.[37] The Regional Government of Puglia provided a portion of the funding.[38]

In the *2013 Administrative Review* and the *Final Determination*, Commerce found that the ERDF was "created under the authority in Article 130 of the Treaty of Rome in order to reduce regional disparities in socio-economic performance within the European Union."[39] Therefore, Commerce found that ERDF grants constitute a subsidy, because they provide a financial contribution under 771(5)(D)(i) as a direct transfer of funds providing a benefit in the amount of the grant. Commerce also found that ERDF grants are regionally specific within the meaning of section 771(5A)(D)(iv) of the Act.[40] Companies eligible to receive funding under Action 4.1, must be small or medium-sized enterprises headquartered in the Apulia region.[41]

We preliminarily determine that Measure 4.1 Action (A) of the ROP Puglia 2000-2006 confers a financial contribution within the meaning of section 771(5)(D)(i) of the Act.[42] This is proper because the measure is a direct transfer of funds from the ERDF and the Regional Government of Puglia under section 771(5)(D)(i) of the Act, and bestows a benefit in the amount of the grant under 19 CFR 351.504(a).

Regarding specificity, the GOI stated that the export potential of an applicant is taken into account in determining whether an applicant is eligible for assistance under this program and that a company will be given additional points for eligibility if the company can demonstrate its international expansion efforts.[43] This is also reflected in the legal authority for the program. Specifically, Measure 4.1 states that the eligible expenses covered under this measure include: (1) Market research finalized to identify and penetrate new markets, with priorities abroad; (2) Marketing and sales operational plans to penetrate new markets, with the priority towards foreign countries; and (3) Company participation in fairs and events, mainly abroad.[44] For these reasons we preliminarily determine that this program is specific within the meaning of 771(5A)(B) of the Act, because it is contingent upon export performance.

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[36] *See* GOI 1SQR at Standard Questions Appendix: Operational Program for Puglia for the period 2000-2006: Measure 4.1 "Assistance to SME's Industrial System and Handicraft."
[37] *Id.* at 2.
[38] *Id.*
[39] *See Certain Pasta from Italy: Preliminary Results of Countervailing Duty Administrative Review, Rescission in Part, and Preliminary Intent to Rescind in Part; 2013*, 80 FR 47900 (August 10, 2015) and accompanying Preliminary Decision Memorandum at 20-21 (*2013 Administrative Review Prelim*), unchanged in *Certain Pasta from Italy: Final Results, and Rescission, in Part, of Countervailing Duty Administrative Review; 2013*, 81 FR 8918 (February 23, 2016) and accompanying Issues and Decision Memorandum at 22-23 (*2013 Administrative Review Final*); *See also Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") From Italy,* 61 FR 30288, 30294 (June 14, 1996) (*Final Determination*).
[40] *Id.*
[41] *See* GOI 1SQR at Standard Questions Appendix: Operational Program for Puglia for the period 2000-2006, Measure 4.1 "Assistance to SME's Industrial System and Handicraft"; *see also* GOI 2SQR at 5 and Exhibit No. 1..
[42] *See* GIQR at Exhibit CVD-10(A)(ii) Grant Information Appendix for Action 4.1.
[43] See GOI 1SQR at Standard Questions Appendix for Measure 4.1. at 4.
[44] *See* GOI 2SQR at Exhibit No. 1.

GR.A.M.M. was approved for the grant in 2005, the same year in which the grant was disbursed.[45] In accordance with 19 CFR 351.524(c), we are treating this grant as a non-recurring subsidy, and we performed the "0.5 percent test" provided in 19 CFR 351.524(b). We divided the total amount of the grant approved by GR.A.M.M.'s total sales in the year of approval. Because the resulting percentage is greater than 0.5 percent, we are allocating the grant amount over the AUL.[46] To determine GR.A.M.M.'s subsidy rate, we divided the benefit amount allocated to the POR pursuant to 19 CFR 351.524(d) by GR.A.M.M.'s export sales in the POR. On this basis, we preliminarily determine a countervailable subsidy rate of 0.05 percent *ad valorem* for GR.A.M.M. under this program.

c. <u>ERDF 2007-2013, Action 6.1.4 - Assistance to Improve the Competitiveness of Micro and Small Businesses</u>

GR.A.M.M. reported receiving assistance under Action 6.1.4 of the Regional Government of Puglia in 2011 and again in 2015.[47] According to GR.A.M.M., this measure aimed to increase the competitiveness of micro and small businesses. GR.A.M.M. explained that, under this measure, assistance, in the form of a grant, could be obtained for performing research on new products or new technologies and demonstrating that the company implemented the results of that research.[48] The GOI confirmed that assistance under this action is provided to micro and small companies that invest in programs to enhance their competitiveness, *i.e.*, to assist in the purchase of new equipment and machinery and for research on new technologies and products.[49]

Article 7 of the action details the expenses for which a company may obtain assistance. These include: (1) purchase of company land; (2) the purchase of new machinery and equipment; (3) the purchase of IT programs to facilitate the company's production and management; and (4) expenses related to technology transfer through the purchase of patent rights and licenses.[50]

As stated above, in the *2013 Administrative Review* and *Final Determination*, Commerce found that ERDF grants constitute a subsidy within the meaning of section 771(5)(D)(i) of the Act, because they provide a financial contribution as a direct transfer of funds providing a benefit in the amount of the grant. Commerce found that ERDF grants are also regionally specific within the meaning of section 771(5A)(D)(iv) of the Act and, thus, countervailable.[51] No new information has been placed on the record of this review that warrants reconsideration of this finding.[52] For this reason, we find that Action 6.1.4 grants constitute a subsidy within the meaning of section 771(5) of the Act, because they provide a financial contribution as a direct

[45] *See* GR.A.M.M. IQR at 17-18 and Exhibit CVD-10(A)(i).
[46] *See* 19 CFR 351.524(b)(1) and (d).
[47] *See* GR.A.M.M. IQR at 18 and Exhibit CVD-10(B)(i); see also GR.A.M.M.," Supplemental Questionnaire Response-Additional Information," dated July 16, 2018 at Exhibit SS-2..
[48] *See id.* at Exhibit CVD-10(B)(i).
[49] *See* GOI IQR at Exhibit 3.
[50] *See* GOI 2SQR at Exhibit 2, Article 7.
[51] *See 2013 Administrative Review Final*, 81 FR at 8918 and accompanying Issues and Decision Memorandum at 22-23*; Final Determination*, 61 FR at 30294.
[52] See GOI IQR at II-5 and II-6.

transfer of funds under section 771(5)(D)(i) of the Act, and a benefit in the amount of the grant under 19 CFR 351.504(a).

According to the GOI, this program was established by the Regional Government of Puglia in accordance with EC regulation No. 1783/1999 concerning the objectives of the ERDF.[53] Funding for this program was provided primarily by the ERDF. The remainder of the funding was provided by the GOI and the Regional Government of Puglia.[54] The GOI reported that only enterprises located in the Puglia region are eligible. For this reason, we find that ERDF and GOI funding is regionally specific under section 771(5A)(D)(iv) of the Act.[55]

The GOI did not provide a complete response to all of our *de facto* specificity questions; however, based on the information that was provided, for the portion of the program that was funded by the Regional Government of Puglia, we preliminarily find that GR.A.M.M. received a disproportionately large amount of assistance under this program.[56] Therefore, the program is *de facto* specific in accordance with 771(5A)(D)(iii)(III) of the Act. However, we intend to obtain further information from the GOI regarding usage of this program before the final results.

In accordance with 19 CFR 351.524(c), we are treating these grants as a non-recurring subsidy, and we performed the "0.5 percent test" provided in 19 CFR 351.524(b). We divided the total amount of the grant approved in 2015 by GR.A.M.M.'s total sales in the year of approval. Because the resulting percentage is greater than 0.5 percent, we are allocating the full amount of the grant over the AUL.[57] To determine GR.A.M.M.'s subsidy rate, we divided the benefit amount allocated to the POR pursuant to 19 CFR 351.524(d) by GR.A.M.M.'s total sales in the POR. On this basis, we preliminarily determine a countervailable subsidy rate of 0.14 percent *ad valorem* for GR.A.M.M. under this program.

d. ERDF 2007-2013, Action 6.1.11 - Assistance to Small Enterprises for Integrated Projects-PIA

GR.A.M.M. stated that it received assistance under this measure in December 2014. According to the GOI, this program is part of "Priority 6: Competitiveness of productive systems and employment." The GOI explained that Action 6.1.11, is a program which aims to assist small businesses in Puglia to expand and innovate, and supports the participation of women in the world of work.[58] According to the GOI, this program was established by the Regional

[53] See GOI 1SQR at 3.
[54] *See* GOI 1SQR at 2-3 and Standard Questions Appendix: Operational Programme for Puglia for the period 2007-13: Action 6.1.4. Assistance on investment programmes promoted by Micro and Small businesses.
[55] See GOI 1SQR at Standard Questions Appendix for Action 6.1.4, Assistance on investment programs promoted by Micro and Small businesses.
[56] See Preliminary Results Calculation Memorandum for GR.A.M.M. S.r.l., dated concurrently with this Memorandum. *see also* GOI 2SQR at Standard Questions Appendix at 6.1.4. at 1..
[57] *See* 19 CFR 351.524(b)(1) and (d).
[58] *See* GR.A.M.M. IQR at Exhibit CVD-10(C)(i); *See* GOI 1SQR at Standard Questions Appendix: Operational Programme for Puglia for the period of 2007-13, Measure 6.1.11 "Assistance to Small Enterprises for Relief Integrated Projects" - PIA.

Government of Puglia, in accordance with EC Regulation No. 1783/1999 of July 12 1999, which discusses the objectives of the ERDF.

Assistance under this program will be given for industrial projects with eligible costs ranging between € 1 million and € 10 million. Eligible investments include: (1) the construction of new production units; (2) the expansion of existing production units; (3) diversification of production into new additional products, and (4) investments relating to a fundamental change in the overall production process. In addition to investments in "tangible assets," eligible investments may also include investments in research, consulting services and investments for the development of e-business.[59]

GR.A.M.M. states that it submitted its application for benefits under this program in September 2012.[60] According to the GOI, GR.A.M.M. received assistance for developing an investment program to increase the production at its existing pasta production plant and to construct a new production site for baked products at a site in Palo del Colle.[61]

The GOI reported that eligibility for assistance under this measure is limited to enterprises located in the Puglia region[62] and that the ERDF, GOI, and Regional Government of Puglia funded this program.[63]

As stated above, in the *2013 Administrative Review* and *Final Determination,* Commerce found that an ERDF grant constitutes a subsidy, within the meaning of section 771(5)(D)(i) of the Act, because it provides a financial contribution as a direct transfer of funds and a benefit in the amount of the grant. Commerce also found that ERDF grants are regionally specific within the meaning of section 771(5A)(D)(iv) of the Act and, thus, countervailable.[64] No new information has been placed on the record of this review that warrants reconsideration of this finding. For this reason, we find that Action 6.1.11 grants constitute a subsidy within the meaning of section 771(5) of the Act, because they provide a financial contribution as a direct transfer of funds under section 771(5)(D)(i) of the Act, and a benefit in the amount of the grant under 19 CFR 351.504(a).

Funding for this program was primarily provided by the ERDF. The remainder of the funding was provided by the GOI and the Regional Government of Puglia.[65] The GOI reported that only enterprises located in the Puglia region are eligible. For this reason, we find that ERDF and GOI funding is regionally specific under section 771(5A)(D)(iv) of the Act.

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[59] *See* GOI 2SQR at Exhibit 3, Attachment A.
[60] *See* GR.A.M.M. IQR at Exhibit CVD-10(C)(ii) at Grant Information Appendix.
[61] *See* GOI 1SQR at Standard Questions Appendix: Operational Programme for Puglia for the period 2007-13, Measure 6.1.11 "Assistance to Small Enterprises for Relief Integrated Projects" - PIA.
[62] *See id.*
[63] *See id.* at 4.
[64] *See 2013 Administrative Review Final*, 81 FR at 8918 and accompanying Issues and Decision Memorandum at 22-23; *Final Determination*, 61 FR at 30294.
[65] *See* GOI 1SQR at Standard Questions Appendix: Operational Programme for Puglia for the period 2007-13, Measure 6.1.11 "Assistance to Small Enterprises for Relief Integrated Projects" - PIA.

For the portion of Action 6.1.11 that has been funded by the Regional Government of Puglia, the GOI provided information showing that there was a limited number of recipients under this program.[66] Thus, because the number of recipients of grants under this program was limited in number, we preliminarily determine that funding by the Regional Government of Puglia is *de facto* specific, under section 771(5A)(D)(iii)(I) of the Act.

GR.A.M.M. received final approval and full disbursement of the grant in December 2014.[67] In accordance with 19 CFR 351.524(c), we are treating this grant as a non-recurring subsidy, and we performed the "0.5 percent test" provided in 19 CFR 351.524(b). We divided the total amount of the grant approved by GR.A.M.M.'s total sales in the year of approval. Because the resulting percentage is greater than 0.5 percent, we are allocating the grant over the AUL.[68] To determine GR.A.M.M.'s subsidy rate, we divided the benefit amount allocated to the POR pursuant to 19 CFR 351.524(d) by GR.A.M.M.'s total sales in the POR. On this basis, we preliminarily determine a countervailable subsidy rate of 0.75 percent *ad valorem* for GR.A.M.M. under this program.

2. Tax Programs

a. Social Security Reductions and Exemptions - Sgravi-Law 407/90

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.[69] 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. In the *Preliminary Determination*, we have found that benefits under some of these laws (*e.g.*, Law 1089) are available only to companies located in the Mezzogiorno.[70] Law 407/90) provides benefits to companies throughout Italy, but the level of benefits is higher for companies in southern Italy than for companies in other parts of the country.[71] Other laws provide benefits that are not linked to any region.[72]

Both the GOI and GR.A.M.M. reported that GR.A.M.M. benefitted from a tax reduction under this program during the POR.[73] According to the GOI, Article 8, Paragraph 9, of Italian Law 407/90 exempts employers from the payment of social security contributions, when a company hires a worker who has been previously unemployed for a period of two years or who has been

[66] *See* GOI 2SQR at Standard Questions Appendix L(2): Operational Programme for Puglia for the period 2007-2013, Action 6.1.11.
[67] *See* GR.A.M.M. IQR at Exhibit CVD-10(C)(i).
[68] *See* 19 CFR 351.524(b)(1) and (d).
[69] *Final Determination*, 61 FR 30288.
[70] *See Preliminary Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") From Italy*, 60 FR 53739, 53743 (*Preliminary Determination)*; unchanged in *Final Determination,* 61 FR at 30293.
[71] *See Final Determination*, 61 FR at 30294.
[72] *2013 Administrative Review Prelim*, 80 FR 47900 and accompanying Preliminary Decision Memorandum at 23-24, unchanged in *2013 Administrative Review Final*, 81 FR at 8918.
[73] *See* GOI IQR at II-4; *see also* GR.A.M.M. IQR at 15.

suspended from work and receives underemployment/unemployment benefits.[74] Companies based in the Mezzogiorno region receive a full exemption of contributions due, while all other regions only receive a 50 percent exemption. The benefit, therefore, varies according to the location of the company. This reduction is available for 36 months and it applies to the contributions otherwise due for each new worker hired on a permanent basis.[75] Finally, the GOI states that, to be eligible for this benefit, the company must employ an additional worker; this benefit will not be given to a company that is merely replacing personnel.[76]

GR.A.M.M. explained that it benefitted from this program in 2016 because it received a full exemption from social security contributions due based on its location in the south of Italy.[77] As stated in the *Final Determination*, Commerce found that the 100 percent exemption provided to companies operating in southern Italy, under Law 407/90, is countervailable within the meaning of section 771(5) of the Act.[78] No new information has been added to the record which would warrant reconsideration of this finding. Therefore, Commerce preliminarily determines that Law 407/90 confers a countervailable subsidy within the meaning of section 771(5) of the Act. This exemption provides a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue foregone by the GOI, and it confers a benefit in the amount of the tax savings received by GR.A.M.M., under 19 CFR 351.509(a)(1). We find Law 407/90 to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because the full exemption was only available to companies in the south of Italy. In accordance with 19 CFR 351.524(c), we treated the tax exemption as a recurring benefit.

To calculate the benefit under this program, we calculated the difference between the tax reduction, (a full exemption) available to GR.A.M.M. because of its location in the south of Italy and the social security reduction available to companies located in other regions throughout Italy (a 50 percent exemption). We divided the amount of the benefit that exceeded the amount available to companies in other locations by GR.A.M.M.'s total sales in the POR. On this basis, we preliminarily determine the countervailable subsidy from Law 407/90 to be 0.06 percent *ad valorem* for GR.A.M.M.

b. <u>Regional Tax on Income of Productive Activities: Deduction in Accordance with Article 11 of Legislative Decree n. 446/1997 (IRAP)</u>

GR.A.M.M. reported that it received benefits under the IRAP during the POR.[79] According to the GOI in prior segments, in 1997, the GOI established the Regional Tax on Income of Productive Activities (IRAP), a tax on company profit.[80] Under Article 11 of Legislative Decree 446/1997, a company may deduct a specific amount from its taxes for each employee with a permanent contract.[81]

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[74] *See* GOI IQR at II-3 and Tax Programs Appendix; *See* GOI 1SQR at 1.
[75] *Id*. at Tax Programs Appendix.
[76] *Id.*
[77] *See* GR.A.M.M IQR at 15.
[78] *See Final Determination*, 61 FR at 30294.
[79] *Id.*
[80] *See 2015 Administrative Review Prelim*, 82 FR 34481 and accompanying Preliminary Decision Memorandum at 10, unchanged in *2015 Administrative Review Final*, 82 FR at 48060.
[81] *Id.*

The GOI explained that Italian companies can deduct from the amount of the IRAP € 7,500 for each male employee with a permanent contract and € 13,500 for each female employee or male employee under 35 years of age with a permanent contract.[82] However, the GOI explained that, for tax years 2014 and 2015, firms operating in southern Italy were permitted a greater deduction: € 15,000 for each male employee with a permanent contract and € 21,000 for each female employee or male employee younger than 35 years of age with a permanent contract.[83]

The GOI confirmed that GR.A.M.M. received a higher tax deduction under the IRAP because of its location in the south of Italy.[84] GR.A.M.M. explained that it benefitted from this program in 2016, from its tax returns filed for the 2015 tax year, because it received tax deductions at the higher rate available to companies located in the south of Italy.[85]

Commerce previously found that this tax deduction confers a countervailable subsidy within the meaning of section 771(5) of the Act.[86] No new information has been placed on the record which would change our finding regarding this program.[87] The IRAP deduction provides a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue foregone by the GOI conferring a benefit in the amount of the tax savings received by GR.A.M.M, under 19 CFR 351.509(a)(1). We find the tax deduction to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because a greater deduction was available to companies in the south of Italy.[88] This finding is consistent with our finding in the most recently-completed review of this order.[89] In accordance with 19 CFR 351.524(c), we treated IRAP tax deductions as recurring benefits.

To calculate the benefit under this program, we calculated the difference between the tax deduction available to companies in locations other than the south of Italy and the tax deduction claimed by GR.A.M.M. during the POR because of its location in the south of Italy. Then we multiplied this difference by the applicable tax rate to calculate the tax savings to GR.A.M.M.; we divided this tax savings by GR.A.M.M.'s total sales during the POR.[90] On this basis, we preliminarily determine a countervailable subsidy rate of 0.06 percent *ad valorem* for GR.A.M.M.[91]

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[82] *See* GOI IQR at Section II Tax Programs Appendix, Regional Tax on Income of Productive Activities Deduction in Accordance with Article 11 of Legislative Decree n. 446/1997; *see also 2015 Administrative Review Prelim* , 82 FR 34481 and accompanying Preliminary Decision Memorandum at 10 unchanged in *2015 Administrative Review Final*, 82 FR at 48060.
[83] *Id.*
[84] *See* GOI IQR at II-4.
[85] *See* GR.A.M.M. IQR at Exhibit CVD-8(c)(i), Standard Questions Appendix: GR.A.M.M. - IRAP Deductions.
[86] *See 2015 Administrative Review Prelim,* 82 FR at 34481 and accompanying Preliminary Decision Memorandum at 10, unchanged in *2015 Administrative Review Final*, 82 FR at 48060.
[87] *See* GOI IQR at II-4.
[88] *See* GOI IQR at II-4 and Tax Appendix for IRAP.
[89] *See 2015 Administrative Review Prelim,* 82 FR at 34481 and accompanying Preliminary Decision Memorandum at 10, unchanged in *2015 Administrative Review Final*, 82 FR at 48060.
[90] *See* GR.A.M.M. Preliminary Calculation Memorandum.
[91] *Id.*

B. Programs Preliminarily Found to Be Not Countervailable

Law 208/2015

GR.A.M.M. reported that it received a tax exemption under this program during the POR.[92] The GOI explained that Law 208/2015 provides all companies in Italy with a benefit in the form of a 40 percent reduction of the social security employer contribution for 24 months with a maximum benefit of € 3,250 per each new employee hired with a permanent contract during 2016.[93]

We reviewed the language of the directive from the Instituto Nazionale Previdenza Sociale (INPS) concerning Law 208/2015, and preliminarily determine that the program is not *de jure* specific; moreover, we do not find Law 208/2015 to be *de facto* specific. The GOI reported that the program is available to all industries and that 615,700 employment contracts were finalized to provide benefits under this program during the POR.[94] Thus, the number of users of this program is not limited. Consistent with our finding in *Carbon and Alloy Steel Wire Rod from Italy,* we preliminarily find the program to be not specific, in accordance with section 771(5A) of the Act.[95] Because we are finding that this program is not specific, we do not need to address financial contribution and benefit.

C. Programs Preliminarily Determined To Be Not Used

GR.A.M.M. reported and we preliminarily determine that the following programs were not used by GR.A.M.M. during the POR:

- ERDF 2007-2013, Action 1.4.1, Assistance in the Diffusion of Information Technologies and Communication in SME Networks
- Article 14 of Law 46/82 (*Fondo Innovazione Tecnologica*) – Loan and Grant
- 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

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[92] *See* GR.A.M.M. IQR at 15.
[93] *See* GOI IQR at Standard Questions Appendix: Certain Social Security Reductions and Exemptions ("Sgravi" Benefits) under Law 208/2015; *see also* G1SQR at 6.
[94] *Id.*
[95] *See Carbon and Alloy Steel Wire Rod From Italy: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 41931 (September 5, 2017) and accompanying Preliminary Decision Memorandum at 17-18; unchanged in *Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod From Italy: Final Affirmative Determination,* 83 FR 13242 (March 28, 2018) and accompanying Decision Memorandum.

- 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) (PON Program)
- Bandi Monosettoriali Ob. 2.1.1.b
- Aid to Economic Development
- Arte Bianca Training Project Grant
- Ministerial decrees of July 23, 2009 and August 6, 2010 –(Berlusconi)-Loan and Grant

VII. <u>Recommendation</u>

We recommend applying the above methodology for these preliminary results.

☒	☐
Agree	Disagree

8/3/2018

X James Maeder

Signed by: JAMES MAEDER

James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations