



C-475-819  
Administrative Review  
POR: 1/1/2016 – 12/31/2016  
**Public Document**  
AD/CVD Office I

DATE: December 7, 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  
Countervailing Duty Administrative Review: Certain Pasta from  
Italy; 2016

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## **I. Summary**

The Department of Commerce (Commerce) has completed the administrative review of the countervailing duty (CVD) order<sup>1</sup> on pasta from Italy, for the period of review (POR) January 1, 2016, through December 31, 2016, in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). We analyzed the supplemental questionnaire response filed by the Government of Italy (GOI) on September 4, 2018,<sup>2</sup> as well as the case brief submitted by GR.A.M.M. S.r.L. (GR.A.M.M.),<sup>3</sup> the sole mandatory company respondent in this review, following the *Preliminary Results*,<sup>4</sup> and we have addressed the issues raised in the “Analysis of Comments” section below. No rebuttal briefs were received. We continue to find that GR.A.M.M. benefitted from countervailable subsidies during the POR.

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<sup>1</sup> See *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta (“Pasta”) From Italy*, 61 FR 38544 (July 24, 1996) (Order).

<sup>2</sup> See GOI September 4, 2018 Post-Preliminary Supplemental Questionnaire Response (GOI September 4, 2018 Post-Preliminary Response).

<sup>3</sup> See Letter from GR.A.M.M., “Certain Pasta from Italy: C-475-819; Administrative Brief,” dated September 11, 2018 (GR.A.M.M. Case Brief).

<sup>4</sup> See *Certain Pasta from Italy: Preliminary Results of Countervailing Duty Administrative Review and Partial Rescission; 2016*, 83 FR 39418 (August 9, 2018) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum (PDM).



## **II. Background**

On August 9, 2018, we published the *Preliminary Results* of this administrative review, finding that the mandatory respondent, GR.A.M.M. received countervailable subsidies during the POR.<sup>5</sup> In the *Preliminary Results*, Commerce expressed its intent to seek additional information from the GOI.<sup>6</sup> Accordingly, Commerce sent a third supplemental questionnaire to the GOI after the *Preliminary Results*.<sup>7</sup> The GOI submitted a timely response on September 4, 2018.<sup>8</sup>

We invited interested parties to comment on the *Preliminary Results*.<sup>9</sup> On September 11, 2018, we received a timely case brief from GR.A.M.M.<sup>10</sup> We did not receive rebuttal comments from the petitioner.

## **III. List of Interested Party Comments**

**Comment 1:** Commerce Should Not Make Any Changes to the Results Other Than Those Raised in Parties' Briefs

**Comment 2:** Commerce Should Exclude the Action 6.1.4 Program from the Final Results

**Comment 3:** Commerce Should Recalculate the Benefit for the ERDF Measure 4.1 Program

## **IV. Scope of the Order**

Imports covered by this 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 this 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.<sup>11</sup> Pursuant to Commerce's May 12, 2011 changed circumstances review, effective January 1, 2009, gluten

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<sup>5</sup> See *Preliminary Results*.

<sup>6</sup> See *Preliminary Results* and accompanying PDM at 10.

<sup>7</sup> See Commerce Letter re: Administrative Review of the Countervailing Duty Order on *Certain Pasta from Italy*: Supplemental Questionnaire, dated August 17, 2018 (Third Supplemental CVD Questionnaire).

<sup>8</sup> See GOI September 4, 2018 Post-Preliminary Response.

<sup>9</sup> See *Preliminary Results*.

<sup>10</sup> See GR.A.M.M. Case Brief.

<sup>11</sup> See Memorandum to Richard Moreland, dated August 25, 1997, which is on file in the CRU.

free pasta is also excluded from the scope of the Order.<sup>12</sup> Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the Order.<sup>13</sup>

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.

## **V. Changes Since the Preliminary Results**

Following the *Preliminary Results*, we requested additional information from the Government of Italy (GOI) on financial assistance given to the pasta industry, as well as other industries, during the 2007-2013 period under Action 6.1.4 by the Regional Government of Puglia (Action 6.1.4) to determine whether funding by the regional government was *de facto* specific.<sup>14</sup> The GOI provided the information we requested.<sup>15</sup> We have determined that the funding was not *de facto* specific. Therefore, we revised our subsidy calculation for this program for these final results of review. This change is discussed in detail below, in the section titled "Analysis of Programs."

Commerce also has changed one of the two discount rates used in allocating the benefit derived from each of the non-recurring grants received under Action 6.1.4 over the AUL. The GOI reported that GR.A.M.M. was approved for financial assistance in 2011. Both GR.A.M.M. and the GOI also reported that GR.A.M.M. was approved for additional funds in 2013. Therefore, in the *Preliminary Results*, we calculated the benefits GR.A.M.M. received using the discount rate for 2011 and 2013.<sup>16</sup>

However, in the GOI's post-preliminary supplemental questionnaire response, the GOI reported that GR.A.M.M. received final approval for the additional grant in 2015. Therefore, for the final results, we are revising our calculation of the benefit received from the second grant by using the 2015 discount rate instead of the 2013 rate.

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

<sup>13</sup> 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).

<sup>14</sup> See Third Supplemental CVD Questionnaire.

<sup>15</sup> See GOI September 4, 2018 Post-Preliminary Response.

<sup>16</sup> See Memorandum, "Preliminary Results Calculation Memorandum for GR.A.M.M. S.r.l.," dated August 3, 2018 (Preliminary Calculation Memorandum) at 3.

## **VI. Subsidy Valuation Information**

### **Allocation Period**

We made no changes to the allocation period (AUL) or to the allocation methodology used in the *Preliminary Results* and no issues were raised by interested parties in briefs regarding this topic. For a description of the allocation period and the methodology used for the final analysis, see the *Preliminary Results*.<sup>17</sup>

### **Attribution of Subsidies**

We made no changes to the methodologies used in the *Preliminary Results* for attributing subsidies. No issues were raised by interested parties in briefs, nor was any new factual information provided that would lead us to reconsider our *Preliminary Results* regarding the attribution of subsidies.<sup>18</sup>

### **Denominators**

In accordance with 19 CFR 351.525(a), Commerce calculates *ad valorem* subsidy rates by dividing the amount of the benefit allocated during the POR by the sales value during the same period. Pursuant to 19 CFR 351.525(b)(1)-(7), Commerce considers the basis for a respondent's receipt of benefits under each program when considering the appropriate denominator for purposes of measuring the countervailable subsidy, either the respondent's total sales, sales of subject merchandise, or export sales.

### **Discount Rates**

Commerce has changed the discount rate used in the *Preliminary Results*, to calculate the countervailable subsidy rate under the program Action 6.1.4. In the *Preliminary Results*, we found that GR.A.M.M. had been approved for funding under this program in 2011 and 2013, and we used discount rates for these years to allocate the non-recurring subsidies provided under Action 6.1.4 in the calculation of the countervailable subsidy rate, as provided for under 19 CFR 351.524(d).<sup>19</sup> However, in reviewing the GOI's post-preliminary supplemental questionnaire response, submitted after the *Preliminary Results*, we found that the approval that GR.A.M.M. had in 2013 was only a provisional approval; final approval for the grant provided to GR.A.M.M. in 2015 was received in 2015. As explained below, as a result of this change in the year of approval, we also performed the "0.5 percent test" provided for in 19 CFR 351.524(b)(2) in 2015. Because the result is greater than 0.5 percent, for purposes of these final results of review, we have allocated the grant received by GR.A.M.M. in 2015 using a 2015 discount rate over the AUL, consistent with 19 CFR 351.524(b)(1).

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<sup>17</sup> See *Preliminary Results* and accompanying PDM at 4.

<sup>18</sup> See *Preliminary Results* and accompanying PDM at 5.

<sup>19</sup> See Preliminary Calculation Memorandum at 3; Letter from GR.A.M.M., "Certain Pasta from Italy, C-475-819; Affiliated Parties Response," dated February 2, 2018, at Exhibit CVD 10(B)(ii) (GR.A.M.M. IQR); see also Letter from the GOI dated May 7, 2018, at Grant Information Appendix for Action 6.1.4.

## VII. Analysis of Programs

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

### A. Programs Determined To Be Countervailable

#### 1. Law 488/92 - Industrial Development Grants

Commerce made no changes to the *Preliminary Results* regarding this program.<sup>20</sup> Interested parties did not submit comments on the countervailability of this program. We determine the countervailable subsidy rate for GR.A.M.M. under this program to be 0.15 percent *ad valorem*.<sup>21</sup>

#### 2. ERDF ROP 2000-2006 Measure 4.1 - Real Services to Businesses

Commerce made no changes to the *Preliminary Results* regarding this program.<sup>22</sup> GR.A.M.M. submitted comments in its case brief regarding this program that are discussed in Comment 3. We continue to find Measure 4.1 export specific; and, therefore, are calculating GR.A.M.M.'s net subsidy rate for this program using its export sales as the denominator.<sup>23</sup> We determine the net subsidy rate for GR.A.M.M. under this program continues to be 0.05 percent *ad valorem*.

#### 3. ERDF 2007-2013, Action 6.1.4, Assistance to Improve the Competitiveness of Micro and Small Businesses

In the *Preliminary Results*, we found this program to be regionally specific with respect to funding by the European Regional Development Fund (ERDF) and the GOI pursuant to section 771(5A)(D)(iv) of the Act, and we found the program to be *de facto* specific with regard to funding by the Regional Government of Puglia, pursuant to section 771(5A)(D)(iii) of the Act, because GR.A.M.M. received a disproportionately large amount of assistance under this program.<sup>24</sup> However, as we explained in the *Preliminary Results*,<sup>25</sup> we requested additional information about this program before issuing the final results from the GOI.

Based on the detailed industry information that the GOI provided in its post-preliminary response, we no longer find the contributions of the Regional Government of Puglia to be *de facto* specific and, therefore, we find this particular funding not countervailable. According to the GOI, the number of recipients of this subsidy in Puglia is not limited, and neither GR.A.M.M., nor the pasta industry, received a predominant or disproportionate share of the assistance provided under this program.<sup>26</sup> However, we continue to find that the portions of the grants under this program that are funded by the ERDF and GOI are regionally specific within

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<sup>20</sup> See *Preliminary Results* and accompanying PDM at 6-7.

<sup>21</sup> See Preliminary Calculation Memorandum at 3; see also *Preliminary Results* and accompanying PDM at 7.

<sup>22</sup> See *Preliminary Results* and accompanying PDM at 7-9.

<sup>23</sup> See *Preliminary Results* and accompanying PDM at 8.

<sup>24</sup> See *Preliminary Results* and accompanying PDM at 9-10.

<sup>25</sup> *Id.*

<sup>26</sup> See GOI September 4, 2018 Post-Preliminary Response at 4-7.

the meaning of section 771(5A)(D)(iv) of the Act and, thus countervailable.<sup>27</sup>

In accordance with 19 CFR 351.524(c), we continue to treat these grants as non-recurring subsidies, and we performed the “0.5 percent test” provided in 19 CFR 351.524(b)(2). We divided the portion of each grant that was funded by the ERDF or the GOI and approved in either 2011 or 2015 by GR.A.M.M.’s total sales in the year of approval. Because the resulting percentage is greater than 0.5 percent in each approval year, we have allocated the grant over the AUL. To determine GR.A.M.M.’s subsidy rate, we added the benefit amounts allocated to the POR and divided this amount by GR.A.M.M.’s total sales in the POR. On this basis, we determine a countervailable subsidy rate of 0.11 percent *ad valorem* for GR.A.M.M. under this program.

We address the comments that GR.A.M.M. provided in its case brief regarding this program in Comment 2.

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

Commerce made no changes to the *Preliminary Results* regarding this program.<sup>28</sup> We determine the countervailable subsidy rate for GR.A.M.M. under this program to be 0.75 percent *ad valorem*.<sup>29</sup>

5. Social Security Reductions and Exemptions 1089/68 (Unico) and Subsequent Laws- Sgravi Law 407/90

Commerce made no changes to the *Preliminary Results* regarding this program.<sup>30</sup> We determine the countervailable subsidy rate for GR.A.M.M. under this program to be 0.06 percent *ad valorem*.<sup>31</sup>

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

Commerce made no changes to the *Preliminary Results* regarding this program.<sup>32</sup> We determine the countervailable subsidy rate for GR.A.M.M. under this program to be 0.06 percent *ad valorem*.<sup>33</sup>

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<sup>27</sup> See *Preliminary Results* and accompanying PDM at 9-10.

<sup>28</sup> See *Preliminary Results* and accompanying PDM at 10-12.

<sup>29</sup> See Preliminary Calculation Memorandum at 4; see also *Preliminary Results* and accompanying PDM at 12.

<sup>30</sup> See *Preliminary Results* and accompanying PDM at 12-13.

<sup>31</sup> See Preliminary Calculation Memorandum at 4; see also *Preliminary Results* and accompanying PDM at 13.

<sup>32</sup> See *Preliminary Results* and accompanying PDM at 13-14.

<sup>33</sup> See Preliminary Calculation Memorandum at 4-5; see also *Preliminary Results* and accompanying PDM at 14.

## **B. Program Found to Be Not Countervailable**

### **Law 208/2015**

Commerce made no changes to the *Preliminary Results* regarding this program. We continue to find Law 208/2015 not countervailable.<sup>34</sup>

## **C. Programs Preliminarily Determined To Be Not Used or Not to Confer a Measurable Benefit During the POR**

Commerce has made no changes to the *Preliminary Results*, in which we found that the programs listed below 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
- 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

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<sup>34</sup> See *Preliminary Results* and accompanying PDM at 15.

## **VIII. Discussion of the Issues**

### **Comment 1: Commerce Should Not Make Any Changes to the Results Other Than Those Raised in Parties' Briefs**

*GR.A.M.M.'s Comments:*<sup>35</sup>

- Commerce should not make any changes to the *Preliminary Results*, other than those resulting from issues raised in the parties' briefs.
- If Commerce believes that additional changes are appropriate, Commerce should issue post-preliminary results to allow parties to comment on such changes.

#### **Commerce's Position:**

In the *Preliminary Results*, we stated that we intended to seek further information on Action 6.1.4 to determine whether the program is *de facto* specific with respect to funding from the regional government. The respondent provided comments regarding the specificity of the program in its case brief which we have addressed in the final results. We have made a change to our finding regarding this program in response to GR.A.M.M.'s arguments; as such, GR.A.M.M.'s contention that Commerce cannot make changes to the *Preliminary Results* absent a post-preliminary decision and opportunity to comment is inapplicable to the change made to our findings regarding Action 6.1.4.

Regarding the change made to the discount rate, we are making this change for these final results based on information provided by the GOI after the preliminary results.<sup>36</sup> This information indicates that the year of approval was 2015, not 2013. Commerce has the discretion to change its determinations between preliminary and final results, whether or not it has sought additional information from interested parties following the preliminary results.<sup>37</sup>

### **Comment 2: Commerce Should Exclude the Action 6.1.4 Program from the Final Results**

*GR.A.M.M.'s Comments:*<sup>38</sup>

- The Action 6.1.4 program is not countervailable because it is not regionally, industry, or export specific.
- The program is not regionally specific; rather, it is focused on levels of economic development. Any entity in the EU that is a small or micro business may apply for benefits under this program.
- The program is not export specific because eligibility is not based on export promotion but rather on the overall competitiveness of the small or micro business.
- Even though a portion of the program is funded by the Government of Puglia, there is no evidence on the record that eligibility for this funding is *de facto* specific. As noted in the

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<sup>35</sup> See GR.A.M.M. Case Brief at 1-2.

<sup>36</sup> See GOI September 4, 2018 Post Preliminary response.

<sup>37</sup> See, e.g., *Am. Signature, Inc. v. United States*, 598 F.3d 816, 826 (Fed. Circ. 2010) (in context of correcting ministerial errors, “{t}he statute and regulation{s} clearly permit the sua sponte correction of a ministerial error by Commerce whether or not a party has requested correction”).

<sup>38</sup> See GR.A.M.M. Case Brief at 1-3.



GOI's September 4, 2018 Post-Preliminary Response, benefits were provided to a broad range of industries and businesses, ranging from manufacturing to hotels to education to arts and entertainment. The receipt of benefits by such a broad range of entities clearly establishes that assistance is not targeted to a specific industry.

### **Commerce's Position:**

We disagree with GR.A.M.M. that Action 6.1.4 is not regionally specific with respect to ERDF funding. During this review, the GOI provided EC Regulation No. 1783/1999, which governs the operation of the European Regional Development Fund (ERDF).<sup>39</sup> The regulation states that:

“the {ERDF} is intended to help to redress the main regional imbalances in the Community. . . . The ERDF therefore contributes to reducing the gap between the levels of development of the various regions and the extent to which the least favoured regions including rural and urban areas, declining industrial regions, areas with a geographical or natural handicap, such as islands, mountainous areas, sparsely populated areas and border regions, are lagging behind.”

Consistent with our prior finding in the *2013 Administrative Review*, we continue to find ERDF grants, such as Action 6.1.4, to be regionally specific, as the purpose of the ERDF is to reduce regional disparities in socio-economic performance within the European Union.<sup>40</sup>

We agree with GR.A.M.M. that the objective of the ERDF is to reduce the gap between levels of economic development; however, we find that the ERDF administers financial assistance to specific regions in the EU that meet the criteria for being underdeveloped. The GOI also confirmed that, to receive funding under the ERDF Regulation a firm must be located in the Puglia region, an underdeveloped region of Italy.<sup>41</sup> These facts support Commerce's finding that this ERDF-sourced assistance, from the EU and GOI, is granted on a regionally-specific basis, under section 771(5A)(D)(iv) of the Act, because it is limited to enterprises or industries located in a designated geographical region.

Furthermore, in reviewing the notice for the disbursement of funds under this program,<sup>42</sup> we note that funds are disbursed in accordance with various regulations, including the 2007-2013 ERDF program for the Puglia Region. The application form for assistance under this program states that the “Proposed initiative refers to local companies situated in the territory of the Apulia Region.”<sup>43</sup> Therefore, GR.A.M.M.'s argument that any entity in the EU that is a small or micro business, located

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<sup>39</sup> See GOI's May 7, 2018 First Supplemental Questionnaire Response (GOI 1SQR) at Exhibit 1.

<sup>40</sup> 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*).

<sup>41</sup> See GOI 1SQR at Standard Questions Appendix for Action 6.1.4. *see also* GOI's July 6, 2018 Second Supplemental Questionnaire Response (GOI 2SQR) at 5. a

<sup>42</sup> See GOI 2SQR at Exhibit 2 (“Notice for the disbursement of “Assistance for investment programs promoted by Micro and Small Enterprises”).

<sup>43</sup> See GOI 2SQR at Exhibit 2 (“Notice for the submission of applications for access pursuant to Article 15 of the General Regulation of exempted aid schemes n. 1 of 19th January 2009 - Title II”).

in any region, may apply for benefits under this program is not supported by the facts on the record.<sup>44</sup> Because the ERDF provides assistance to communities on a regional basis and the financial assistance provided under Action 6.1.4 is available only to companies located in Puglia, we continue to find this program to be regionally specific with respect to ERDF funding and, thus, the portion of the funding provided by the EU and GOI.

However, after examining the additional information provided by the GOI after the *Preliminary Results*, we agree with GR.A.M.M. that the funding provided under this program by the Regional Government of Puglia is not *de facto* specific. The additional information provided by the GOI demonstrates that the number of recipients under this program is not limited and further demonstrates that GR.A.M.M. and the pasta industry did not receive a predominant or disproportionately large amount of assistance.<sup>45</sup> On this basis, we find that, while the funding provided by the EU and GOI is regionally specific, the funding provided by the regional government of Puglia under the program is not *de facto* specific under section 771(5A)(D)(iii) of the Act.

### **Comment 3: Commerce Should Recalculate the Benefit for the ERDF Measure 4.1 Program**

#### *GR.A.M.M.'s Comments*<sup>46</sup>

- Commerce should re-calculate the benefit for the ERDF Measure 4.1 program using total sales from 2016 as the denominator, not export sales from 2016. As noted in the GOI's supplemental response, this program is not export oriented, but rather applies to all sales in all markets.

#### **Commerce's Position:**

We disagree with GR.A.M.M. that Commerce should recalculate the benefit for this program. To be countervailable, a program must be specific pursuant to section 771(5A) of the Act. A subsidy is specific if it is an export subsidy, according to section 771(5A)(A) and (B) of the Act, that is, in law or in fact, contingent upon export performance, alone or as 1 of 2 or more conditions.

In its initial questionnaire response, GR.A.M.M. stated that it received benefits to cover costs stemming from its participation in a trade fair and in exhibitions in foreign countries to promote the sales of its products.<sup>47</sup> GR.A.M.M. detailed the application and approval process for receiving benefits under Measure 4.1, explaining that it filed a request indicating the nature of its expenses, the projects were submitted to a third party, and assigned a score.<sup>48</sup> Funds were distributed based on the company's score. Because we find that participation in a trade fair and in exhibitions in foreign countries to promote the sales of products is a condition to receiving a benefit from Measure 4.1, we continue to find this program to be specific as an export subsidy.

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<sup>44</sup> See GR.A.M.M. Case Brief at 2.

<sup>45</sup> See GOI September 4, 2018 Post-Preliminary Response.

<sup>46</sup> See GR.A.M.M. Case Brief at 3-4.

<sup>47</sup> See GR.A.M.M. IQR at Exhibit CVD-10(A)(i).

<sup>48</sup> *Id.*

This finding is consistent with *Ripe Olives from Spain*,<sup>49</sup> where Commerce determined that a grant to defray expenses for attending international trade fairs is an export subsidy because these are activities by which companies seek to expand their export sales.

Furthermore, as we explained in the *Preliminary Results*, Article 3 of Measure 4.1 provides a list of fifteen eligible expenses, called “interventions,” for which a firm may receive financial assistance, three of which are expenses pertaining to export sales or export marketing.<sup>50</sup> Specifically, intervention 8 is for “market research Finalized to the identification {sic} and to the penetration of new markets, with priorities abroad”; intervention 9 is for “Operational plans of marketing and sales” (noting that a “marketing and sales operational plan must be functional to the commercial penetration of a new market, with priority towards foreign countries”); and, intervention 12 is for, “{p}articipation in fairs and events mainly abroad and for groups of companies.”<sup>51</sup>

For these reasons, we continue to find this program to be specific as an export subsidy within the meaning of section 771(5A)(B) of the Act. We also continue to find that, because this program is an export subsidy, it is proper to calculate the *ad valorem* subsidy rate by dividing the amount of the benefit by the sales value of export sales from 2016, rather than total sales from 2016.

## IX. Conclusion

Based on our analysis of the GOI’s Post-Preliminary Response and the comments received, we recommend adopting all of the above positions. If accepted, we will publish the final results of this administrative review in the *Federal Register*.



Agree



Disagree

12/7/2018

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 for Enforcement and Compliance

<sup>49</sup> See *Ripe Olives from Spain: Final Affirmative Countervailing Duty Determination*, 83 FR 28186 (June 18, 2018) and accompanying IDM at 14-15 (*Ripe Olives from Spain*).

<sup>50</sup> *Preliminary Results* and accompanying PDM at 7-9.

<sup>51</sup> See GOI 2SQR at Exhibit 1.