



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

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Sunset Review
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November 28, 2018

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

SUBJECT: Issues and Decision Memorandum for the Final Results of the
Fourth Expedited Five-Year Sunset Review of the Countervailing
Duty Order on Certain Pasta from Italy

I. SUMMARY

Following issuance of the notice of initiation of the fourth sunset review of the countervailing duty order (*Order*) on certain pasta from Italy,¹ we received a substantive response from A. Zerega's Sons, Inc. (Zerega), Dakota Growers Pasta Company, Inc. (Dakota), Riviana Foods, Inc. (Riviana), and TreeHouse Foods, Inc. (TreeHouse) (collectively, the domestic interested parties or petitioners).² We also received a substantive response from the Government of Italy (GOI).³ However, because we did not receive a substantive response from exporters of pasta from Italy, we determined that the substantive response provided by the GOI was not adequate. As a result, pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department of Commerce (Commerce) conducted this sunset review of the CVD order on pasta from Italy on an expedited basis. We have analyzed the substantive responses provided by the domestic interested parties and the GOI. We recommend

¹ See *Initiation of Five-Year (Sunset) Reviews*, 83 FR 37463 (August 1, 2018) (Initiation Notice).

² See letter from the petitioners, "Certain Pasta From Italy - Five-Year ("4th Sunset") Review of the Countervailing Duty Order," dated August 31, 2018.

³ See letter from the GOI, "Five-Year (Sunset) Review of the Countervailing Duty Order on Certain Pasta From Italy: Response of the Government of Italy," dated September 10, 2018 (GOI Substantive Response).



that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is a complete list of issues that we address in this expedited sunset review:

1. Likelihood of continuation or recurrence of a countervailable subsidy; and
2. Net countervailable subsidy likely to prevail
3. Nature of the subsidy

II. HISTORY OF THE ORDER

On June 14, 1996, Commerce published the final determination in the CVD investigation of pasta from Italy.⁴ Commerce determined that countervailable subsidies within the meaning of section 701 of the Act, were being provided by the GOI to Italian manufacturers, producers, and exporters. We investigated 18 companies and determined the following net subsidy rates for these companies:

<u>Manufacturers/Producers/Exporters</u>	<u>Net subsidy (percent)</u>
Agritalia, S.r.l.	2.55
Arrighi S.p.A. Industrie Alimentari	2.44
Barilla G. e R. F.lli S.p.A (“Barilla”)	Excluded
De Matteis Agroalimentare S.p.A.	2.47
Delverde, S.r.l.	5.90
F.lli De Cecco di Filippo Fara S. Martino S.p.A.	3.37
Gruppo Agricoltura Sana S.r.L.(“Gruppo”)	Excluded
Industria Alimentare Colavita, S.p.A	2.04
Isola del Grano S.r.L.	11.23
Italpast S.p.A.	11.23
Italpasta S.r.L.	2.44
La Molisana Alimentari S.p.A.	4.17
Labor S.r.L.	11.23
Molino e Pastificio De Cecco S.p.A. Pescara	3.37
Pastificio Guido Ferrara	1.21
Pastificio Campano, S.p.A.	2.59
Pastificio Riscossa F.lli Mastromauro S.r.L	6.91
Tamma Industrie Alimentari di Capitanata	5.90
All Others	3.85 ⁵

In the original investigation, we found that the ten programs listed below conferred countervailable subsidies:

1. Local Income Tax (ILOR) Exemptions;
2. Industrial Development Grants Under Law 64/86;
3. Industrial Development Loans Under Law 64/86;

⁴ See *Final Affirmative Countervailing Duty Determination: Certain Pasta (“Pasta”) from Italy*, 61 FR 30288 (June 14, 1996); see also *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta (“Pasta”) from Italy*, 61 FR 38544 (July 24, 1996) (*Order*).

⁵ See *Order*, 61 FR at 38545.

4. Export Marketing Grants Under Law 304/90;
5. Social Security Reductions and Exemptions;
 - a. Sgravi Benefits (Law 1089/68);
 - b. Fiscalizzazione Benefits;
 - c. Law 407/90 Benefits;⁶
 - d. Law 863 Benefits;⁷
6. European Regional Development Fund;
7. European Social Fund;
8. Export Restitution Payments;
9. Lump-Sum Interest Payment Under the Sabatini Law for Companies in Southern Italy;
10. Remission of Taxes on Export Credit Insurance Under Article 33 of Law 227/77⁸

Following the International Trade Commission's (ITC) affirmative finding that a domestic industry was materially injured by imports of certain pasta from Italy,⁹ Commerce published the countervailing duty order on July 24, 1996.¹⁰ Since the issuance of the order, we have completed

⁶ Since the original investigation, Commerce has found that Law 407/90 is also a sgravi program. *See* GOI Substantive Response at 7-8.

⁷ Since the original investigation, Commerce has found that Law 863 is a sgravi program. *See Certain Pasta from Italy: Final Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 47204 (September 15, 2009) (12th Administrative Review). During this review, Commerce found that the program has been terminated prior to the POR.

⁸ *See Final Determination*, 61 FR at 30292-97.

⁹ *See Certain Pasta from Italy and Turkey*, Inv. Nos. 701-TA-365-366 and 731-TA-734-735, USITC Pub. 2977 (July 1996).

¹⁰ *See Order*, 61 FR at 38544.

19 administrative reviews,¹¹ and initiated but rescinded in full one administrative review.¹² We also initiated two new shipper reviews, and rescinded one in full.¹³ We completed four scope rulings,¹⁴ one anti-circumvention inquiry,¹⁵ and six changed circumstances reviews.¹⁶ In the completed administrative reviews, Commerce found that Italian pasta producers/exporters continued to benefit from subsidy programs provided by the Government of Italy at rates above

¹¹ See *Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review*, 63 FR 43905 (August 17, 1998); *Certain Pasta from Italy: Final Results of the Second Countervailing Duty Administrative Review*, 64 FR 44489 (August 16, 1999), as amended in *Amendment to Certain Pasta from Italy: Final Results of the Second Countervailing Duty Administrative Review*, 64 FR 51293 (September 22, 1999); *Certain Pasta from Italy: Final Results of the Third Countervailing Duty Administrative Review*, 66 FR 11269 (February 23, 2001); *Certain Pasta from Italy: Final Results of the Fourth Countervailing Duty Administrative Review*, 66 FR 64214, (December 12, 2001), as amended in *Certain Pasta from Italy: Amended Final Results of the Fourth Countervailing Duty Administrative Review*, 67 FR 59 (January 2, 2002); *Certain Pasta from Italy: Final Results of the Fifth Countervailing Duty Administrative Review*, 67 FR 52452 (August 12, 2002); *Certain Pasta from Italy: Final Results of the Sixth Countervailing Duty Administrative Review*, 68 FR 48599 (August 14, 2003); *Certain Pasta from Italy: Final Results of the Seventh Countervailing Duty Administrative Review*, 69 FR 70657 (December 7, 2004); *Certain Pasta from Italy: Final Results of the Eighth Countervailing Duty Administrative Review*, 70 FR 37084 (June 28, 2005), as amended in *Notice of Correction to the Preliminary and Final Results of the Eighth Countervailing Duty Administrative Review: Certain Pasta from Italy*, 70 FR 62097 (October 28, 2005); *Certain Pasta from Italy: Final Results of the Ninth Countervailing Duty Administrative Review and Notice of Revocation of Order, in Part*, 71 FR 36318 (June 26, 2006); *Certain Pasta From Italy: Final Results of the Tenth (2005) Countervailing Duty Administrative Review*, 73 FR 7251 (February 7, 2008); *Certain Pasta from Italy: Final Results of the Eleventh (2006) Countervailing Duty Administrative Review*, 74 FR 5922 (February 3, 2009); *Certain Pasta from Italy: Final Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 47204 (September 15, 2009); *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386 (June 29, 2010); *Certain Pasta from Italy: Final Results of the 2009 Countervailing Duty Administrative Review*, 77 FR 7129 (February 10, 2012); *Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review; 2010*, 77 FR 69793 (November 21, 2012); *Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 12154, (March 4, 2014); *Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 11172, (March 2, 2015); *Certain Pasta from Italy: Final Results, and Rescission, in Part, of Countervailing Duty Administrative Review; 2013*, 81 FR 8918, (February 23, 2016); *Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review; 2015*, 82 FR 48060 (October 16, 2017) (2015 Administrative Review).

¹² See *Certain Pasta from Italy: Rescission of Countervailing Duty Administrative Review; 2014*, 80 FR 78710 (December 17, 2015).

¹³ See *Certain Pasta from Italy: Final Results of New Shipper Countervailing Duty Administrative Review*, 63 FR 66121 (December 1, 1998); *Certain Pasta from Italy: Notice of Rescission of Countervailing Duty New Shipper Review*, 68 FR 68034 (December 5, 2003).

¹⁴ See *Notice of Scope Rulings and Anticircumvention Inquiries*, 63 FR 6722 (February 10, 1998); *Notice of Scope Rulings and Anticircumvention Inquiries*, 63 FR 59544 (November 4, 1998); *Notice of Scope Rulings and Anticircumvention Inquiries*, 65 FR 41957, 41958 (July 7, 2000); *Notice of Scope Rulings*, 78 FR 42934 (July 18, 2013).

¹⁵ See *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003).

¹⁶ See *Notice of Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews: Certain Pasta From Italy*, 68 FR 41553 (July 14, 2003); *Certain Pasta From Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634 (May 12, 2011); *Certain Pasta from Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 79 FR 56339 (September 19, 2014); *Certain Pasta from Italy: Final Results of Antidumping Duty and Countervailing Duty Changed Circumstances Reviews and Revocation, in Part*, 79 FR 58319 (September 29, 2014); *Certain Pasta from Italy: Final Results of Changed Circumstances Review*, 80 FR 48807 (August 14, 2015); *Certain Pasta from Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 82 FR 26777 (June 9, 2017).

de minimis with the *Order* in place. At present, there is one ongoing administrative review of the *Order*,¹⁷ and we intend to rescind another ongoing administrative review since requests for review have been withdrawn.¹⁸

Moreover, since publication of the CVD order, Commerce has completed three sunset reviews of the CVD order on pasta from Italy.¹⁹ In each of the completed sunset reviews, Commerce determined that revocation of the *Order* would likely lead to a continuation or recurrence of a countervailable subsidy. Commerce published notices of the continuation of the CVD order on pasta from Italy following the completion of each sunset review.²⁰

III. BACKGROUND

On August 1, 2018, Commerce published the notice of initiation of the fourth sunset review of the order, pursuant to section 751(c) of the Act.²¹ Within the deadline specified in 19 CFR 351.218(d)(1)(i), Commerce received a notice of intent to participate from domestic interested parties.²² In accordance with 19 CFR 351.218(d)(1)(ii)(A), Zerega, Dakota Growers, Riviana, and TreeHouse claimed status as interested parties under section 771(9)(C) of the Act as producers of the domestic like product.²³

On August 31, 2018, Zerega, Dakota Growers, Riviana, and TreeHouse filed a collective substantive response in the sunset review within the 30-day deadline, as specified in 19 CFR 351.218(d)(3)(i).²⁴ On September 10, 2018, Commerce received a substantive response from the GOI.²⁵ Commerce did not receive any substantive responses from Italian producers or exporters of subject merchandise. Based on the fact that a government's response alone, normally, is an insufficient basis for conducting a full sunset review in which the underlying investigation was not done on an aggregate basis, we have conducted this sunset review on an expedited (120-day)

¹⁷ See *Certain Pasta from Italy: Preliminary Results of Countervailing Duty Administrative Review and Partial Rescission*; 2016, 83 FR 39418 (August 9, 2018).

¹⁸ See Memorandum to the File from Mary Kolberg, International Trade Compliance Analyst, "Countervailing Duty Administrative Review: 2017—Intent to Rescind the 2017 Administrative Review," dated November 20, 2018.

¹⁹ See *Final Results of Sunset Review: Countervailing Duty Order on Certain Pasta from Italy*, 66 FR 51640 (October 10, 2001); *Certain Pasta from Italy: Final Results of Expedited Five-Year ("Sunset") Review of the Countervailing Duty Order*, 72 FR 5271 (February 5, 2007); *Certain Pasta from Italy: Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order*, 78 FR 693 (January 4, 2013), and accompanying Issues and Decision Memorandum (*Third Sunset Review*).

²⁰ See *Continuation of Countervailing and Antidumping Duty Orders: Pasta from Italy and Turkey, and Clad Steel Plate from Japan*, 66 FR 57703 (November 16, 2001); *Certain Pasta from Turkey and Italy: Continuation of Countervailing Duty and Antidumping Duty Orders*, 72 FR 58052 (October 12, 2007); *Certain Pasta from Italy and Turkey: Continuation of Antidumping and Countervailing Duty Orders*, 78 FR 57129 (September 17, 2013).

²¹ See Initiation Notice, 83 FR at 37463.

²² See letter from Zerega, Dakota Growers, Riviana, and Treehouse, "Five-Year ("Sunset") Review of the Countervailing Duty Order on Certain Pasta from Italy—Domestic Interested Parties' Notice of Intent to Participate," dated August 16, 2018 (Domestic Parties' Notice of Intent to Participate).

²³ See Domestic Parties' Notice of Intent to Participate at 2.

²⁴ See letter from Zerega, Dakota Growers, Riviana, and TreeHouse, "Certain Pasta from Italy – Five-Year ("4th Sunset") Review of the Countervailing Duty Order," dated August 31, 2018 (Domestic Parties' Substantive Response).

²⁵ See letter from the GOI, "Five-Year (Sunset) Review of the Countervailing Duty Order on Certain Pasta from Italy: Response of the Government of Italy," dated September 10, 2018 (GOI Substantive Response).

basis.²⁶ This approach is consistent with Commerce's practice, including in prior sunset reviews of this *Order*.²⁷

IV. SCOPE OF THE ORDER

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

Excluded from the scope of the *Order* are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. 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*.²⁸ 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*.²⁹ Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the *Order*.³⁰

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 the *Order* 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.

²⁶ See section 751(c)(3)(B) of the Act; 19 CFR 351.218(e)(1)(ii)(C)(2).

²⁷ See, e.g., *Third Sunset Review*, 78 FR at 693, and accompanying Issues and Decision Memorandum at 5; *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Expedited Fourth Sunset Review of Countervailing Duty Order* (October 6, 2017); *Certain Pasta from Turkey: Final Results of Expedited Five-Year ("Sunset") Review of the Countervailing Duty Order*, 72 FR 5269 (February 5, 2007), and accompanying Issues and Decision Memorandum; *Certain Carbon Steel Products from Sweden: Final Results of Expedited Sunset Review of Countervailing Duty Order*, 65 FR 18304 (April 7, 2000).

²⁸ See Memorandum to Richard Moreland, dated August 25, 1997, which is on file in the Central Records Unit.

²⁹ See *Certain Pasta from Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634 (May 12, 2011).

³⁰ 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).

V. DISCUSSION OF THE ISSUES

Legal Framework

In accordance with section 751(c)(1) of the Act, Commerce is conducting this sunset review to determine whether revocation of the *Order* would likely lead to continuation or recurrence of a countervailable subsidy. Sections 752(b) of the Act provides that, in making this determination, Commerce shall consider (1) the net countervailable subsidy determined in the investigation and any subsequent reviews, and (2) whether any changes in the programs which gave rise to the net countervailable subsidy have occurred that are likely to affect the net countervailable subsidy.

Pursuant to section 752(b)(3) of the Act, Commerce shall provide the ITC with the net countervailable subsidy likely to prevail if the order were revoked. In addition, consistent with section 752(a)(6) of the Act, Commerce shall provide the ITC with information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 World Trade Organization Agreement on Subsidies and Countervailing Measures (SCM Agreement).

Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy

*Interested Party Comments*³¹

Domestic interested parties contend that Commerce should find that revocation of the *Order* would likely lead to a continuation and increased subsidization of Italian pasta.³² According to domestic interested parties, numerous subsidies have been provided to the Italian pasta industry by both the GOI and the EU. Domestic interested parties claim that there is no indication that the programs have been terminated and several new programs have been identified since the investigation.³³ Domestic interested parties maintain that a large portion of these subsidies have been part of a longstanding policy of regional development of the Mezzogiorno region of Italy.

Domestic interested parties allege that, while the *Order* may have reduced the use of subsidies for certain Italian pasta producers, the GOI and the EU have not eliminated many of these programs.³⁴ According to the domestic interested parties' substantive response, only thirteen subsidy programs have been terminated, while over sixty programs remain in effect.³⁵ They contend that the fact that certain Italian pasta producers have a long record of not using a program is not an indication that continued subsidization is unlikely; rather, the *Order* has caused certain companies to refrain from using countervailable subsidy programs, but absent the *Order*, there will be a return to higher levels of subsidization. Domestic interested parties argue that Commerce should follow its *Policy Bulletin* that states that "continuation of a program will

³¹ See Domestic Parties' Substantive Response at 28-31; see also GOI Substantive Response at 5-6.

³² See Domestic Parties' Substantive Response.

³³ *Id.* at 28-29.

³⁴ *Id.* at 30.

³⁵ *Id.*

be highly probative of the likelihood of continuation or recurrence of countervailable subsidies.”³⁶

Therefore, domestic interested parties contend that Commerce should determine that revocation of the *Order* will lead to continued and increased subsidization. They argue that Commerce should reach the same conclusion as in the previous sunset review that revocation of the *Order* would lead to continued and increased subsidies to Italian producers to the detriment of the U.S. pasta industry.

The GOI disagrees with the domestic interested parties’ position and recommends that Commerce revoke the *Order* because there is no likelihood of continuation of benefits or of their recurrence in the coming years because no or insignificant benefits have been granted to the Italian exporters of pasta in past years.³⁷ According to the GOI, the results from previous administrative reviews and the last sunset review demonstrate that many of the earlier programs found countervailable by Commerce are no longer, or are only minimally, used.³⁸ Furthermore, the GOI contends that the current level of subsidization of Italian pasta producers/exporters is in many cases zero or below the *de minimis* threshold, which is demonstrated by the number of terminated and non-countervailable programs as well as the number of programs found never to have been used by an Italian pasta producer/exporter since the original investigation.³⁹ In addition, the GOI maintains that many of the incentive measures currently in force, particularly the social security reductions and exemptions, must be considered to be non-specific programs because they are generally available to all companies and are not limited to those specifically operating in the pasta sector.

According to the GOI, the following programs have been terminated or will be by the end of 2018:

1. Loan and Grant Programs⁴⁰

According to the GOI, through article 23, par. 7 of the Decree-Law of 22nd June 2012, no 83, “Urgent Measures for the Growth of the Country,” converted, with amendments, by Law 7th of August 2012, no. 34, the following measures were repealed; therefore, the programs have been terminated:

- (1) Industrial Development Grants under Law 64/86;
- (2) Industrial Development Loans under Law 64/86;
- (3) Industrial Development Grants under Law 488/92;
- (4) Grant Program of Law No. 662 of December 23, 1996;
- (5) Industrial Development Grants under Law No. 183 of May 2, 1976;
- (6) Ministerial Decrees of July 23, 2009 and August 6, 2010 (Berlusconi Grant);

³⁶ See *Policies Regarding the Conduct of Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders*; *Policy Bulletin*, 63 FR 18871, 18874 (April 16, 1998) (*Policy Bulletin*).

³⁷ See GOI Substantive Response at 11.

³⁸ See *id.* at 5.

³⁹ *Id.*

⁴⁰ *Id.* at 6-7.

- (7) Ministerial Decrees of July 23, 2009 and August 6, 2010 (Berlusconi Loan);

2. Social Security Reductions and Exemptions-1089/68 (Unico) and Subsequent Laws- Sgravi⁴¹

- (1) Law 223/91, Article 8, Paragraph 4;
- (2) Law 223/91, Article 25, Paragraph 25;
- (3) Law 449 of December 27, 1997, Article 4, Paragraphs 17-20;
- (4) Law 448 of December 23, 1998, Article 3;
- (5) Law 407 of December 29, 1990, Article 8, Paragraph 9;

3. European Union (EU) Programs⁴²

- (1) Export Restitution Payments.

Moreover, the GOI claims that many of the pasta producers and/or exporters found to have received countervailable subsidies in the original investigation currently have a countervailing duty rate close to or below the *de minimis* level. Additionally, the GOI states that Italian pasta producers have received negligible benefits from the following programs: (1) Loans, Credits, and Grants under Law 46/1982; and (2) Patti Territoriali Grant under law 662/96. Additionally, the GOI reminds Commerce that incentives for apprenticeship contracts received by pasta producers, pursuant to Law 25/55, should not be considered countervailable as Commerce found this provision not countervailable in the final results of the 12th administrative review for the year 2007.⁴³

Domestic interested parties rebut the GOI's assertion that there would be no continuation or recurrence of countervailable subsidies if the *Order* were revoked because the levels of subsidies have been reduced in recent reviews, leading to a corresponding decrease in subsidy rates.⁴⁴ Domestic interested parties claim that the GOI's statement - that the "actual" rate of subsidization for most companies found to receive a countervailable subsidy in the original investigation is now close to or below the *de minimis* threshold - is not supported by the facts of the record. Domestic interested parties argue that, since the original investigation, Commerce has calculated *de minimis* countervailable subsidy rates for only three of the original 16 respondents that received above *de minimis* subsidy rates.⁴⁵ Furthermore, they claim that most of the respondents have not received a countervailing duty rate close to or below the *de minimis* threshold, but rather have received countervailable subsidy rates well above this level.

Domestic interested parties maintain that Commerce's finding that certain programs are "not used" was limited to companies that were reviewed and does not demonstrate "non-use" by all Italian producers/exporters. Likewise, the fact that the *Order* may have caused certain

⁴¹ *Id.* at 7-9.

⁴² *Id.* at 9.

⁴³ See 12th Administrative Review.

⁴⁴ See letter from petitioners, "Five-Year "Sunset" Review of the Countervailing Duty Order of Certain Pasta from Italy – Petitioners' Rebuttal Comments," dated September 24, 2018 (Petitioners' Rebuttal Comments).

⁴⁵ See Domestic Parties' Substantive Response at Attachment 1.

companies to refrain from using certain subsidy programs during subsequent reviews does not mean that these subsidies are unlikely to be used if the *Order* is revoked.⁴⁶

According to domestic interested parties, Commerce has not found any of the programs that the GOI identified as “terminated” to have been terminated. Several of these programs that the GOI claims were terminated were in fact used and recently found countervailable, such as Law 488/92, Industrial Development Grants and the loans and grants conferred under the Ministerial Decrees of July 23, 2009 and August 6, 2010, which were all found to have been used and to have provided measurable benefits in the 2015 review;⁴⁷ Law 488/92 was also found to have been used and to have provided a measurable benefit to the respondent in the preliminary results of the 2016 review.⁴⁸ Moreover, domestic interested parties maintain that even if the GOI provided evidence that certain programs have been terminated, the GOI itself concedes that many programs were still active during the last several periods of review, including the Industrial Development Grants under Law 183/76, Loans and Grants under the Ministerial Decrees of July 23, 2009 and August 6, 2010, and Export Restitution Payments. Furthermore, they claim that certain programs that the GOI argues are not countervailable were found countervailable by Commerce on the basis of adverse facts available.

Domestic interested parties state, moreover, that the GOI has not provided any evidence to support its contention that certain programs are not specific, and thus not countervailable, for example, many of the programs relating to social security reductions and exemptions.⁴⁹

Commerce’s Position:

In determining the likelihood of continuation or recurrence of a countervailable subsidy, section 752(b)(1) of the Act directs Commerce to consider the net countervailable subsidy determined in the investigation and subsequent reviews and whether there has been any change in a program found to be countervailable that is likely to affect that net countervailable subsidy. According to the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), Commerce will consider the net countervailable subsidies in effect after the issuance of an order and whether the relevant subsidy programs have been continued, modified, or eliminated.⁵⁰ The SAA states that continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies.⁵¹ The continued existence of programs that have not been used, and have not been terminated without residual benefits or replaced, is also probative of the likelihood of continuation or recurrence of a countervailable subsidy.⁵² Where a subsidy program is found to exist, Commerce normally will determine that

⁴⁶ *Id.* at 3-4.

⁴⁷ See *Certain Pasta from Italy; Preliminary Results of Countervailing Duty Administrative Review; 2015*, 82 FR 34481 (July 25, 2017) (*2015 Administrative Review Preliminary Results*) and accompanying preliminary decision memorandum at 7-9; unchanged in *2015 Administrative Review*, 82 FR at 48060.

⁴⁸ See *Pasta from Italy; Preliminary Results of Countervailing Duty Administrative Review and Partial Rescission, 2016*, 83 FR 39418 (August 9, 2018) and accompanying preliminary decision memorandum at 6-7.

⁴⁹ See *Petitioners’ Rebuttal Comments* at 10-11.

⁵⁰ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, vol. 1 (1994), at 888.

⁵¹ *Id.*

⁵² See, e.g., *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil: Final Results of Full*

revocation of the CVD order is likely to lead to continuation or recurrence of a countervailable subsidy regardless of the level of subsidization.⁵³

As Commerce stated in prior sunset determinations, two conditions must be met in order for a subsidy program not to be included in determining the likelihood of continued or recurring subsidization: (1) the program must be terminated; and (2) any benefit stream must be fully allocated.⁵⁴ In order to determine whether a program has been terminated, Commerce will consider the legal method by which the government eliminated the program and whether the government is likely to reinstate the program.⁵⁵ Commerce normally expects a program to be terminated by means of the same legal mechanism used to institute it.⁵⁶ Where a subsidy is not bestowed pursuant to a statute, regulation or decree, Commerce may find no likelihood of continued or recurring subsidization if the subsidy in question was a one-time, company-specific occurrence that was not part of a broader, government program.⁵⁷

We agree with the GOI that a few of the producers in the original investigation have received *de minimis* rates since the investigation was completed. However, this is not evidence that the continuation or recurrence of countervailable subsidies is not likely. According to the SAA, the “existence of a zero or *de minimis* countervailable subsidy at any time while the order was in effect shall not in itself require Commerce to determinate that continuation or recurrence of countervailable subsidies is not likely. ...if the combined benefits of all programs considered by Commerce for purposes of its likelihood determination have never been above *de minimis* at any time the order was in effect, and if there is no likelihood that the combined benefits of such programs would be above *de minimis* in the event of revocation or termination, Commerce should determine that there is no likelihood of continuation or recurrence of countervailable subsidies.”⁵⁸ However, this is not the case with respect to this *Order*. Since the *Third Sunset Review*, Commerce has continued to find that exporters of pasta from Italy receive measurable subsidies from programs found countervailable in the original investigation as well as from programs found to be subsequently countervailable.⁵⁹

Sunset Review of Countervailing Duty Order, 75 FR 75455 (December 3, 2010) (*Hot-Rolled Steel from Brazil*), and accompanying Issues and Decision Memorandum at Comment 1.

⁵³ *Id.*

⁵⁴ See, e.g., *Preliminary Results of Full Sunset Review: Certain Corrosion-Resistant Carbon Steel Flat Products from France*, 71 FR 30875 (May 31, 2006) and accompanying Preliminary Decision Memorandum at 5-7 (unchanged in *Corrosion-Resistant Carbon Steel Flat Products from France: Final Results of Full Sunset Review*, 71 FR 58584 (October 4, 2006)); *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Full Third Sunset Review of Countervailing Duty Order*, 75 FR 70411 (November 14, 2011) (*Salmon from Norway*), and accompanying Issues and Decision Memorandum at Comment 1.

⁵⁵ See SAA at 888; see, e.g., *Salmon from Norway*, and accompanying Issues and Decision Memorandum at Comment 1; see also *Hot-Rolled Steel from Brazil*, and accompanying Issues and Decision Memorandum at Comment 1.

⁵⁶ See, e.g., *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 49635 (September 28, 2001), and accompanying Issues and Decision Memorandum at Comment 7.

⁵⁷ See, e.g., *Stainless Steel Plate in Coils from Belgium: Final Results of Full Sunset Review and Revocation of the Countervailing Duty Order*, 76 FR 25666 (May 5, 2011), and accompanying Issues and Decision Memorandum at Comment 1.

⁵⁸ See SAA at 889.

⁵⁹ See, e.g., *Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 11172 (March 2, 2015) and accompanying Issues and Decision Memorandum at 12, 19, 21; see also *Certain Pasta*

Furthermore, the GOI has not provided evidence to support its claims that the following programs have been terminated: (1) Industrial Development Loans and Grants under Law 64/86; (2) Development Grants under Law 488/92; (3) Grant Program of Law No. 662 of December 23, 1996; (4) Industrial Development Grants under Law No. 183 of May 2, 1976; (5) Loan and grant programs under the Ministerial Decrees of July 23, 2009 and August 6, 2010 (Berlusconi Grants and Loans); (6) Law 223/91, Article 8, Paragraph 4; (7) Law 223/91, Article 25, Paragraph 25; (8) Law 449 of December 27, 1997, Article 4, Paragraphs 17-20; (9) Law 448 of December 23, 1998, Article 3; (10) Law 407 of December 29, 1990, Article 8, Paragraph 9; (11) EU Program - Export Restitution Payments. As explained above, Commerce normally expects a program enacted by statute or regulation to be repealed by statute or regulation. In this case, the GOI relied on general statements without supporting documentation in arguing that the programs were terminated and that the benefits under the programs were fully allocated. Consequently, we disagree that these programs should be treated as terminated for purposes of the analysis of whether countervailable subsidization is likely to continue or recur.

Commerce has also analyzed the GOI's claims that certain programs provided insignificant benefits. Specifically, the GOI states that the pasta industry received negligible benefits under Law Nos. 662/1996 and 46/1982.⁶⁰ However, the GOI did not provide supporting documentation to substantiate these claims. On the contrary, Commerce has determined that both of these programs are countervailable and provide measurable benefits to Italian pasta producers.⁶¹

Furthermore, we disagree with the GOI that certain programs, such as many of the social security reduction and exemption programs, should be considered non-specific. Commerce has found a number of the sgravi programs to be regionally specific and designed to assist companies in the less-developed areas of Italy, such as the Mezzogiorno.⁶²

In conclusion, we determine that countervailable subsidy programs that Commerce examined in the original investigation continue to exist, and since the investigation, Commerce has found the continued existence of numerous subsidy programs from which Italian producers and exporters can and do continue to benefit. Because the continuation of programs is highly probative of the likelihood of the continuation or recurrence of countervailable subsidies, we determine that revocation of the *Order* would likely lead to continuation or recurrence of countervailable subsidies for Italian producers and exporters of the subject merchandise.

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 19, 21-23; 2015 Administrative Review Preliminary Results, 82 FR at 34481, and accompanying preliminary decision memorandum at 7; unchanged in 2015 Administrative Review, 82 FR at 48060.

⁶⁰ GOI Substantive Response at 9-10.

⁶¹ *See 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 15-19.*

⁶² *See 2012 Administrative Review and accompanying Issues and Decision Memorandum at 12-18; see also 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 23-25.*

2. Net Countervailable Subsidy Rates that Are Likely to Prevail

Interested Party Comments

Domestic interested parties contend that Commerce should follow the instructions set forth in the SAA and its *Policy Bulletin* which state that it should, in most cases, select the subsidy rate established in the original investigation because it is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place. However, in cases where the programs have been terminated, changed, or where a new program was found in subsequent administrative reviews, domestic interested parties urge Commerce to follow the instructions in the *Sunset Policy Bulletin* as it did in the *Third Sunset Review*. At a minimum, they claim that Commerce should rely on the following net subsidy rates used in the *Third Sunset Review*:

Producer/Exporter	Net Countervailable Subsidy (Percent)
Agritalia, S.r.l.	6.84
Arrighi S.p.A. Industrie Alimentari	6.73
De Matteis Agroalimentare S.p.A.	6.01
Delverde, S.r.l.	9.64
F. Ili De Cecco di Filippo Fara S. Martino S.p.A.	6.28
Industria Alimentare Colavita, S.p.A.	5.89
Isola del Grano, S.r.L.	13.58
Italpast S.p.A.	13.58
Italpasta S.r.L.	6.73
La Molisana Alimentari S.p.A.	7.70
Labor, S.r.L.	13.58
Molino e Pastificio De Cecco S.p.A. Pescara	6.28
Pastificio Guido Ferrara	5.22
Pastificio Campano, S.p.A.	6.35
Pastificio Riscossa F.Ili Mastromauro S.r.L.	10.69
Tamma Industrie Alimentari di Capitanata	9.64
All Others	7.39 ⁶³

The GOI did not comment on this issue.

Commerce's Position:

Commerce normally will provide to the ITC the net countervailable subsidy rates that were determined in the investigation as these are the rates likely to prevail if the order is revoked because these are the only calculated rates that reflect the behavior of exporters and foreign governments without the discipline of the order in place.⁶⁴ Section 752(b)(1)(B) of the Act provides, however, that Commerce will consider whether any change in the program which gave rise to the net countervailable subsidy determination in the investigation or subsequent reviews

⁶³ See *Third Sunset Review*, 78 FR at 693, and accompanying Issues and Decision Memorandum.

⁶⁴ See SAA at 890; see also H.R. Rep. No. 103-826 (1994) at 64.

has occurred that is likely to affect the net countervailable subsidy rate. Therefore, although the SAA provides that Commerce normally will select a rate from the investigation, this rate may not be the most appropriate if, for example, the rate was derived (in whole or part) from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review.⁶⁵

Consistent with the SAA and the *Policy Bulletin*, Commerce has started with the rates for the programs found in the original investigation in order to determine the company-specific net countervailable subsidy rates likely to prevail. As we mentioned under the *History of the Order* section, the subsidy programs found in the original investigation include: (1) Local Income Tax (ILOR) Exemptions; (2) Industrial Development Grants under Law 64/86; (3) Industrial Development Loans under Law 64/86; (4) Export Marketing Grants Under Law 304/90; (5) (a) Social Security Reductions and Exemptions - Sgravi Benefits (Law 1089/68); (b) Social Security Reductions and Exemptions - Fiscalizzazione Benefits; (c) Social Security Reductions and Exemptions - Law 407/90 Benefits; (d) Social Security Reductions and Exemptions - Law 863 Benefits; (6) European Regional Development Fund (ERDF); (7) European Social Fund; (8) Export Restitution Payments; (9) Lump-Sum Interest Payment Under the Sabatini Law for Companies in Southern Italy; and (10) Remission of Taxes on Export Credit Insurance under Article 33 of Law 227/77.

To the rates found in the original investigation we have added the rates from the subsidy programs subsequently found to be countervailable (during the first through nineteenth administrative reviews). The subsequent programs include the following:

- (1) Grant Received Pursuant to the Community Initiative Concerning the Preparation of Enterprises for the Single Market (PRISMA);
- (2) Industrial Development Grants under Law 488/92;
- (3) Industrial Development Grants under Law 183/76;
- (4) Law 598/94 Interest Subsidies;
- (5) Law 236/93 Training Grants;
- (6) Law 341/95 Interest Contributions on Debt Consolidation Loans;
- (7) Regional Tax on Income of Productive Activities Deduction in Accordance with Article 11 of Law 446/1997 (IRAP);
- (8) Duty Free Import Rights;
- (9) Corporate Income Tax (IRPEG) Exemptions;
- (10) Development Grants under Law 30 of 1984;
- (11) Law 908/55 Revolving Fund for Economic Initiatives Loan;
- (12) Social Security Reductions and Exemptions-Sgravi-Article 44 of Law 448/01;
- (13) Law 289/02, Article 62, Investment in Disadvantaged Areas;
- (14) Law 289/02, Article 63, Increase in Employment;
- (15) Law 662/96, Article 2, Paragraph 203, letter d-Patti Territoriali;
- (16) Law 196/97;

⁶⁵ See, e.g., *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Final Results of Expedited Second Sunset Review*, 75 FR 62101 (October 7, 2010), and accompanying Issues and Decision Memorandum at Comment 2.

- (17) European Regional Development Fund Programma Operativo Plurifondo;
- (18) Law 223/91 Article 8, Paragraph 2;
- (19) Law 223/91 Article 8, Paragraph 4;
- (20) Legislative Decree 276/03;
- (21) Law 662/96, Article 2, Paragraph 203, letter e (Contratto di Programma);
- (22) Interest Contributions Under Law 488/92;
- (23) Law 46/1982, Article 14 loans (Fondo Innovazione Tecnologica);
- (24) Law 46/1982 Article 14 grants (Fondo Innovazione Tecnologica);
- (25) Regional Law 34/1988;
- (26) Measure 3.14 of the POR Sicilia 2000/2006;
- (27) Tax Credits under Article 280 of Law 296/2006;
- (28) Article 23 of Legislative Decree 38/2000;
- (29) Tremonti Ter;
- (30) PO FESR Measure 4.1.1.1
- (31) Law 167/2011;
- (32) Article 42 of Law 78/2010;
- (33) Article 1 of Law 296/06;
- (34) POR FESR Molise 2007/2013;
- (35) Law 223/91, Article 25, Paragraph 9;
- (36) Ministerial Decrees of July 23, 2009 and August 6, 2010 (Berlusconi Grant);
- (37) Ministerial Decrees of July 23, 2009 and August 6, 2010, (Berlusconi Loan).⁶⁶

Where Commerce has found that a program was terminated with no residual benefits and no likelihood of reinstatement or replacement, Commerce normally will adjust the net countervailable subsidy rate to exclude the rate arising from that program. In the first through nineteenth administrative reviews of this *Order*, Commerce found the following programs were terminated:

- (1) Local Income Tax (ILOR);
- (2) Fiscalizzazione Benefits;
- (3) VAT Reductions Under Laws 64/86 and 675/55;
- (4) Corporate Income Tax (IRPEG) Exemptions;
- (5) Remission of Taxes on Export Credit Insurance Under Article 33 of Law 227/77;
- (6) Export Marketing Grants Under Law 304/90;
- (7) Tremonti Law 383/01;
- (8) Social Security Reductions and Exemptions-Sgravi Article 44 of Law 448/01;
- (9) Social Security Reductions and Exemptions-Sgravi Law 337/90;
- (10) Social Security Reductions and Exemptions-Sgravi Law 863/84; and
- (11) Law 196/97.

⁶⁶ Several programs were inadvertently not included in the identification of programs and the calculation of the net countervailable subsidy likely to prevail in the 2012 Sunset Review. These programs include: Social Security Reductions and Exemptions-Sgravi-Article 44 of Law 448/01; European Regional Development Fund Programma Operativo Plurifondo (P.O.P) grant; Law 223/91 Article 8, Paragraph 2; Law 223/91 Article 8, Paragraph 4; Law 223/91, Article 25, Paragraph 9; Legislative Decree 276/03; Law 662/96 Article 2, Paragraph 203, Letter e (Contratto di Programma); Interest Contributions Under Law 488/92; Law 46/1982 Article 14 grants.

In the *Third Sunset Review*, we stated that the Regional Tax on Income of Productive Activities (IRAP) had been terminated.⁶⁷ However, in the *2015 Administrative Review*, we found that Italian producers/exporters continue to benefit from this program.⁶⁸ Therefore, we have deleted it from our list of terminated programs.

On this basis, Commerce has found that net countervailable subsidy rates that are likely to prevail are above *de minimis*. Consistent with section 752(b)(3) of the Act, Commerce will provide the ITC the net countervailable subsidy rates that are likely to prevail if the *Order* is revoked. Commerce normally chooses a net countervailable subsidy that was determined in a countervailing duty investigation or administrative review. The adjusted countervailable subsidy rates, which Commerce determines are likely to prevail upon revocation of the *Order*, are provided in the “Final Results of Review” section of this memorandum.

3. Nature of the Subsidies

Consistent with section 752(a)(6) of the Act, Commerce is providing the following information to the ITC concerning the nature of the subsidy, and whether the subsidy is a subsidy as described in Article 3 or Article 6.1 of the SCM Agreement. We note that Article 6.1 of the SCM Agreement expired effective January 1, 2000.

Article 3

In this sunset review, there is one program that falls under Article 3.1 of the SCM Agreement, which states that the following subsidies shall be prohibited: (a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance, and (b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

Export Restitution Payments

Since 1962, the European Community (EC), and later the EU, has operated a subsidy program which provides restitution payments to EU pasta exporters based on the durum wheat content of their exported pasta products. Under this program, a restitution payment is available to any EU exporter of pasta products, regardless of whether the pasta was made with imported durum wheat or durum wheat grown within the EU.

In 1987, the program changed with regard to exports to the United States as a result of a settlement reached by the United States and the EC. Under the settlement, the EC agreed to allow the importation of durum wheat from any non-EU member country free of any levy under a system described as “Inward Processing Relief” (IPR). Under this program, the EC pasta exporter would not receive a restitution payment when exporting to the United States pasta products containing durum wheat imported with IPR. Essentially, a restitution payment no longer was necessary because no levy had been paid upon the importation of durum wheat in the first place.

⁶⁷ See *Third Sunset Review*, 78 FR at 693, and accompanying Issues and Decision Memorandum at 12.

⁶⁸ See *2015 Administrative Review Preliminary Results*, 82 FR at 34481, and accompanying Preliminary Decision Memorandum at 9-10 (unchanged in *2015 Administrative Review*, 82 FR at 48060).

With regard to pasta products containing EC durum wheat or durum wheat that had been imported without IPR, a restitution payment remained available for exports to the United States. However, the restitution rate was reduced, originally by 27.5 percent and later by approximately 35 percent, from the normal level available for exports to all other countries. As a further condition of settlement, the EC agreed to attempt to balance its exports to the United States equally between pasta products containing durum wheat imported with IPR, and pasta products containing EU durum wheat or durum wheat imported without IPR.

Article 6.1

The following subsidy programs do not fall within the meaning of Article 3.1 of the SCM Agreement with the exception of export restitution payments, but may be subsidies described in Article 6.1 of the SCM Agreement if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the SCM Agreement. The subsidies may also fall within the meaning of Article 6.1 if they constitute debt forgiveness, a grant to cover debt repayment, or are subsidies to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record to make such a determination. We are, in any case, providing the ITC with the following program descriptions:

1) Export Restitution Payments

See above.

2) Industrial Development Grants Under Law 64/86

Law 64/86 provides assistance to promote industrial development in the Mezzogiorno. Grants are awarded to companies constructing new plants or expanding or modernizing existing plants. Pasta companies are eligible for grants to expand existing plants but not to establish new plants because the market for pasta has been deemed to be close to saturated. Grants are made only after a positive assessment of the project by a private credit institution, chosen by the applicant.

3) Industrial Development Loans Under Law 64/86

Law 64/86 provides reduced rate industrial development loans with interest contributions to companies constructing new plants or expanding or modernizing existing plants in the Mezzogiorno. The interest rates on these loans are set at the reference rate, with the GOI's interest contributions serving to reduce this rate. Pasta producers are eligible for interest contributions to expand existing plants but no to establish new plants.

4) Social Security Reductions and Exemptions - Sgravi Benefits - Law 1089/68

Law 1089/68 grants companies located in the Mezzogiorno a 10 percent reduction in social security contributions for all employees on the payroll as of September 1, 1968 as well as those hired thereafter. Subsequent laws authorized companies located in the Mezzogiorno to take additional reductions in social security contributions for employees hired during later periods, provided that the new hires represented a net increase in the employment level of the company.

5) *Social Security Reductions and Exemptions - Sgravi Benefits - Law 407/90*

Law 407/90 exempts employers from the payment of social security contributions, when a company hires a worker who has been unemployed for a period of two years or who has been suspended from work and received underemployment/unemployment benefits. Companies based in the Mezzogiorno region receive a full exemption of contributions due, while companies in all other regions receive a 50 percent exemption. The reduction/exemption is available for 36 months and it applies to the contributions otherwise due for each new worker hired on a permanent basis.

6) *European Regional Development Fund (ERDF)*

The ERDF is one of three Structural Funds operated by the EU. The ERDF was created pursuant to the authority in Article 130 of the Treaty of Rome in order to reduce regional disparities in socio-economic performance within the Community. The ERDF program provides grants to companies located within regions which meet the criteria of Objective 1 (underdeveloped regions), Objective 2 (declining industrial regions) or Objective 5(b) (declining agricultural regions) under the Structural Funds.

7) *European Social Fund (ESF)*

The ESF is one of three Structural Funds operated by the EU. The ESF was created under Article 123 of the Treaty of Rome in order to improve employment opportunities for workers and to help raise their living standards. The ESF principally provides vocational training and employment aids. ESF aid is generally provided directly to public institutions or non-commercial enterprises. However, it can also be provided directly to a company, provided that it is located in an Objective 1, Objective 2, or Objective 5(b) region.

The ESF provides grants to such companies in order to train current employees for new jobs or to hire new employees.

8) *Lump-Sum Interest Payment Under the Sabatini Law*

The Sabatini Law was enacted in 1965 to encourage the purchase of machine tools and production machinery. It provides for a deferral of up to five years of payments due on installment contracts for the purchase of such equipment and for a one-time, lump-sum interest contribution from Mediocredito Centrale toward the interest owed on these contracts. The amount of the interest contribution is equal to the present value of the difference between the payment stream over the life of the contract based on the reference rate and the payment stream over the life of the contract based on a concessionary rate. The concessionary rate for companies located in the Mezzogiorno is the reference rate less eight percentage points. The concessionary rate for companies located outside the Mezzogiorno is the reference rate less five percentage points.

9) *Grant received Pursuant to the Community Initiative Concerning the Preparation of Enterprises for the Single Market (PRISMA)*

PRISMA is a grant program funded by the European Structural Fund which assists small- and medium-sized enterprises in Objective 1 regions to adapt to a single EU market and increased competition by improving standardization and quality control procedures.

10) Industrial Development Grants Under Law 488/92

Law 488/92 permits 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) to apply for industrial development grants.

11) Law 183/76 Industrial Development Grant

Law 183/76 authorizes companies located in the Mezzogiorno to take reductions or exemptions in social security contributions for the hiring of new employees. Law 183/76 also allows for the provision of industrial development grants.

12) Law 598/94 Interest Subsidies

Under Law 598/94, the GOI pays a portion of the interest on certain loans granted to small- and medium-sized industrial companies. These loans are to be used for investments related to technological innovation and/or environmental protection. The GOI has stated that the general level of subsidies under Law 598/94 is 30 percent of the initial interest payable, but is 45 percent for companies in disadvantaged regions of Italy.

13) Law 236/93 Training Grants

Under Law 236/93, which is administered by the regional governments but funded by the GOI, grants are provided to Italian companies for worker training.

14) Law 341/95 Interest Contribution on Debt Consolidation Loans

Article 2 of Law 341/95 provides for the GOI to make interest contributions on debt consolidation loans obtained by eligible companies. Eligible companies are small- and medium-sized companies located in EU Objective 1 areas (see European Social Fund above).

15) Regional Tax on Income of Productive Activities Deduction in Accordance with Article 11 of Law 446/1997

In 1997, the GOI established the Regional Tax on Income of Productive Activities (IRAP), a tax on company profit. 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. 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. 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.

16) Duty Free Import Rights

Under Italian and EU customs procedures, companies may seek authorization for duty-free importation of certain agricultural input products, on the condition that the processed agricultural products are exported. Under the Temporanea Importazione scheme, a processor of agricultural products can apply to import its input duty free and, after processing, to export the processed product. Under the Riesportazione Preventiva scheme, the order is reversed: after exporting the

processed product, the agricultural input product can be imported duty free. The authorizations for duty-free importation, granted by the customs authorities, are transferable.

In situations where a producer imports inputs and then exports the product processed from those imported inputs, this scheme operates as a non-countervailable duty drawback program. However, in situations where the exporter of the processed product is not the importer and processor of the imported input, the exporter receiving duty-free import rights is receiving a credit which can be sold; the importer purchasing that credit is exempt from duties and is under no obligation to export. Commerce found that the granting of duty-free import rights where the exporter of the processed product is not the importer and processor of the imported input, confers a countervailable subsidy, because in authorizing the duty-free importation of the inputs, the GOI is forgoing revenue that it is otherwise due.⁶⁹

17) Development Grants Under Law 30 of 1984

Law 30 of 1984 was enacted by the Regional Government of Friuli-Venezia Giulia to provide one-time development grants to companies for investments in industrial projects, including the construction of new plants and modernization or expansion of existing plants. Eligible companies can receive a grant amounting to 20 percent of the cost of the investment. Companies located only in certain parts of the Friuli-Venezia Giulia region are eligible to receive benefits under this program in accordance with article 87, paragraph 3, letter c of the EC Treaty.

18) Law 908/55 (Revolving Fund for Economic Initiatives) Loan

The GOI created the Fondo di Rotazione Iniziative Economiche (Rotational Fund for Economic Initiatives) (FRIE) through Law 908 of October 18, 1955, in order to promote economic initiatives within the territory of Trieste and the province of Gorizia in the Friuli-Venezia Giulia region. The fund provides reduced-interest loans for the construction, re-activation, transformation, modernization, improvement, and industrial development of industrial plants and handicraft companies in the above-noted areas. Companies that receive long-term, variable rate loans under this program receive an interest rate equal to 50 percent of the 6-month Euro Interbank Offered Rate.

19) Law 289/02, Article 62, Investments in Disadvantaged Areas

Article 62 of Law 289/02 provides a tax credit. The law was established to promote investment in disadvantaged areas by providing assistance to companies making investments such as the purchase of new equipment for existing structures or building new structures.

20) Law 289/02, Article 63, Increase in Employment

Article 63 of Law 289/02 provides a tax credit. The law was established to promote employment by providing a tax credit to companies that hire new employees. Companies in Italy will receive a tax credit of 100 euros for each new hire. If the employee is over 45, the amount increases to 150 euros. An additional credit of 300 euros will be granted to companies located in certain regions of Italy.

⁶⁹ See *Certain Pasta from Italy: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 66 FR 40987, 40994 (August 6, 2001); unchanged in *Certain Pasta from Italy: Final Results of the Fourth Countervailing Duty Administrative Review*, 66 FR 64214 (December 12, 2001), and accompanying Issues and Decision Memorandum at “13. Duty-Free Import Rights.”

21) *Law 662/96, Article 2, Paragraph 203, Letter d (Patti Territoriali)*

The Patti Territoriali provides grants to companies for entrepreneurial initiatives, such as to open new plants, or modernize and restructure existing plants. To apply for grants, companies must be involved in mining, manufacturing, production of thermal or electric power from biomass, service companies, tourist companies, agricultural, maritime and salt-water fishing businesses, aquaculture enterprises, or their associations. The Patti Territoriali provides grants to companies located within regions which meet the criteria of Objective 1 or Objective 2 under the Structural Funds or article 87.3.c of the Treaty of Rome.

22) *Law 196/97*

Law 196/97 allows for a reduction or exemption from social security contributions for workers between the ages of 16 and 32 that were hired under labor or training contracts. Reductions range from 25 percent to 100 percent depending on the locations. The newly hired workers must increase the company's total work force or the worker must be 29 years old or younger. Employers are exempt from paying a social security contribution for up to 2 years for newly hired workers under a temporary contract. If the workers are later hired under a permanent contract, the employer may apply for an additional 12 months.

23) *European Regional Development Fund Programma Operativo Plurifondo (P.O.P)*

The P.O.P. grant is a regional grant funded by the ERDF, the GOI, and the Regione Campania. The ERDF program provides grants to companies located within regions which meet the criteria of Objective 1, (underdeveloped regions), Objective 2 (declining industrial regions), or Objective 5(b) (Declining agricultural regions) under the Structural Funds.

24) *Law 223/91 Article 8, Paragraph 2*

Law 223/91, Article 8, Paragraph 2 is intended to encourage the hiring of unemployed workers on a special mobility list. The mobility list is comprised of recently fired workers in certain sectors of the economy, but companies in any sector may hire workers off the list. Under this law, the employer is exempted from social security contributions when a mobility listed worker is hired under a short-term contract for up to 12 months. If the short-term contract is converted to a permanent contract, the employer receives benefits for an additional 12 months.

25) *Law 223/91 Article 8, Paragraph 4*

Law 223/91, Article 8, Paragraph 4 is intended to encourage the hiring of workers on a special mobility listed. The mobility list is comprised of recently fired workers in certain sectors of the economy. Companies that hire unemployed, mobility-listed people under a permanent and full-time contract are granted a credit of 50 percent of what the employee would have received in unemployment benefits.

26) *Legislative Decree 276/03*

Under this decree, companies receive benefits for hiring workers under mixed contracts possessing a work component and a training component. The three categories of employee contracts recognized under this decree are (1) working toward completion of compulsory schooling; (2) working toward completion of trade schooling; and (3) high-level training of

special skills for a worker. Except for a weekly flat fee paid by the employer on behalf of the employee, the employer receives a total exemption from its social security contribution.

27) *Law 662/96 Contratto di Programma*

Law 662/96, Article 2, Paragraph 203, Letter 3 provides grants for the expansion of existing facilities in regions that meet the criteria of Objective 1 or Objective 2 under the Structural Funds or Article 87.3.c of the Treaty of Rome. To receive funding, an entity must apply for the grant through the Ministry of Economic Development which verifies the technical and economic validity of the proposed project, the entrepreneurship requirements of the proposing party, and the adequacy of the allocated funds. The Ministry then files a report with the Interministerial Committee for Economic Planning to approve the financial contribution.

28) *Interest Contributions under Law 488/92*

In the second administrative review of this order, Commerce found that “loans are not provided under Law 488/92.”⁷⁰ However, in the 13th review, we found that the GOI provided documentation demonstrating that a decree had been implemented which changed this practice to permit companies to obtain loans, in addition to grants, for initiatives in areas eligible for assistance under Law 488/92.⁷¹ Under this modification to Law 488/92, loans are available for a term of six to 15 years. The fixed-interest rates on these long-term loans were set at a rate of 0.50 percent with the GOI covering the difference in interest amount between that rate and the market rate.

29) *Law 46/1982, Article 14 (Fondo Innovazione Tecnologica) loans and grants*

Article 14 of Law 46/1982 authorized the creation of a revolving fund for technology innovation, also known as the FIT Program. Through the fund, the Ministry of Economic Development provides aid for experimental and industrial research projects in the form of soft loans, grants against interest, and capital grants. After an application is submitted to one of the banks approved by the Ministry to administer the program, the application is evaluated on a number of scientific, technological and economic criteria.

30) *Regional Law 34/1988*

Under Regional Law 34/1988, the Regional Department of Industry in Sicily may provide interest contributions to companies that belong to “Consorzi di Garanzi Fidi,” consortia composed of a number of companies. The GOI’s contributions are made against interest paid by consortium members on lines of credit taken out through the consortium.

31) *Measure 3.14 of the POR Sicilia 2000/2006*

Measure 3.14 POR Sicilia 2000/2006 is a regional development program designed to encourage stable economic growth in southern Italy. Measure 3.14 provides assistance in the form of grants to companies that undertake approved industrial research projects. Companies may apply for

⁷⁰ See *Certain Pasta from Italy: Preliminary Results of Countervailing Duty Administrative Review*, 64 FR 17620 (April 12, 1999) (unchanged in *Certain Pasta from Italy: Final Results of the Second Countervailing Duty Administrative Review*, 64 FR 44489 (August 16, 1999)).

⁷¹ See *Certain Pasta from Italy: Preliminary Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 18806 (April 13, 2010) (unchanged in *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386 (June 29, 2010)).

funding under two provisions. The first provision provides support to companies for developing best practices in a number of fields. Most grants are given under the second provision, which funds industrial research projects, particularly those that are undertaken in partnership with other companies or with research institutions such as universities.

32) Tax Credits Under Article 280 of Law 296/2006

Under Article 280 of Law 296/2006, the GOI authorizes a tax credit to companies of up to ten percent of the costs associated with eligible research activities, or a tax credit of up to 15 percent for research expenses associated with contracts between companies and research institutions.

33) Article 23 of Legislative Decree 38/2000

Article 23 of Legislative Decree 38/2000 helps certain companies comply with the workplace safety regulations contained in Legislative Decree 626/94 by providing assistance to those companies. The program is administered by the National Institute for Insurance Against Injuries in the Workplace (INAIL), which is an agency of the Italian government. To be eligible for assistance, firms must be operating in the agricultural or artisanal sectors and qualify as small- to medium-sized companies (*i.e.*, they must have fewer than 250 employees, and their total annual turnover must be less than 40 million Euros, or they must have total assets of less than 27 million Euros). INAIL is authorized to award funds in the form of grants or loans. It pays all interest and fees on the loans directly to the issuing bank, effectively making the loans interest-free to the recipient.

34) Tremonti Ter

Tremonti Ter is a measure under Article 5 of Law 7 of July 1, 2009, with additional amendments under Law 102 of August 3, 2009. The measure provides a deduction from taxable income in the amount of fifty percent of the value of certain investments in new machinery and new equipment.

35) PO FESR Measure 4.1.1.1

The GOI reported that PO FESR is a grant program associated with the ERDF regional operational program for Sicily and is jointly financed by the EU's Structural Funds, the GOI, and the regional government of Sicily.

36) Law 167/2011

This is a sgravi benefit in which the GOI exempts companies, or reduces a company's contribution to, payroll contributions that employers make to the Italian social security system for health care benefits, pension funds, etc.

37) Article 42 of Law 78/2010

Under Article 42 of Law 48/2010, companies can receive a deferral of income tax when the companies create a corporate network with the purpose of pooling their profits in non-distributed reserves. Under this program, income taxes are deferred until the network implements new investments.

38) *Article 1 of Law 296/06*

This law established a tax credit for companies who carried out new investments in manufacturing facilities located in the “disadvantaged areas” of Abruzzo Basilicata, Calabria, Campania, Molise, Puglia, Sardinia and Sicily during the years 2007 through 2013. The Law provides that the tax credit might be used for the payment of income taxes and the company may keep any excess compensation.

39) *POR FESR Molise 2007/2013*

The GOI reported that this grant program makes funds available for improving technological innovation to small and medium sized enterprises in the Molise region. This program is funded by the ERDF.

40) *Law 223/91, Article 25, Paragraph 9*

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

41) *Ministerial Decrees of July 23, 2009 and August 6, 2010 (Berlusconi Grant and Loan)*

The Ministerial Decree of July 23, 2009, provided a regulatory framework for companies to obtain economic aid for productive investments located in the four “Convergence” regions of Campania, Calabria, Puglia, and Sicily. According to the GOI, within this regulatory framework, the Ministry of Economic Development issued the Ministerial Decree of August 6, 2010, which discussed specific areas for which financial assistance is available in the form of grants and loans, including investments that pursue innovation, competitive improvement, environmental protection, and energy saving. The GOI explained that the decree of August 6, 2010, is also known as the Berlusconi Grant and loan program because it was signed by the Acting Minister of Economic Development, Silvio Berlusconi.

VI. FINAL RESULTS OF THE REVIEW

As a result of this sunset review, Commerce finds that revocation of the *Order* would likely lead to a continuation or recurrence of a countervailable subsidy at the rates listed below:

Producer/Exporter	Net Countervailable Subsidy (Percent)
Agritalia, S.r.l.	10.45
Arrighi S.p.A. Industrie Alimentari	10.34
De Matteis Agroalimentare S.p.A.	9.64
Delverde, S.r.l.	13.25
F.lli DeCecco di Filippo Fara S. Martino S.p.A.	9.90
Industria Alimentare Colavita, S.p.A.	9.50
Isola del Grano, S.r.L.	17.19

Italpast S.p.A.	17.19
Italpasta S.r.L.	10.34
La Molisana Alimentari S.p.A.	11.31
Labor, S.r.L.	17.19
Molino e Pastificio DeCecco S.p.A. Pescara	9.90
Pastificio Guido Ferrara	8.83
Pastificio Campano, S.p.A.	9.96
Pastificio Riscossa F.lli Mastromauro S.r.L.	14.30
Tamma Industrie Alimentari di Capitanata	13.25
All Others	11.01

VII. RECOMMENDATION

Based on our analysis of the substantive response received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of this sunset review in the *Federal Register* and notify the ITC of our findings.



Agree

Disagree

11/28/2018

X 

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 of Enforcement and Compliance