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International Trade Administration
Washington, D.C. 20230

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Investigation
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E&C/OI: NC/ET

May 18, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy

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I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of forged steel fluid end blocks (fluid end blocks) in Italy, as provided in section 703(b)(1) of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Initiation and Case History

On December 19, 2019, the FEB Fair Trade Coalition, Ellwood Group, and Finkl Steel (collectively, the petitioners), filed a petition with Commerce seeking the imposition of countervailing duties (CVD) on imports of fluid end blocks from Italy.[1] On January 8, 2020, Commerce initiated a CVD investigation on fluid end blocks from Italy.[2]

B. Respondent Selection

In the *Initiation Notice*, we stated that, in the event Commerce determines that the number of companies is large, and it cannot individually examine each company based upon Commerce's available resources, Commerce would select mandatory respondents based on quantity and value

[1] *See* Petitioners' Letter, "Fluid End Blocks from China, Germany, India, and Italy: Antidumping and Countervailing Duty Petitions," dated December 19. 2019 (Petition).
[2] *See Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy, and the People's Republic of China: Initiation of Countervailing Duty Investigation*, 85 FR 2385 (January 15, 2020) (*Initiation Notice*).

(Q&V) questionnaires issued to potential respondents. Commerce normally selects mandatory respondents in CVD investigations using U.S. Customs and Border Protection (CBP) entry data for imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) numbers listed in the scope of the investigations. However, for this investigation, the HTSUS numbers under which the subject merchandise would enter (7218.91.0030, 7218.99.0030, 7224.90.0015, 7224.90.0045, 7326.19.0010, 7326.90.8688, or 8413.91.9055) are basket categories containing a wide variety of manufactured steel products unrelated to fluid end blocks. Commerce determined, therefore, that CBP entry data could not be used for in selecting respondents.

On January 9, 2020, Commerce issued Q&V questionnaires to 17 producers/exporters of subject merchandise identified by the petitioners, with complete contact information in the Petition.[3] Additionally, Commerce posted the Q&V questionnaire, along with filing instructions, on the Enforcement and Compliance website.[4] Commerce received timely filed responses from 12 of the 17 companies that had received a Q&V questionnaire on January 21, 2020. Five companies reported exporting subject merchandise during the period of investigation (POI). On January 29, 2020, Commerce received timely filed comments from the petitioners and from two Italian producers of fluid end block named in the petition.[5]

On February 5, 2020, Commerce selected Lucchini Mame Forge S.p.A. (LMA) and Metalcam S.p.A. (Metalcam) for individual examination as mandatory respondents in this investigation. These two companies are the largest publicly identifiable producers/exporters of the subject merchandise by volume.[6]

C. Questionnaires and Responses

On February 6, 2020, Commerce issued its initial questionnaire to the Government of Italy (GOI) requesting information on programs used by the two mandatory respondents which may constitute subsidies under U.S. law.[7] On March 5, 2020, Commerce issued the initial questionnaire directly to the EU.[8] Commerce received timely filed responses to the initial questionnaire and supplemental questionnaires from the GOI, EU, LMA, and Metalcam.[9] The

[3] *See* Volume I of the Petition at 19 to 20.
[4] *See* http://trade.gov/enforcement/news.asp.
[5] *See* Petitioners' Letter, "Forged Steel Fluid End Blocks from Italy: Comments Regarding Respondent Selection," dated January 29, 2020; *see also* Metalcam S.p.A.'s Letter, "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Metalcam S.p.A. Respondent Selection Comments," dated January 29, 2020; *and* Cogne Acciai Speciali S.p.A.'s Letter, "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Cogne Acciai Speciali S.p.A. Respondent Selection Comments," dated January 29, 2020.
[6] *See* Memorandum, "Countervailing Duty Investigation on Forged Steel Fluid End Blocks from Italy: Respondent Selection," dated February 5, 2020.
[7] *See* Commerce's Letter, "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Questionnaire," dated February 6, 2020 (Initial Questionnaire).
[8] *See* Commerce's Letter, "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Questionnaire for the European Union," dated March 5, 2020.
[9] The parties requested, and Commerce granted, various extensions of the filing deadlines for the questionnaires and supplemental questionnaires. On the basis of these timely requests, the responses were timely filed. *See* LMA's Letters, "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Lucchini Mamé Forge

EU, GOI, LMA, and Metalcam filed pre-preliminary determination comments. We have considered these comments in reaching this preliminary determination.[10]

D. Postponement of the Preliminary Determination

On February 21, 2020, based on a request from the petitioners,[11] Commerce postponed the deadline for the preliminary determination until May 18, 2020, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).[12]

E. Period of Investigation

The period of investigation (POI) is January 1, 2018 through December 31, 2018.

S.p.A. Affiliation Questionnaire Response," dated February 20, 2020; "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Lucchini Mamé Forge S.p.A. Response to CVD Change in Ownership Questionnaire Response," dated March 12, 2020; "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Lucchini Mamé Forge S.p.A. First Supplemental Translation Response to CVD Change in Ownership Questionnaire Response," dated March 19, 2020; "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Lucchini Mamé Forge S.p.A. Section III, I General Questions CVD Questionnaire Narrative Response," dated March 30, 2020; "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Lucchini Mamé Forge S.p.A. Section III, I General Questions CVD Questionnaire – Exhibits to Narrative Response," dated April 3, 2020; "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Lucchini Mamé Forge S.p.A. Section III, II Program-Specific CVD Questionnaire Response," dated April 6, 2020; and "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Lucchini Mamé Forge S.p.A. Section III, II Program-Specific CVD Questionnaire Response Exhibits," dated April 8, 2020; *see also* Metalcam's Letters, "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Metalcam S.p.A. Affiliated Parties Section Response," dated February 27, 2020 (Metalcam Affiliation Response); "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Metalcam S.p.A. Countervailing Duty Questionnaire Response," dated March 30, 2020 (Metalcam IQR); and "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Metalcam S.p.A. Supplemental Affiliation Questionnaire Response," dated April 6, 2020 (Metalcam Affiliation Supplemental Response); EU's Letters, "Countervailing Duty Investigation on Forged Steel Fluid End Blocks from Italy—EU Comments on Questionnaire Response," dated March 26, 2020 (EU IQR); and "CVD Investigation Re: Forged Steel Fluid End Blocks from Italy—EU Supplemental Questionnaire Response," dated April 27, 2020 (EU SQR); and GOI's Letter, "Countervailing Duty Investigation Questionnaire - Forged Steel Fluid End Blocks from Italy: Submission of the response for the Government of Italy," dated March 30, 2020 (GOI IQR).

[10] *See* EU's Letter, "CVD Investigation re Forged Steel Fluid End Blocks from Italy—Comments in advance of the Department's preliminary determination," dated May 8, 2020; *see also* GOI's Letter, "Countervailing Duty Investigation Questionnaire—Forged Steel Fluid End Blocks from Italy: Government of Italy's response to Petitioners' comments," dated May 11, 2020; LMA's letter, "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Lucchini's Response to Petitioners' Objection to CVD Extension Request," dated May 5, 2020; Metalcam's Letter, "Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy: Response to Petitioners' May 4, 2020 Pre-Preliminary Comments," dated May 5, 2020; Petitioners' Letter, "Forged Steel Fluid End Blocks from Italy: Comments in Advance of Commerce's Preliminary Determination," dated May 4, 2020; and Petitioners' Letter, "Forged Steel Fluid End Blocks from Italy: Commerce's Authority to Countervail Discovered Programs," dated May 6, 2020.

[11] *See* Petitioners' Letter, "Forged Steel Fluid End Blocks from China, Germany, India, and Italy: Request to Extend Preliminary Results," dated February 10, 2020.

[12] *See Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy, and the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 85 FR 11336 (February 27, 2020).

F. Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), and based on the petitioners' request,[13] we are aligning the final CVD determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of fluid end blocks from Italy. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be due no later than September 29, 2020, unless postponed.

G. Injury Test

Because Italy is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Italy materially injure, or threaten material injury to, a U.S. industry. On January 31, 2020, the ITC published a preliminary determination that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of fluid end blocks from Italy that are allegedly subsidized by the GOI.[14]

III. SCOPE COMMENTS

In accordance with the preamble to Commerce's regulations,[15] we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, *i.e.*, scope. BGH Siegen,[16] Ultra Engineers (Ultra),[17] and Shanghai Qinghe Machinery Co., Ltd. (Qinghe)[18] commented on the scope of these investigations as it appeared in the *Initiation Notice*, and the petitioners submitted rebuttal comments.[19] BGH Siegen requested that special martensitic precipitation hardening stainless components and forged steel blocks not used in fluid end block applications be excluded from the scope, and Ultra and Qinghe requested an exclusion for fluid

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[13] *See* Petitioners' Letter, "Forged Steel Fluid End Blocks from China, Germany, India, and Italy: Petitioner's {*sic*} Request for Alignment of the Countervailing Duty Investigations with the Concurrent Antidumping Duty Investigations," dated April 1, 2020.

[14] *See Fluid End Blocks from China, Germany, India, and Italyl* (Inv. Nos. 701-TA-632-635 and 731-TA-1466-1468) (Preliminary), USITC Publication 5017, February 2020.

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

[16] *See* BGH Siegen's Letters, "Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy, and the People's Republic of China; Comments on the Scope of the Investigations," dated February 4, 2020; and "Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy, and the People's Republic of China; Additional Scope Comments," dated March 13, 2020.

[17] *See* Ultra's Letters, "*Ultra Comments on Scope* in the Antidumping and Countervailing Duty Investigations on Forged Steel Fluid End Blocks From the Federal Republic of Germany, India, Italy, and the People's Republic of China," dated February 4, 2020; and "*Ultra Additional Comments on Scope* in the Antidumping and Countervailing Duty Investigations on Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy and the People's Republic of China," dated March 13, 2020.

[18] *See* Qinghe's Letter, "*Qinghe Comments on Scope* in the Antidumping and Countervailing Duty Investigations on Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy and the People's Republic of China," dated March 13, 2020.

[19] *See* Petitioners' Letters, "Forged Steel Fluid End Blocks from China, Germany, India, and Italy: Petitioners' Scope Rebuttal Comments," dated February 11, 2020; and "Forged Steel Fluid End Blocks from China, Germany, India, and Italy: Petitioners' Supplemental Scope Rebuttal Comments," dated February 18, 2020.

end block assemblies. Based on our analysis of these comments, we preliminarily determined that special martensitic precipitation hardening stainless components and forged steel blocks, which meet the physical and chemical characteristics specified in the scope, are covered by the scope, while certain fluid end block assemblies are not covered by the scope.[20] For the reasons explained in the Preliminary Scope Decision Memorandum, Commerce has preliminarily revised the scope language to exclude only fluid end block assemblies.

IV. SCOPE OF THE INVESTIGATION

The products covered by this investigation are forged steel fluid end blocks (fluid end blocks), whether in finished or unfinished form, and which are typically used in the manufacture or service of hydraulic pumps.

The term "forged" is an industry term used to describe the grain texture of steel resulting from the application of localized compressive force. Illustrative forging standards include, but are not limited to, American Society for Testing and Materials (ASTM) specifications A668 and A788.

For purposes of this investigation, the term "steel" denotes metal containing the following chemical elements, by weight: (i) iron greater than or equal to 60 percent; (ii) nickel less than or equal to 8.5 percent; (iii) copper less than or equal to 6 percent; (iv) chromium greater than or equal to 0.4 percent, but less than or equal to 20 percent; and (v) molybdenum greater than or equal to 0.15 percent, but less than or equal to 3 percent. Illustrative steel standards include, but are not limited to, American Iron and Steel Institute (AISI) or Society of Automotive Engineers (SAE) grades 4130, 4135, 4140, 4320, 4330, 4340, 8630, 15-5, 17-4, F6NM, F22, F60, and XM25, as well as modified varieties of these grades.

The products covered by this investigation are: (1) cut-to-length fluid end blocks with an actual height (measured from its highest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), an actual width (measured from its widest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), and an actual length (measured from its longest point) of 11 inches (279.4 mm) to 75 inches (1,905.0 mm); and (2) strings of fluid end blocks with an actual height (measured from its highest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), an actual width (measured from its widest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), and an actual length (measured from its longest point) up to 360 inches (9,144.0 mm).

The products included in the scope of this investigation have a tensile strength of at least 70 KSI (measured in accordance with ASTM A370) and a hardness of at least 140 HBW (measured in accordance with ASTM E10).

A fluid end block may be imported in finished condition (i.e., ready for incorporation into a pump fluid end assembly without further finishing operations) or unfinished condition (i.e., forged but still requiring one or more finishing operations before it is ready for incorporation into a pump fluid end assembly). Such finishing operations may include: (1) heat treating; (2)

[20] *See* Memorandum, "Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy, and the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations," dated May 18, 2020 (Preliminary Scope Decision Memorandum).

milling one or more flat surfaces; (3) contour machining to custom shapes or dimensions; (4) drilling or boring holes; (5) threading holes; and/or (6) painting, varnishing, or coating.

Excluded from the scope of this investigation are fluid end block assemblies which (1) include (a) plungers and related housings, adapters, gaskets, seals, and packing nuts, (b) valves and related seats, springs, seals, and cover nuts, and (c) a discharge flange and related seals, and (2) are otherwise ready to be mated with the "power end" of a hydraulic pump without the need for installation of any plunger, valve, or discharge flange components, or any other further manufacturing operations.

The products included in the scope of this investigation may enter under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7218.91.0030, 7218.99.0030, 7224.90.0015, 7224.90.0045, 7326.19.0010, 7326.90.8688, or 8413.91.9055. While these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

V. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

A. Legal Standard

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, apply "facts otherwise available" if necessary information is not on the record or an interested party or any other person withholds information that has been requested; fails to provide information within the established deadlines or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; significantly impedes a proceeding; or provides information that cannot be verified, as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, Commerce's practice is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide Commerce with complete and accurate information in a timely manner."[21] Commerce's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."[22] At the same time, section 776(b)(1)(B) of the Act states that Commerce is not required to determine, or make any

[21] *See, e.g.*, *Drill Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011); *see also Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

[22] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, vol 1 (1994) at 870.

adjustments to, a countervailable subsidy rate based on any assumptions about information the interested party would have provided if the interested party had complied with the request for information.

In *Nippon Steel*, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) held that, while the statute does not provide an express definition of the "failure to act to the best of its ability" standard, the ordinary meaning of "best" is "one's maximum effort."[23] Thus, according to the Federal Circuit, the statutory mandate that a respondent act to the "best of its ability" requires the respondent to do the maximum it is able to do. The Federal Circuit indicated that inadequate responses to an agency's inquiries would suffice to find that a respondent did not act to the best of its ability. While the Federal Circuit noted that the "best of its ability" standard does not require perfection, it does not condone inattentiveness, carelessness, or inadequate record keeping.[24] The "best of its ability" standard recognizes that mistakes sometimes occur; however, it requires a respondent to, among other things, "have familiarity with all of the records it maintains," and "conduct prompt, careful, and comprehensive investigations of all relevant records that refer or relate to the imports in question to the full extent of" its ability to do so.[25] Moreover, further, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference.[26]

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."[27] It is Commerce's practice to consider information to be corroborated if it has probative value.[28] In analyzing whether information has probative value, it is Commerce's practice to examine the reliability and relevance of the information to be used.[29] However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.[30] Furthermore, Commerce is not required to corroborate any countervailing subsidy rate applied in a separate segment of the same proceeding.[31]

Under section 776(d) of the Act, when using an adverse inference in selecting among facts otherwise available in countervailing duty proceedings, Commerce may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same

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[23] *See Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (*Nippon Steel*).
[24] *Id*. at 1382.
[25] *Id.*
[26] *See, e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27340 (May 19, 1997); *see also Nippon Steel* at 1382-83.
[27] *See, e.g.*, SAA at 870.
[28] *Id.* at 870.
[29] *Id.* at 869.
[30] *Id.* at 869-870.
[31] *See* section 776(c)(2) of the Act.

country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that Commerce considers reasonable to use. Consistent with section 776(d)(2) of the Act, Commerce may apply any of such countervailing subsidy rates, including the highest of such rates, based on evaluation of the situation that resulted in using an adverse inference in selecting among facts otherwise available. Additionally, when selecting an AFA rate, Commerce is not required for purposes of section 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[32] For purposes of this preliminary determination, we are applying AFA for the circumstances outlined below.

B. Application of AFA: Non-Responsive Companies

Commerce issued Q&V questionnaires to the companies identified in the Petition. To companies that had filed an entry of appearance prior to the date the Q&V questionnaire was issued, we issued the Q&V questionnaire directly through ACCESS. For 12 of the 17 companies identified in the Petition that had not filed an entry of appearance by that date, we issued the Q&V questionnaire via Federal Express (FedEx).[33] We confirmed that all 12 of the Q&V questionnaires were delivered.[34] Of the 17 companies that were identified in the petition, 12 responded with timely filed responses; the remaining companies, Forge Mochieri S.p.A., Imer International S.p.A., Galperti Group, Mimest S.p.A., and P.Technologies S.r.L. did not respond and we are treating them as a non-responsive companies for purposes of this preliminary determination.

We preliminarily determine that, by failing to respond to our Q&V questionnaires, these five non-responsive companies withheld necessary information that was requested of them, failed to provide information within the deadlines established, and significantly impeded this proceeding. Thus, Commerce will rely on facts otherwise available in making our preliminary determination with respect to these five companies, pursuant to sections 776(a)(2)(A)-(C) of the Act.[35] Moreover, we preliminarily determine that an adverse inference is warranted in selecting from the facts available, pursuant to section 776(b) of the Act, because, by not responding to the Q&V questionnaire, these five companies did not cooperate to the best of their ability to comply with the requests for information in this investigation. Accordingly, we preliminarily find that application of AFA is warranted to ensure that Forge Mochieri S.p.A., Imer International S.p.A, Galperti Group, Mimest S.p.A, and P.Technologies S.r.L. do not obtain a more favorable result by failing to cooperate than if they had fully complied with our requests for information.

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[32] *See* section 776(d)(3) of the Act.

[33] *See* Memorandum, "Quantity and Value Questionnaire: Delivery Confirmation," dated January 23, 2020. We issued Q&V questionnaires directly via ACCESS, rather than via FedEx, to the five companies that were identified in the Petition that had already submitted an entry of appearance by the date of issuance of the Q&V questionnaire: Metalcam S.p.A.; Lucchini Mame Forge S.p.A; Cogne Acciai Speciali S.p.A.; Officina Meccanica Roselli; and Ofar S.p.A.

[34] *Id.*

[35] For the derivation of the preliminary AFA subsidy rate assigned to Forge Mochieri S.p.A.; Imer International S.p.A; Galperti Group; Mimest S.p.A; and P.Technologies S.r.L. *see* Appendix.

As facts otherwise available with an adverse inference, we find Forge Mochieri S.p.A., Imer International S.p.A., Galperti Group, Mimest S.p.A., and P.Technologies S.r.L. used and benefitted from the alleged programs at issue in this proceeding. For the five initiated upon programs that were used by the cooperating mandatory respondents, we have found the programs to be specific and to provide a financial contribution. For those alleged programs under investigation but not used by the mandatory respondents, we note that the GOI also provided information on these programs. We selected an AFA rate for each program based on the statutory hierarchy provided in section 776(d) of the Act and in accordance with Commerce's practice, and we included them in the determination of the AFA rate applied to Forge Mochieri S.p.A., Imer International S.p.A., Galperti Group, Mimest S.p.A., and P.Technologies S.r.L. For a description of the selection of the AFA rate and our corroboration of this rate, see the "Selection of the AFA Rate" and "Corroboration of the AFA Rate" sections below.

Selection of the AFA Rate

It is our practice in CVD proceedings to determine an AFA rate for Forge Mochieri S.p.A., Imer International S.p.A., Galperti Group, Mimest S.p.A., and P.Technologies S.r.L. using the highest calculated program-specific rates determined for the cooperating respondents in the instant investigation, or, if not available, rates calculated in prior CVD cases involving the same country.[36] When selecting AFA rates, section 776(d) of the Act provides that we may use a countervailable subsidy rate determined for the same or a similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that Commerce considers reasonable to use, including the highest of such rates.[37] Accordingly, when selecting AFA rates, if we have cooperating respondents, as in this investigation, we first determine if there is an identical program in the instant investigation and use the highest calculated rate for the identical program. If there is no identical program for which we calculated a subsidy rate above zero for a cooperating respondent in the investigation, we then determine if an identical program was used in another CVD proceeding involving the same country, and apply the highest calculated rate for

[36] *See, e.g.*, *Common Alloy Aluminum Sheet from the People's Republic of China: Preliminary Affirmative Countervailing Duty (CVD) Determination, Alignment of Final CVD Determination with Final Antidumping Duty Determination, and Preliminary CVD Determination of Critical Circumstances*, 83 FR 17651 (April 23, 2018), and accompanying Preliminary Decision Memorandum (PDM) at "X: Use of Facts Otherwise Available and Adverse Inferences: Application of Total AFA: Chalco Ruimin and Chalco-SWA," unchanged in *Countervailing Duty Investigation of Common Alloy Aluminum Sheet from the People's Republic of China: Final Affirmative Determination*, 83 FR 57427 (November 15, 2018); *see also Aluminum Extrusions Inv Final*, and accompanying Issues and Decision Memorandum (IDM) at "VI. Use of Facts Otherwise Available and Adverse Inferences: Application of Adverse Inferences: Non-Cooperative Companies"; and *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 29180 (June 19, 2009), and accompanying IDM at "Application of Facts Available, Including the Application of Adverse Inferences."

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

the identical program (excluding *de minimis* rates).[38] If no such rate exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in any CVD proceeding involving the same country, and apply the highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any non-company specific program in a CVD case involving the same country that the company's industry could conceivably use.[39]

Commerce's methodology is consistent with section 776(d) of the Act. Section 776(d)(1)(A) of the Act states that when applying an adverse inference in selecting from the facts otherwise available, we may (i) use a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or (ii) if there is no same or similar program, use a countervailable subsidy for a subsidy rate from a proceeding that we consider reasonable to use. Thus, section 776(d)(1)(A) of the Act expressly allows for our existing practice of using an adverse facts available hierarchy in selecting a rate "among the facts otherwise available" in CVD cases, should the facts warrant such a selection.

Section 776(d)(2) of the Act authorizes Commerce to rely on the highest prior rate under certain circumstances. In deriving an adverse facts available rate under section 776(d)(1)(A) of the Act described above, the provision states that we "may apply any of the countervailable subsidy rates or dumping margins specified under that paragraph, including the highest such rate or margin, based on the evaluation by the administering authority of the situation that resulted in the administering authority using an adverse inference in selecting among the facts otherwise available."[40] No legislative history accompanied this particular provision. Accordingly, we are left to interpret this "evaluation by the administering authority of the situation" language in light of existing agency practice, and the structure and provisions of section 776(d) of the Act itself.

The Act anticipates a two-step process for determining an appropriate adverse facts available rate in CVD cases: (1) Commerce may apply its hierarchy methodology, and (2) Commerce may apply the highest rate derived from this hierarchy to a respondent, should it choose to apply that hierarchy in the first place, unless, after an evaluation of the situation that resulted in the use of adverse facts available, Commerce determines that the situation warrants a rate different from the rate derived from the hierarchy be applied.[41]

In applying the adverse facts available rate provision, it is well established that when selecting the rate from among possible sources, we seek to use a rate that is sufficiently adverse to

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[38] For purposes of selecting AFA program rates, we normally treat rates less than 0.5 percent to be *de minimis*. *See, e.g.*, *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying IDM at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

[39] *See Shrimp from China* and accompanying IDM at 13-14.

[40] Section 776(d)(2) of the Act.

[41] This differs from antidumping proceedings, for which no hierarchy applies, under section 776(d)(1)(B). Under that provision, "any dumping margin from any segment of the proceeding under the applicable antidumping order" may be applied, which suggests an adverse rate could be derived from different available margins, given the facts on the record.

effectuate the statutory purpose of section 776(b) of the Act to induce respondents to provide Commerce with complete and accurate information in a timely manner. This ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."[42] Further, "in the case of an uncooperative respondent, Commerce is in the best position, based on its expert knowledge of the market and the individual respondent, to select adverse facts that will create the proper deterrent to non-cooperation with its investigations and assure a reasonable margin."[43] It is pursuant to this knowledge and experience that we have implemented our adverse facts available hierarchy in CVD cases to select an appropriate adverse facts available rate.[44]

In applying its adverse facts available hierarchy in CVD investigations, Commerce's goal is as follows: in the absence of necessary information from cooperative respondents, we are seeking to find a rate that is a relevant indicator of how much the government of the country under investigation is likely to subsidize the industry at issue, through the program at issue, while inducing cooperation. Accordingly, in sum, the three factors that we take into account in selecting a rate are: (1) the need to induce cooperation, (2) the relevance of a rate to the industry in the country under investigation (*i.e.*, can the industry use the program from which the rate is derived), and (3) the relevance of a rate to a particular program, though not necessarily in that order of importance.

Furthermore, the hierarchy (as well as section 776(d)(1) of the Act) recognizes that there may be a "pool" of available rates that we can rely upon for purposes of identifying an adverse facts available rate for a particular program. In investigations, for example, this "pool" of rates could include the rates for the same or similar programs used in either that same investigation, or prior CVD proceedings for that same country. Of those rates, the hierarchy provides a general order of preference to achieve the goal identified above. The hierarchy therefore does not focus on identifying the highest possible rate that could be applied from among that "pool" of rates; rather, it adopts the factors identified above of inducement, relevancy to the industry and to the particular program.

Under the first step of Commerce' investigation hierarchy, we apply the highest non-zero rate calculated for a cooperating company for the identical program in the investigation. Under this

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[42] *See* SAA at 870; *see also Essar Steel*, 678 at 1276 (citing *F. Lii De Cecco Di Filippo Fara S. Martino S.p.A. v. United States*, 216 F.3d 1027, 1032 (Fed. Cir. 2000) (finding that "{t}he purpose of the adverse facts statute is 'to provide respondents with an incentive to cooperate' with Commerce's investigation, not to impose punitive damages.'" (*De Cecco*)).

[43] *See De Cecco* at 1032.

[44] We have adopted a practice of applying this hierarchy in CVD cases. *See, e.g.*, *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017), and accompanying IDM at 28-31 (applying the adverse facts available hierarchical methodology within the context of CVD investigation); *see also Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 41003 (July 14, 2015), and accompanying IDM at 11-15 (applying the adverse facts available hierarchical methodology within the context of CVD administrative review). However, depending on the type of program, we may not always apply the AFA hierarchy. *See, e.g.*, *Certain Uncoated Paper from Indonesia: Final Affirmative Countervailing Duty Determination*, 81 FR 3104 (January 20, 2016), and accompanying IDM 7-8 (applying, outside of the adverse facts available hierarchical context, the highest combined standard income tax rate for corporations in Indonesia).

step, we will even use a *de minimis* rate as adverse facts available if that is the highest rate calculated for another cooperating respondent in the same industry for the same program.

However, if there is no identical program match within the investigation, or if the rate is zero, then we will shift to the second step of its investigation hierarchy, and either apply the highest non-*de minimis* rate calculated for a cooperating company in another countervailing duty proceeding involving the same country for the identical program, or if the identical program is not available, for a similar program. This step focuses on the amount of subsidies that the government has provided in the past under the investigated program. The assumption under this step is that the non-cooperating respondent under investigation uses the identical program at the highest above *de minimis* rate of any other company using the identical program.

Finally, if no such rate exists, under the third step of Commerce's investigation hierarchy, we apply the highest rate calculated for a cooperating company from any non-company-specific program that the industry subject to the investigation could have used for the production or exportation of subject merchandise.[45]

In all three steps of Commerce's adverse facts available investigation hierarchy, if we were to choose low adverse facts available rates consistently, the result could be a negative determination with no order (or a company-specific exclusion from an order) and a lost opportunity to correct future subsidized behavior. In other words, the "reward" for a lack of cooperation would be no order discipline in the future for all or some producers and exporters. Thus, in selecting the highest rate available in each step of Commerce's investigation adverse facts available hierarchy (which is different from selecting the highest possible rate in the "pool" of all available rates), we strike a balance between the three necessary variables: inducement, industry relevancy, and program relevancy.[46]

Furthermore, we find that section 776(d)(2) of the Act applies as an exception to the selection of an adverse facts available rate under section 776(d)(1) of the Act; that is, after "an evaluation of the situation that resulted in the application of an adverse inference," we may decide that given the unique and unusual facts on the record, the use of the highest rate within that step is not appropriate.

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[45] In an investigation, unlike an administrative review, Commerce is just beginning to achieve an understanding of how the industry under investigation uses subsidies. Commerce may have no prior understanding of the industry and no final calculated and verified rates for the industry.

[46] It is significant that all interested parties, since at least 2007, that choose not to provide requested information have been put on notice that Commerce, in the application of facts available with an adverse inference, may apply its hierarchy methodology and select the highest rate in accordance with that hierarchy. *See, e.g., Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from China*), and accompanying IDM at 2, dated October 17, 2007 ("As AFA in the instant case, the Department is relying on the highest calculated final subsidy rates for income taxes, VAT and Policy lending programs of the other producer/producer in this investigation, Gold East Paper (Jiangsu) Co., Ltd. (GE). GE did receive any countervailable grants, so for all grant programs, we are applying the highest subsidy rate for any program otherwise listed…"). Therefore, when an interested party is making a decision as to whether or not to cooperate and respond to a request for information by Commerce, it does not make this decision in a vacuum; instead, the interested party makes this decision in an environment in which Commerce may apply the highest rate as adverse facts available under its hierarchy.

There are no facts on this record that suggest that a rate other than the highest rate envisioned under the appropriate step of the hierarchy applied in accordance with section 776(d)(1) of the Act should be applied as adverse facts available. As explained above, we are preliminarily applying adverse facts available because Forge Mochieri S.p.A., Imer International S.p.A., Galperti Group, Mimest S.p.A., and P.Technologies S.r.L. chose not to cooperate by not providing the information we requested. Therefore, we preliminarily find that the record does not support the application of an alternative rate, pursuant to section 776(d)(2) of the Act.

In applying AFA to the non-responding Q&V companies, we are guided by Commerce's methodology detailed above. Because these companies failed to act to the best of their ability in this investigation, as discussed above, we made an adverse inference that it benefitted from the programs appearing below.

To calculate the program rate for the alleged income tax program pertaining to either the reduction of income tax paid or the payment of no income tax, we applied an adverse inference that these companies paid no income tax during the POI. The mandatory respondents did not use this program in this investigation. We found this program countervailable in prior CVD proceedings involving Italy.[47] Consistent with our prior determinations, we determined the countervailable subsidy rate based on the standard income tax rate as reported by the GOI for corporations in Italy in effect during the POI. The standard income tax rate for corporations in Italy in effect during the POI was 24 percent.[48] Thus, the highest possible benefit for the income tax program is 24 percent. Accordingly, we are applying 24 percent as an AFA rate for Income Tax Deferral Under Article 42 of Law 78/2010. Consistent with past practice, the 24 percent AFA rate does not apply to income tax credit and rebate, accelerated depreciation, or import tariff and value added tax exemption programs because such programs may not affect the tax rate.[49]

Consistent with our CVD AFA hierarchy, we are applying the highest non-zero rates calculated for the other mandatory respondents in this investigation for the following identical programs:

1. Exemptions from General Electricity Network Costs
2. Energy Interruptibility Contracts
3. Electricity Purchases Through the Interconnector Program
4. Free Allocation of European Union Emissions Trading System Allowances
5. Grants for Continuous Training Under Article 118 of Law 388/2000

For programs for which we did not calculate an above-zero rate for another mandatory respondent in this proceeding, under the second step in our CVD hierarchy, we are applying the

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[47] *See, e.g.*, *Carbon and Alloy Steel Wire Rod from Italy: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 41931 (September 5, 2017), and accompanying PDM at 19, unchanged in *Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from Italy: Final Affirmative Determination*, 83 FR 13242 (March 28, 2018), and accompanying IDM(Steel Wire Rod from Italy).

[48] *See* GOI IQR at 8.

[49] *See, e.g.*, *Refillable Stainless Steel Kegs from the People's Republic of Chin*a: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, in Part, 84 FR 57005 (October 24, 2019), and accompanying IDM at Appendix; *see also* Steel Wire Rod from Italy.

highest non-de minimis subsidy rate calculated for the identical program in a CVD investigation or administrative review involving Italy:

1. Industrial Development Grants Under Law 488/1992[50]
2. *Patti Territoriali* Grants Under Law 662/1996[51]
3. Tax Credits Under Article 62 of Law 289/2002[52]
4. *Contratti di Programma* Grants Under Law 662/1996[53]
5. *Sgravi* Benefits[54]
6. IRAP Tax Credits Under Article 1 of Law 296/2006[55]

For this preliminary determination, for the programs that did not have a rate calculated for the identical program in a CVD investigation or administrative review involving Italy, under the second step in our CVD hierarchy, we are able to match based on program type and treatment of the benefit, the following programs to the highest non-de minimis rates for similar programs from other Italy CVD proceedings:

1. Industrial Technological Innovation Grants Under Law 46/1982[56]
2. Industrial Technological Innovation Loans Under Law 46/1982[57]
3. Export Credit Subsidies[58]
4. Industrial Revitalization Grants Under Law 181/1989[59]
5. Industrial Revitalization Loans Under Law 181/1989[60]
6. Preferential Financing Under Law 266/1997[61]

Accordingly, we determine the AFA countervailable subsidy rate for these non-responsive companies to be 43.75 percent *ad valorem*. The Appendix contains a chart summarizing our calculation of this rate.

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[50] *See Certain Pasta from Italy: Final Results of the 2009 Countervailing Duty Administrative Review*, 77 FR 7129 (February 10, 2012) (*Pasta Italy 2009*), accompanying IDM at 10-11.
[51] *See Certain Pasta from Italy: Final Results of Tenth (2005) Countervailing Duty Administrative Review*, 73 FR 7251 (February 7, 2008) (*Pasta Italy 2005*) and accompanying IDM at 11.
[52] *See Pasta Italy 2005*, and accompanying IDM at 9 and 10.
[53] *See Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 11172 (March 2, 2015) (*Pasta Italy 2012*), and accompanying IDM at 23 and 24.
[54] *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 IDM at 24.
[55] *See Pasta Italy 2012*, and accompanying IDM at 18 and 19.
[56] *See Pasta Italy 2009*, and accompanying IDM at 10 and 11 (Similar Program: Industrial Development Grants Under Law 488/92 (3.34 percent)).
[57] *See Certain Pasta from Italy: Final Results of the Second Countervailing Duty Administrative Review*, 64 FR 44489 (August 16, 1999) (*Pasta Italy 1997*) at 44491 (Similar Program: Industrial Development Loans Under Law 64/86 (0.65 percent)).
[58] *See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod from Italy*, 63 FR 40474 (July 29, 1998) at 40480 (Similar Program: Export Credit Financing Under Law 227/77 (0.15 percent)).
[59] *See Pasta Italy 2009* and accompanying IDM at 10 and 11 (Similar Program: Industrial Development Grants Under Law 488/92 (3.34 percent)).
[60] *See Pasta Italy 1997* at 44491 (Similar Program: Industrial Development Loans Under Law 64/86 (0.65 percent)).
[61] *Id*. (Similar Program: Industrial Development Loans Under Law 64/86 (0.65 percent)).

C. Corroboration of AFA Rate

Section 776(c)(1) of the Act provides that, in general, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."[62] The SAA provides that to "corroborate" secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.[63]

Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that Commerce need not prove that the selected facts available are the best alternative information.[64] Furthermore, Commerce is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[65]

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Commerce will not use information where circumstances indicate that the information is not appropriate as AFA.[66]

In the absence of record evidence concerning the non-responsive companies Forge Mochieri S.p.A., Imer International S.p.A., Galperti Group, Mimest S.p.A., and P.Technologies S.r.L. usage of the subsidy programs at issue due to their decision not to participate in the investigation, we have reviewed the information concerning Italian subsidy programs in other cases. Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this investigation. The relevance of these rates is that they are actual calculated subsidy rates for Italian programs, from which the non-responsive companies could actually receive a benefit. Due to the lack of participation by Forge Mochieri S.p.A., Imer International S.p.A., Galperti Group, Mimest S.p.A., and P.Technologies S.r.L. and the resulting lack of record information concerning its usage of these programs, we have corroborated the rates we selected to use as AFA to the extent practicable pursuant to section 776(c)(1) for this preliminary determination.

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[62] *See* SAA at 870.
[63] *Id*.
[64] *Id*. at 869-870.
[65] *See* section 776(d) of the Act.
[66] *See, e.g.*, *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

As discussed above, because certain information relied upon for our "facts otherwise available" analysis is derived from the Petition, and, consequently, is based upon secondary information, Commerce must corroborate this information to the extent practicable. In this investigation, we determined that the information alleged in the Petition regarding the programs for which we have calculated a rate is reliable where, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petition during our pre-initiation analysis and for purposes of this preliminary determination.[67]

Based on our examination of the information, as discussed in detail in the Initiation Checklist, we consider the petitioners' information pertaining to the financial contribution and specificity of programs for which we calculated a rate to be reliable. Because we obtained no other information that calls into question the validity of the sources of information, based on our examination of the aforementioned information, we preliminarily consider the information in the Petition to be reliable.

In making a determination as to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal to determine whether there are circumstances that would render the information relied upon not relevant. As discussed above, we relied upon the information in the Petition in certain respects (*e.g.*, in determining that certain programs are specific and provide a financial contribution), because this is the only information regarding these programs reasonably at Commerce's disposal. Accordingly, Commerce preliminarily determines that the information alleged in the Petition pertaining to the certain programs for which Commerce is determining financial contribution and specificity has probative value. Commerce has corroborated this information to the extent practicable within the meaning of section 776(c) of the Act by demonstrating that the information: 1) was determined to be reliable in the pre-initiation state of this investigation (and there is no record information indicating otherwise), and 2) is relevant to the mandatory respondents.[68]

VI. SUBSIDIES VALUATION

A. Allocation Period

Commerce normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise. Pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System,[69] the AUL in this proceeding is 15 years. The 15-year period corresponds to IRS Pub, 946 asset class 33.2. No party in this proceeding submitted comments challenging the proposed AUL period. Therefore, we preliminarily determine that a 15-year period is appropriate for purposes of allocating non-recurring subsidies.

[67] *See* Initiation Checklist.
[68] *See* section 776(c) of the Act and 19 CFR 351.308(c) and (d).
[69] *See* U.S. Internal Revenue Service Pub 946 (2017), "Appendix B - Table of Class Lives and Recovery Periods" (IRS Pub. 946).

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), Commerce normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution to respondents of subsidies received by cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent. Further, 19 CFR 351.525(c) provides that benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm producing the subject merchandise that is sold through the trading company, regardless of affiliation.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of Commerce's regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *CVD Preamble* to Commerce's regulations further clarifies Commerce's cross-ownership standard.[70] According to the *CVD Preamble*, relationships captured by the cross-ownership definition include those where:

> the interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.[71]

Thus, Commerce's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade upheld Commerce's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.[72]

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[70] *See Countervailing Duties; Final Rule*, 63 FR 65348, 65401-02 (November 25, 1998) (*CVD Preamble*).
[71] *Id*. at 65401.
[72] *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-04 (CIT 2001).

Metalcam S.p.A

Mandatory respondent Metalcam responded to Commerce's questionnaire on behalf of itself, Adamello Meccanica S.r.l. (Adamello Meccanica) and B.S. S.r.l. (B.S.).[73] Metalcam reported that there is cross-ownership as these two companies are majority-owned by Metalcam. Metalcam is the producer of the subject merchandise.[74] Therefore, in accordance with 19 CFR 351.525(b)(6)(i), we are preliminarily attributing subsidies received by Metalcam to its own sales.

Metalcam reported that Adamello Meccanica and B.S. are machining shops that perform machining operations on open die forgings.[75] Metalcam subcontracts to Adamello Meccanica and B.S. the rough machining of certain fluid end blocks produced in Italy and sold in the United States.[76] All reported subsidies for Adamello Meccanica and B.S. are from self-identified programs that will be addressed in a post-preliminary determination. As such, since neither of these companies received subsidies for programs that we are finding countervailable for this preliminary determination, Commerce has not yet made a determination regarding whether either of these companies meets the attribution conditions provided in 19 CFR 351.525(b)(6)(ii)-(v).

Although Metalcam identified other companies with which it was affiliated during the POI,[77] these affiliates were not involved in the production or sale of subject merchandise during the POI, and they did not otherwise meet any of the attribution conditions in our regulations. Therefore, we preliminarily determine that such affiliated companies do not meet any of the conditions set forth in 19 CFR 351.525(b)(6)(ii)-(v), and there is no basis for attributing to Metalcam subsidies that may have been received by other affiliated companies.

LMA

The mandatory respondent LMA is the producer of fluid end blocks subject to this investigation. LMA identified numerous companies with which it is affiliated, and which may satisfy the criteria for cross-ownership for purposes of attributing to LMA subsidies received by these companies. Specifically, LMA identified: Lucchini RS S.p.A. (Lucchini RS) as its parent company, and Lucchini Industries (LIND), Bicomet SpA (Bicomet), and Setrans SrL (Setrans) as cross-owned companies within the meaning of section 19 CFR 351.525(b)(6)(vi).

Because information on the record supports a finding that these companies share a common parent company,[78] which owns a majority percentage of shares in the subsidiaries to establish cross-ownership, we preliminarily determine that they are cross-owned with LMA. Because these companies provide inputs to LMA that are primarily dedicated to the production of the downstream product, consistent with 19 CFR 351.525(b)(6)(iv), we are attributing to LMA

[73] *See, e.g.*, Metalcam IQR at 1.
[74] *See, e.g.*, Metalcam Affiliation Response at 11.
[75] *Id.* at 4 and 5.
[76] *Id.* at 5.
[77] *Id.* at Exhibit 1.
[78] *See* Memorandum, "Countervailing Duty Investigation of Forged Steel Fluid End Blocks: Preliminary Determination Calculations for Lucchini Mame Forge, S.p.A.," dated concurrently with this preliminary determination.

subsidies received by each of these cross-owned affiliate companies. Consistent with 19 CFR 351.525(b)(6)(iii), for subsidies received by Lucchini RS, we are dividing the subsidy benefits by Lucchini RS' consolidated sales during the POI. For all other companies, we are dividing the subsidy benefits by the sum of LMA's and the recipient company's sales, less intercompany sales.

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), Commerce considers the basis for a respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's export or total sales. We have identified the denominator we used to calculate the countervailable subsidy rate for each program, as discussed below and in the calculation memorandum prepared for this preliminary determination.[79]

VII. ANALYSIS OF PROGRAMS

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

A. Programs Preliminarily Determined to Be Countervailable

1. Industrial Exemptions for General Electricity Network Costs

The petitioners alleged that the GOI provides electricity benefits to energy intensive industries.[80] Both LMA and Metalcam reported receiving benefits under the Industrial Exemptions from General Electricity Network Costs program during the POI.[81] Under this program, large-scale consumers of electricity (also called energy-intensive users) receive discounts on their electricity bills for charges related to energy-intensive activities. *Cassa per I Servizi Energetici e Ambientali* (CSEA) is responsible for managing this program.[82] Record information indicates that CSEA is a public company subject to the supervision of the GOI.[83]

The GOI reported that eligibility for this program is limited only to consumers of electricity that are considered large-scale consumers of electricity.[84] Further, the GOI states that these energy-

[79] *Id.; see also* Memorandum, "Countervailing Duty Investigation of Forged Steel Fluid End Blocks: Preliminary Determination Calculations for Metalcam S.p.A.," dated concurrently with this preliminary determination.
[80] *See, e.g.*, Initiation Checklist at 7.
[81] *See* Metalcam IQR at 21; *see also* LMA IQR at 1.
[82] *See* GOI IQR at 20.
[83] *See, e.g.*, Metalcam IQR at 14 ("CSEA a public economic body subject to the supervision of the Authority for Electricity and Gas (AEEGSI) and the Ministry of Economy and Finance. CSEA is the entity that regulates electricity rates and its principal mission is the collection of certain rate components by operators. These funds are collected in the management accounts and subsequently disbursed to companies operating in different areas: renewable sources, energy efficiency, equalization, nuclear decommissioning. The CSEA acquires the declarations of the companies regarding compliance with the requirements; carries out checks on the declarations; establishes and updates the list of energy-intensive companies.")
[84] *See* GOI IQR at 18.

intensive users bear significant energy costs, and that the purpose of the program is to offset the higher costs paid by energy-intensive users for financing support for renewable energies.[85]

The Decree of the Ministry of Economic Development of 21 December 2017[86] stipulates that in order to be eligible for this reduction during the POI, energy-intensive users must:

i. have a yearly electricity consumption of not less than 1 GWh/year;
ii. operate in the sectors listed in Annex 3 to the EC Guidelines;
iii. operate in the sectors listed in Annex 5 to the EC Guidelines and are characterized by a positive electrical intensity index determined on the basis of a three-year average value of Gross Value Added at market prices less any indirect taxes plus any subsidies of not less than 20 percent; or
iv. even if they do not comply with the previous requirements, they are included in the lists of energy-intensive businesses drawn up, for the years 2013 or 2014, by CSEA in implementation of Article 39 of Law Decree 83/2012.

In order to receive benefits under this program, companies must either meet the requirements (i) through (iii) above, or in accordance with (iv) above, be identified on a specific list published by CSEA.[87] The SAA states that the specificity test should be applied "in light of its original purpose, which is to function as an initial screening mechanism to winnow out only those subsidies which truly are broadly available and widely used throughout an economy."[88] Under this program, eligibility is limited by law to the very large consumers of electricity and cannot therefore be considered "broadly available and widely used throughout" Italy. We, therefore, preliminarily determine that this program is *de jure* specific in accordance with section 771(5A)(D)(i) of the Act.

We preliminarily determine that the discounts to general electricity network costs provided to program participants constitute a financial contribution by the GOI within the meaning of section 771(5)(D)(ii) of the Act, as revenue forgone that would otherwise be due. A benefit is conferred under section 771(5)(E) of the Act and 19 CFR 351.510(a)(1) in the amount of the discount.

In accordance with 19 CFR 351.524(c), we treat these discounts as recurring benefits. To calculate the countervailable subsidy rate from this program, we divided the benefits, the amount of discount received by the respondents during the POI, by the appropriate sales denominator, as described in the "Subsidies Valuation" section above. On this basis, we preliminarily determine a net countervailable subsidy rate of 1.81 percent *ad valorem* for LMA and 2.52 percent *ad valorem* for Metalcam.

[85] *Id.*
[86] *Id.* at Exhibit A-4.
[87] *Id.* at 23 ("The discounts are granted once the energy-intensive users are listed in the register maintained by the CSEA.")
[88] *See* Statement of Administrative Action (SAA) accompanying H.R. 5110, H.R. Doc. No. 316, 103d Cong., 2d Sess. 911, 929 (1994).

2. Energy Interruptibility Contracts

The petitioners alleged that the GOI provides subsidies to industrial energy users, including Italian fluid end block producers, through the interruptibility schemes it operates.[89] Both LMA and Metalcam reported receiving funds under Energy Interruptibility Contracts during the POI.[90] Under this program, end-users of electricity agree to temporarily reduce or stop power supply when by requested Terna S.p.A. (Terna). Terna is the Italian transmission system operator responsible for the transmission and management of electricity flows on the high and very high voltage grid throughout all of Italy.[91] Terna ensures a constant balance between demand and supply of energy within Italy.[92] Under this program, Terna and companies that purchase energy on the Italian energy market will enter into an "energy interruptibility contract." Under these contracts, the companies agree to have their electricity supply interrupted instantaneously when Terna needs to reduce energy consumption in order to rebalance the transmission network. In exchange for agreeing to have their electricity supply interrupted, the companies receive compensation on a monthly basis depending on the number of interruptions.

In order to participate, the end-user must meet certain electricity qualification criteria. Specifically, a company must: (1) have a minimum power usage of one megawatt (MW) annually; (2) have a medium- or high-voltage connection; and (3) have a connection with Terna defense system.[93] Further, applicants must provide Terna with a certificate issued by an accredited certification institute regarding the suitability of the equipment for connecting with the Terna defense system and for shedding loads within the interruptibility service in accordance with the Italian Grid Code.[94] Companies that meet the specific technical requirements may volunteer to participate in the program, normally for three-year durations.[95] However, there are annual and interim tenders when Terna finds that it needs more interruptible supply in order to be able to rebalance the load across the grid.[96]

In its questionnaire response, the GOI indicated that Terna is an independent grid operator and a public company listed in the Italian Stock Exchange.[97] Further, the GOI has indicated that the majority of the company's shareholders are "Institutional Investors."[98] However, information provided by the petitioners indicates that Terna is under the control of the GOI.[99] Further, Commerce has found Terna to be a government authority in other proceedings.[100] Finally, in

[89] *See, e.g.*, Initiation Checklist at 8 to 10.
[90] *See* Metalcam IQR at 29; *see also* LMA IQR at 2.
[91] *See* GOI IQR at 32.
[92] *Id.*
[93] *Id.* at 38.
[94] *Id.*
[95] *Id.* at 32.
[96] *Id.*
[97] *Id.* at 36.
[98] *Id.*
[99] *See* Volume III of the Petition at 9 and Exhibit CVD-ITA-17.
[100] *See, e.g.*, *Carbon and Alloy Steel Wire Rod From Italy: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 41931 (September 5, 2017), and accompanying Preliminary Decision Memorandum at 15, unchanged in the final determination (*Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod From Italy: Final Affirmative Determination*, 83 FR 13242 (March 28, 2018)).

Law 99/2009 at Article 30, paragraph 18, the GOI has vested Terna with the authority to carry out the operations of this program.[101] Information on the record indicates that there is no change from the prior investigation in Terna's objective under this program. Therefore, we preliminarily determine that Terna acted as an "authority" within the meaning of section 771(5)(B) of the Act in its administration of this program and that this program provided a financial contribution within the meaning of section 771(5)(D)(i) of the Act because Terna's payments constitute a direct transfer of funds to program participants.

Between 2015 and 2017, 299 companies participated in this program, and 236 companies participated in this program in 2018.[102] Given that the actual recipients of the benefits under this program are limited in number, we preliminarily determine that the program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act.

With regard to the allocation of the benefit, while grants are normally treated as non-recurring, pursuant to 19 CFR 351.524(c)(2), Commerce considers a number of factors when determining whether to treat a grant as recurring or non-recurring, including: whether the subsidy is an exception in the sense that the recipient can expect to receive additional subsidies under the same program on an ongoing basis from year to year; whether the subsidy requires the government's express approval; and whether the subsidy was provided for the capital structure of the recipient. Here, the subsidy is not exceptional in accordance with 19 CFR 351.524(c)(2)(i), in the sense that LMA and Metalcam can expect to receive subsidies under this program on an ongoing basis from year to year during the three-year contract. Second, record evidence does not indicate that the subsidy was provided for or tied to the capital structure or capital assets of the recipients, in this case LMA or Metalcam. Thus, we preliminarily determine to treat grants under this program as recurring.

To calculate the net countervailable subsidy rate, we first summed all of the payments received under this program by each of the company respondents during the POI, based on the date of receipt, and then divided this amount by the appropriate sales denominator for the POI, as described "Subsidies Valuation" section above. On this basis, we preliminarily determine a net countervailable subsidy rate of 0.40 percent *ad valorem* for LMA and 0.36 percent *ad valorem* for Metalcam.

3. Electricity Purchases Through the Interconnector Program

The petitioners allege that the GOI allows for the provision of electricity to certain electricity users for less than adequate remuneration through this program.[103] LMA confirmed that Lucchini RS and LIND participated in this program during the POI.[104] The interconnector

[101] *See* GOI IQR at Exhibit 1-B.
[102] *Id.* at 41.
[103] *See, e.g.*, Initiation Checklist at 9. Commerce previously investigated this program under the name "Provision of Electricity for LTAR." *See Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from Italy: Final Affirmative Determination*, 83 FR 13242 (March 28, 2018), and accompanying IDM. For purposes of this investigation, Commerce will continue to refer to this program as "Electricity Purchases Through the Interconnector Program."
[104] *See* LMA IQR Program Narrative at 37.

program was established by Article 32 of Law 99/2009 and was created to increase the efficiency of production, transmission, and distribution of electricity within the EU while also enhancing the security of the electricity grid.[105] Under Law 99/2009, Terna, the Italian transmission system operator (TSO), was selected to "define, design, and build, together with neighboring TSOs, new cross-border electricity corridors in the form of interconnectors."[106] Through this program, participants that agree to help finance the development of the interconnector projects and are permitted to purchase a certain quantity of electricity from local Italian energy providers for the price of electricity in a different EU energy market; the GOI refers to this practice as the "virtual importation of energy" because participants are provided early access to these foreign energy prices while the physical structure of the interconnector projects is being constructed.[107] Law 99/2009 establishes that Terna shall identify the program participants through a public bidding procedure.

In order to participate in the program, participants must be significant energy users (*i.e.* have energy usage needs of greater than 10 megawatts) and should have an average energy usage rate of at least 40 percent of their energy capacity over the previous three years.[108] Participants must also agree to have their energy usage reduced during critical situations, as defined by Terna. According the Italian Regulatory Authority for Energy Networks and Environment (the governing body that regulates interconnector project awards), the local Italian energy providers that wish to participate in the program must also submit bids to Terna through a separate public bidding process which is also conducted by Terna.[109] If their bid is accepted by Terna, the local Italian energy provider is able to enter into a contract with the interconnector program participants to supply the virtually imported energy at foreign market prices.[110] Further, Terna regulates the final interconnector contracts between the program participants and the energy providers, including the final price paid by the program participant for the virtually imported electricity.[111]

Based on the information in the record and previous investigations involving this program, we preliminarily find that the GOI, through Terna, provides a subsidy as described in section 771(5)(B)(iii) of the Act by entrusting private energy producers to provide virtually imported electricity at foreign-market prices. Information in the record also demonstrates that participation in the interconnector program is specific based on the GOI's identification of a limited number of companies that are eligible and that have been selected by Terna to virtually import energy from abroad, pursuant to Law 99/2009. Given that the actual recipients of the

[105] *See* GOI IQR at Exhibit C-1.
[106] *Id*.
[107] *Id*. at 47.
[108] *Id*.
[109] *Id*.
[110] *Id*.
[111] *Id*. at 47and 50. There is no information on the record to suggest that this program has fundamentally changed since Commerce's determination in previous investigations. *See Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from Italy: Final Affirmative Determination*, 83 FR 13242 (March 28, 2018), and accompanying IDM at Comment 4. However, Commerce will seek additional information from the Government of Italy after the preliminary determination.

benefits under this program are limited in number,[112] we preliminarily determine that the program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act.

LMA reported that Lucchini RS, and subsequently LIND, entered into contracts with an Italian energy provider to purchase electricity under the interconnector program at foreign market prices.[113] In order to determine the existence and amount of any benefit conferred to Lucchini RS and LIND, pursuant to section 771(5)(E)(iv) of the Act, we followed the methodology described in 19 CFR 351.511(a)(2) to identify suitable benchmarks for the price that both companies paid under this program for the virtually imported electricity. Specifically, 19 CFR 351.511(a)(2) sets forth the basis for identifying appropriate market-determined benchmarks for measuring the adequacy of remuneration for government-provided goods or services. The potential benchmarks listed in the regulation, in order of preference, are: (1) market prices from actual transactions within the country under investigation for the government-provided good (*e.g.*, actual sales, actual imports, or competitively run government auctions) (Tier 1); (2) world market prices that would be available to purchasers in the country under investigation (Tier 2); or (3) prices consistent with market principles based on an assessment by Commerce of the government-set price (Tier 3).

LMA reported that the price that Lucchini RS and LIND pay for regular electricity purchases, (*i.e.*, those not associated with the interconnector program) is a market-based, negotiated price.[114] Further, the GOI reported that the "electric energy market in Italy has been fully liberalized following the adoption of Directive 96/92/EC concerning common rules of the internal market in electricity."[115] Additionally, the GOI confirmed that "as the electricity market in Italy has been liberalized, the Government of Italy does not play any role in fixing prices for electricity."[116] Therefore, because the standard electricity prices available to Lucchini RS and LIND (outside of the interconnector program) are private, in-country commercial prices, we have used these prices as the Tier 1 benchmark to measure the adequacy of remuneration for the electricity provided at the regulated, virtual import price.[117] To calculate the benefit, we calculated the difference between the price that Lucchini RS and LIND paid for electricity during the POI compared to the price that would have been paid absent participation in the interconnector program. Pursuant to 19 CFR 351.525(b)(6)(iii), we divided the difference in price for Lucchini RS by the company's consolidated sales, and we divided the difference for LIND by the combined sales of LIND and LMA (less intercompany sales) to determine a countervailable subsidy rate of 1.01 percent *ad valorem* for LMA during the POI.

4. Free Allocation of European Union Emissions Trading System Allowances

The petitioners alleged that the GOI provides free emissions allowances to heavy-polluting installations in Italy through this program. According to the EU, the EU Emissions Trading

[112] *Id*. at 55. The GOI reported that "around 70 companies" were approved for this program during the POI.
[113] *See* LMA IQR Program Narrative at 37.
[114] *Id.* at 35; *see also* LMA Program Specific Exhibits at Exhibits CVDPROG-16 and 30.
[115] *See* GOI IQR at 57.
[116] *Id*.
[117] Commerce has previously found market-driven electricity prices in Italy to be suitable as a Tier 1 benchmark when analyzing specific program. *See* Steel Wire Rod from Italy.

System (ETS), which was established by EU Directive 2003/87/EC (ETS Directive) and went into force in 2015, is a 'cap and trade' system of emissions allowances that is intended to limit the overall amount of greenhouse gas emissions produced in the EU.[118] At the end of each year, polluting installations that are subject to the ETS program, roughly 11,000 heavy emissions installations across the EU,[119] are required to surrender emissions allowances to cover their emissions output for the previous year; one allowance covers the equivalent of one ton of carbon emissions.[120] These subject installations are able to obtain allowances through three basic methods: receipt of freely allocated emissions allowances from their member state government, purchase of emissions allowances through an EU regulated auction, or purchase of allowances from private entities in a secondary market.[121] Further, the EU ultimately controls the provision of freely allocated allowances to covered installations. According to the ETS Directive:

> {a}s provided for in Article 10a of the ETS Directive, it is the Commission who adopts the rules for the allocation of allowances for free. It decides whether the allocation of the amounts is in accordance with these fully-harmonised rules and uploads the allocation tables into the Registry, from which point they are delivered to the operators. Thus, the allocation is based on harmonised free allocation rules and benchmarks set by law at European level and no individual Member State can modify these quantities.[122]

Additionally, the EU states that "it is underlined that the channels of attribution of the free allowances and of the allowances to be auctioned are separated '*ab origine*', and they cannot be mixed. Furthermore, Member States cannot dispose of the free allowances that are allocated to the individual operators."[123] EU Member States are required by the governing directive to distribute, at no charge, to installations subject to the ETS program an amount of standard emissions allowances based on a complex calculation that includes a comparison of a subject installation to the benchmark performance of the most efficient, least polluting installations in each sector under the terms of the ETS program. All installations, except power stations,[124] are freely allotted allowances to cover 44.2 percent of the emissions of the most efficient installations during the POI.[125] However, for a portion of the 11,000 installations that are deemed to be at significant risk of carbon leakage *i.e.*, at risk of being unable to cover the higher environmental costs of compliance under the ETS program, the Member State provides additional free allowances to meet 100 percent of the allowances needed by the benchmark installations during the POI.[126]

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[118] *See* EU IQR at ETS Exhibits 1 and 7.
[119] These heavy polluting installations consist of power stations and other combustion plants with greater than 20 megawatt thermal rated input (except hazardous or municipal waste installations), oil refineries, coke ovens, iron and steel, cement clinker, glass, lime, bricks, ceramics, pulp, paper and board, aluminum, petrochemicals, ammonia, nitric, adipic and glyoxylic acid production, CO2 capture, transport in pipelines and geological storage of CO2. *See* EU IQR at ETS Exhibit 7.
[120] *Id*. at 2.
[121] *Id*. at ETS Exhibit 7.
[122] *Id*. at 5.
[123] *Id*.
[124] *Id*. As a result of program updates implemented in 2013, power stations are no longer provided free allowances under this program and must purchase 100 percent of their emissions allowances through the government run auction.
[125] *See* EU SQR at 16.
[126] *Id*.

In order for an industry to be considered at significant risk of carbon leakage during the period from 2015-2020, it must meet one of the following three criteria:

1. The sum of direct and indirect additional costs (*i.e.*, induced by the implementation of the EU ETS) would increase production cost, calculated as a proportion of the gross value added, by at least 5 percent; and at the same time the sector's trade intensity with non-EU countries is greater than 10 percent.

2. The sum of direct and indirect additional costs (*i.e.*, induced by the implementation of the EU ETS) would increase production cost, calculated as a proportion of the gross value added by at least 30 percent.

3. The sector's trade intensity with non-EU countries is greater than 30 percent.[127]

If an installation is not able to cover its emissions for a year using only the freely allotted allowances, the installation must purchase additional allowances, or invest in technological improvements to decrease its carbon emissions. However, companies on the carbon leakage list received additional freely allocated emissions allowances beyond the standard rate of allocation.[128] In the absence of these additional free allowances, these companies would have been required to cover their emissions by purchasing allowances either from the Member State government through an auction, or from another private party with allowances to sell.

In providing these additional free emissions allowances, the Government of Italy is providing a fiscal allowance or certificate without a requisite payment that would be otherwise due under a system that seeks to internalize to companies the cost of their carbon emissions. On this basis, we preliminary determine that the GOI is providing a financial contribution in the form of revenue forgone that is otherwise due pursuant to section 771(5)(D)(ii) of the Act. We preliminarily determine that this program is specific under section 771(5A)(D)(i) of the Act ("{w}here the authority providing the subsidy, or the legislation pursuant to which the authority operates, expressly limits access to the subsidy to an enterprise or industry, the subsidy is specific as a matter of law") because EU Directive 2003/87/EC limits eligibility for this benefit to companies on the carbon leakage list.[129]

In accordance with 19 CFR 351.503(b)(2), a benefit exists to the extent that the recipient is relieved of the obligation to purchase the additional allowances required to cover its carbon emissions for the year. In order to calculate a benefit under this program, we first multiplied the quantity of additional free allowances provided to each of the mandatory respondents (the allowances via the carbon leakage list) by the price each firm would have paid for those allowances had they been required to purchase them. In accordance with 19 CFR 351.525(b)(6)(iii), we divided the benefit to each firm by the appropriate sales value for each firm. On this basis, we preliminary determine the countervailable subsidy rate for LMA to be 0.16 percent *ad valorem* and for Metalcam to be 0.16 percent *ad valorem*.

[127] *See* EU IQR at ETS Exhibit 1.
[128] *See* EU IQR ETS Exhibit 20.
[129] *See* EU SQR at Exhibit ETS SQ IT-3.

5. Grants for Continuous Training Under Article 118 of Law 388/2000

The petitioners alleged that the GOI provides funding to promote the development of continuing vocational training.[130] Both LMA and Metalcam reported receiving funds under this program during the POI.[131] This program was implemented by Article 118 of Law 388/2000 and amended by Article 48 of Law 289/2002.[132] Specifically, under this program, companies may utilize funds that would otherwise be used to support unemployed workers for the development and training of their own employees.

Under Italian Law, every private employer pays a contribution equal to 0.30 percent of the salary paid to each employee on a monthly basis[133] to the National Social Security Authority. This contribution is identified as a "compulsory contribution for involuntary unemployment" and it is used to support workers who become unemployed involuntarily.[134]

Article 48 of Law 289/2002 allows for the establishment of national "interprofessional" funds.[135] These funds are set up following an agreement established by the employees' unions and workers' organization at the national level.[136] Once a fund is established, a company may register with that fund. Once registered with the fund, a company can have its compulsory National Social Security contribution transferred to the fund, and it can be used to support training and professional growth of the company's employees.[137] In such instances, the National Social Security Authority collects contributions from the participating company and transfers these contributions to the appropriate fund.[138] There are currently 19 active funds in Italy.[139]

From there, a company may use the funds to finance, in whole or in part: (1) training programs established by the fund; (2) any preparatory initiative directly related to these programs; or (3) training/retraining programs.[140] Allocation of funds normally occurs in the form of reimbursement of the training costs incurred by the company.[141]

We preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act. Further, we preliminarily find a benefit is bestowed in the amount of the grant within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act and 19 CFR 351.504(a). Finally, we find this program is limited, within the meaning of section 771(5A)(D)(iii)(I) of the Act, to companies that are participants in one of the 19 available funds in Italy.

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[130] *See, e.g.*, Initiation Checklist at 19 and 20.
[131] *See* Metalcam IQR at 60; *see also* LMA IQR at 45.
[132] *See* GOI IQR at 182.
[133] *Id.* at 182 and 183.
[134] *Id.* at 183.
[135] *Id.* at 182.
[136] *Id.*
[137] *Id.* at 183.
[138] *Id.*
[139] *Id.*
[140] *Id.*
[141] *Id.* at 184.

To calculate the countervailable subsidy rate for this program, we divided the funds received by the respondents during the POI by the appropriate sales denominator, as described in the "Subsidies Valuation" section above. On this basis, we preliminarily determine a net countervailable subsidy rate of 0.01 percent *ad valorem* for LMA and 0.01 percent *ad valorem* for Metalcam.

B. Programs Preliminarily Determined to be Not Used During the POI

LMA and Metalcam reported that neither they, nor any of their cross-owned affiliates, used the following programs during the POI or over the AUL period, as relevant:

1. Industrial Technological Innovation Grants Under Law 46/1982
2. Industrial Technological Innovation Loans Under Law 46/1982
3. Industrial Development Grants Under Law 488/1992
4. *Patti Territoriali* Grants Under Law 662/1996
5. *Contratti di Programma* Grants Under Law 662/1996
6. Industrial Revitalization Grants Under Law 181/1989
7. Industrial Revitalization Loans Under Law 181/1989
8. Preferential Financing Under Law 266/1997
9. Income Tax Deferrals Under Article 42 of Law 78/2010
10. *Sgravi* Benefits Under Law 1089 and Law 407/90
11. IRAP Tax Credits Under Article 1 of Law 296/2006
12. Tax Credits Under Article 62 of Law 289/2002
13. Export Credit Subsidies

C. Programs for Which Additional Information is Necessary

Both mandatory respondents included a list of self-identified "other subsidies" in their initial questionnaire responses. These other programs will be addressed in a post-preliminary determination:

1. GSE Reimbursements for Contributions to Solar Energy
2. Reimbursement of Excise Duties
3. Article 1, paras. from 8 to 11, Law 11/12/2016, n. 232 – Iper ammortamento
4. Article 1, paras 91 to 94 and para. 97, Law 28/12/2015, n. 208 – Super ammortamento
5. Patent Box deductions
6. Sgravi benefits under
    a. Law 190/2014
    b. Law 207/2015,
    c. Law 208/2015,
    d. Directorial decree No 394 of 02/12/2016,
    e. Article 2, paragraph 10bis of Law 92/2012, and
    f. Article 1, paragraphs 100-108 and 113-114 of Law 205/2017
    g. Sgravi benefits under Framework Law 239/93 ("Progretto 236")
7. Tax credits under Law 388/2000 for excise duties

8. Reimbursements of Euro motorway tolls under Law Decree 451/1998
9. Tax credits under Decree of the President of the Republic 917/1986 - ART. 95, C. 4

VIII. CONCLUSION

We recommend that you approve the preliminary findings described above.

☒ ☐

Agree Disagree

5/18/2020

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

Appendix

Program Name	Rate	Basis
Industrial Exemptions for General Electricity Network Costs	2.52%	Identical Program this Investigation
Energy Interruptibility Contracts	0.40%	Identical Program this Investigation
Electricity Purchases Through the Interconnector Program	1.01%	Identical Program this Investigation
Free Allocation of European Union Emissions Trading System Allowances	0.16%	Identical Program this Investigation
Industrial Technological Innovation Grants Under Law 46/1982	3.34%	Similar Program
Industrial Technological Innovation Loans Under Law 46/1982	0.65%	Similar Program
Industrial Development Grants Under Law 488/1992	3.34%	Identical Program Other Proceeding
Patti Territoriali Grants Under Law 662/1996	0.57%	Identical Program Other Proceeding
Contratti di Programma Grants Under Law 662/1996	0.40%	Identical Program Other Proceeding
Industrial Revitalization Grants Under Law 181/1989	3.34%	Similar Program
Industrial Revitalization Loans Under Law 181/1989	0.65%	Similar Program
Preferential Financing Under Law 266/1997	0.65%	Similar Program
Income Tax Deferrals Under Article 42 of Law 78/2010	24.00%	Italian Income Tax Rate During POI
Sgravi Benefits	0.27%	Identical Program Other Proceeding
IRAP Tax Credits Under Article 1 of Law 296/2006	0.75%	Identical Program Other Proceeding
Tax Credits Under Article 62 of Law 289/2002	1.04%	Identical Program Other Proceeding
Export Credit Subsidies	0.65%	Similar Program
Grants for Continuous Training Under Article 118 of Law 388/2000	0.01%	Identical Program this Investigation
Total AFA Rate	**43.75%**	