C-475-819
11th Administrative Review
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MEMORANDUM

TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

FROM: John M. Andersen
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Eleventh (2006) Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy

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Background

On August 6, 2008, the U.S. Department of Commerce ("the Department") published in the Federal Register its preliminary results of the administrative review of the countervailing duty order on certain pasta from Italy for the period January 1, 2006, through December 31, 2006. See Certain Pasta from Italy: Preliminary Results of the 11th (2006) Countervailing Duty Administrative Review, 73 FR 45721 (August 6, 2008) ("Preliminary Results"). The "Analysis of Programs" and "Subsidies Valuation Information" sections, below, describe the subsidy programs and the methodologies used to calculate the benefits from these programs. We have analyzed the case brief filed by the respondent, Pastificio Lucio Garofalo S.p.A. ("Garofalo"), and the supplemental questionnaire responses from the Government of Italy ("GOI"). As a result of our analysis, we have made changes to the preliminary results. We recommend that you approve the positions described in the "Discussion of Issues" section of this memorandum. Below is a complete list of the issues in this review for which we received comments from an interested party:

Comment 1: Garofalo's Benchmark Rate for Its 1998 Loan under Law 64/86
Comment 2: Garofalo's Discount Rate for Grants under Law 64/86

Subsidies Valuation Information

Allocation Period

Pursuant to 19 CFR 351.524(b), benefits from non-recurring subsidies are allocated over a period corresponding to the average useful life ("AUL") of the renewable physical assets used to produce the subject merchandise. The Department's regulations create a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System ("IRS Tables"). See 19 CFR 351.524(d)(2). For pasta, the IRS Tables prescribe an AUL of 12 years. None of the responding companies or other interested parties objected to this allocation period. Therefore, we have used the 12-year allocation period for all respondents.

Attribution of Subsidies

Pursuant to 19 CFR 351.525(b)(6), the Department will attribute subsidies received by certain companies to the combined sales of those companies. Based on our review of the responses, we find that "cross-ownership" exists with respect to certain companies, as described below, and we have attributed subsidies accordingly:

De Matteis: De Matteis has reported that it is affiliated with De Matteis Construzioni S.r.L. ("Construzioni") by virtue of being 100 percent owned by Construzioni. See De Matteis's November 21, 2007, questionnaire response ("QR") at 2-3. De Matteis has reported that Construzioni did not receive any subsidies during the POR or AUL period. See De Matteis's April 1, 2008, supplemental questionnaire response ("SQR") at 1. Therefore, we are attributing De Matteis's subsidies to its sales only.

Garofalo: Garofalo has reported that it has no affiliates. Thus, we are attributing any subsidies received by Garofalo to that company's sales.

De Cecco: De Cecco has responded on behalf of two members of the De Cecco Group: F.lli De Cecco di Filippo Fara San Martino S.p.A. ("Pastificio") and Molino e Pastificio F.lli De Cecco S.p.A. ("Pescara"). Pastificio and Pescara manufacture pasta for sale in Italy, to third-countries, and to the United States. Pastificio and Pescara are directly or indirectly 100 percent-owned by members of the De Cecco family. Effective January 1, 1999, Molino F.lli De Cecco di Filippo S.p.A. ("Molino"), a third member of the De Cecco Group on whose behalf De Cecco responded in the fourth administrative review, was merged with Pastifico and ceased to be a separate entity. The Department will continue to consider countervailable any benefits received by Molino in past administrative review periods and allocated over a period that extends into or beyond the current POR. In accordance with 19 CFR 351.525(b)(6)(i) and (ii), we are attributing subsidies received by Pastificio and Pescara to the combined sales of both.

Felicetti: Felicetti has reported that it has no affiliates. Thus, we are attributing any subsidies received by Felicetti to that company's sales.

Benchmarks for Long-Term Loans and Discount Rates

Pursuant to 19 CFR 351.505(a), the Department will use the actual cost of comparable borrowing by a company as a loan benchmark, when available. According to 19 CFR 351.505(a)(2), a comparable commercial loan is defined as one that, when compared to the government-provided loan in question, has similarities in the structure of the loan (e.g., fixed interest rate v. variable interest rate), the maturity of the loan (e.g., short-term v. long-term), and the currency in which the loan is denominated.

Because no comparable commercial loans were taken out by respondents in the years in which the government agreed to provide the subsidies, we used a national average interest rate for comparable commercial loans, pursuant to 19 CFR 351.505(a)(3)(ii). Consistent with past practice in this proceeding, for years prior to 1995, we used the Bank of Italy reference rate adjusted upward to reflect the mark-up an Italian commercial bank would charge a corporate customer. See, e.g., Certain Pasta from Italy: Preliminary Results and Partial Rescission of the Eighth Countervailing Duty Administrative Review, 70 FR 17971 (April 8, 2005) (unchanged in final results: Certain Pasta from Italy: Final Results of the Eighth Countervailing Duty Administrative Review, 70 FR 37084 (June 28, 2005)). For benefits received in 1995-2004, we used the Italian Bankers' Association ("ABI") prime interest rate (as reported by the Bank of Italy), increased by the average spread charged by banks on loans to commercial customers plus an amount for bank charges. The Bank of Italy ceased reporting this rate in 2004. Because the ABI prime rate was no longer reported after 2004, for 2005 and 2006, we have used the "Bank Interest Rates on Euro Loans: Outstanding Amounts, Non-Financial Corporations, Loans With Original Maturity More Than Five Years" published by the Bank of Italy and provided by the GOI in its November 8, 2007, QR at Exhibit 5. We made the adjustments described above to this rate.

For discount rates, no company for which we need such rates took out any loans in the years in which the government agreed to provide the subsidies in question. Therefore, pursuant to 19 CFR 351.524(d)(3)(i)(B), we used the national average cost of long-term, fixed-rate loans to allocate non-recurring benefits over time.

Analysis of Programs

I. *Programs Determined to be Countervailable*

A. Industrial Development Grants Under Law 64/86

Law 64/86 provided assistance to promote development in the *Mezzogiorno* (the south of Italy). Grants were awarded to companies constructing new plants or expanding or modernizing existing plants. Pasta companies were eligible for grants to expand existing plants but not to establish new plants because the market for pasta was deemed to be close to saturated. Grants were made only after a private credit institution chosen by the applicant made a positive assessment of the project.

In 1992, the Italian Parliament abrogated Law 64/86 and replaced it with Law 488/92 (see below). This decision became effective in 1993. However, companies whose projects had been approved prior to 1993 were authorized to continue receiving grants under Law 64/86 after 1993. De Matteis, Garofalo, and De Cecco received grants under Law 64/86 which conferred a benefit during the POR.

In the Pasta Investigation,[1] the Department determined that these grants confer a countervailable subsidy within the meaning of section 771(5) of the Tariff Act of 1930, as amended ("the Act"). They are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. See section 771(5)(D)(i); see also 19 CFR 351.504(a). Also, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act.

As stated in Live Swine from Canada,[2] "it is well-established that where the Department has determined that a program is … countervailable, it is the Department's policy not to re-examine the issue of that program's countervailability in subsequent reviews unless new information or evidence of changed circumstances is submitted which warrants reconsideration." Also, this policy is reflected in the Department's standard questionnaire used in CVD administrative reviews which states that "absent new information or evidence of changed circumstances, we do not intend to reexamine the countervailability of programs previously found to be countervailable."[3]

In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.

In the Pasta Investigation, the Department treated the industrial development grants as non-recurring. No new information has been placed on the record of this review that would cause us to depart from this treatment. Therefore, we have followed the methodology described in 19 CFR 351.524(b)(2) which directs us to allocate over time those non-recurring grants whose total authorized amount exceeds 0.5 percent of the recipient's sales in the year of authorization. Where the total amount authorized is less than 0.5 percent of the recipient's sales in the year of authorization, the benefit is countervailed in full ("expensed") in the year of receipt. We determined that grants received by De Matteis, Garofalo, and De Cecco under Law 64/86 exceeded 0.5 percent of their sales in the year in which the grants were approved.

We used the grant methodology described in 19 CFR 351.524(d) to allocate the benefits from those grants that were allocated over time. We divided the benefit received by each company in the POR by its total sales in the POR.

On this basis, we determine the countervailable subsidy from the Law 64/86 industrial development grants to be 0.05 percent *ad valorem* for De Matteis, 0.59 percent *ad valorem* for

[1] Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") from Italy, 61 FR 30288 (June 14, 1996) ("Pasta Investigation").
[2] Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews, 61 FR 52408, 52420 (Oct. 7, 1996).
[3] See Department's Sept. 11, 2007 letter to the Embassy of Italy, at enclosure.

Garofalo, and 0.56 percent *ad valorem* for De Cecco. See Memorandum to the File, "2006 Preliminary Results Calculation Memorandum for De Matteis Agroalimentare S.p.A.," dated July 30, 2008 ("De Matteis Preliminary Calc Memo"); Memorandum to the File, "2006 Preliminary Results Calculation Memorandum for Pastificio Lucio Garofalo S.p.A.," dated July 30, 2008 ("Garofalo Preliminary Calc Memo"); and Memorandum to the File, "2006 Preliminary Results Calculation Memorandum for F.lli De Cecco di Filippo Fara San Martino S.p.A.," dated July 30, 2008 ("De Cecco Preliminary Calc Memo").

B. Industrial Development Loans Under Law 64/86

In addition to the Law 64/86 industrial development grants discussed above, Law 64/86 also provided reduced-rate industrial development loans with interest contributions paid by the GOI for companies constructing new plants or expanding or modernizing existing plants in the *Mezzogiorno*. As with the grants discussed above, pasta companies were eligible for interest contributions to expand existing plants, but not to establish new plants. The fixed-interest rates on these long-term loans were set at the reference rate with the GOI's interest contributions serving to reduce this rate. Although Law 64/86 was abrogated in 1992 (effective 1993), projects approved prior to 1993 were authorized to receive interest subsidies after 1993.

Garofalo and De Cecco had Law 64/86 industrial development loans outstanding during the POR.

In the Pasta Investigation, the Department determined that Law 64/86 loans confer a countervailable subsidy within the meaning of section 771(5) of the Act. They are a direct transfer of funds from the GOI providing a benefit in the amount of the difference between the benchmark interest rate and the interest rate paid by the companies after accounting for the GOI's interest contributions. See Section 751(5)(E)(ii). Also, these loans were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies. See Live Swine from Canada.

In accordance with 19 CFR 351.505(c)(2), we calculated the benefit for the POR by computing the difference between the payments Garofalo and De Cecco made on their Law 64/86 loans net of GOI interest contributions and the payments Garofalo and De Cecco would have made on the benchmark loan. We divided the benefit received by Garofalo and De Cecco by their respective total sales in the POR.

On this basis, we determine the countervailable subsidy from the Law 64/86 industrial development loans to be 0.16 percent *ad valorem* for Garofalo and 0.02 percent *ad valorem* for De Cecco. See Garofalo Preliminary Calc Memo and De Cecco Preliminary Calc Memo.

C. Industrial Development Grants Under Law 488/92

In 1986, the European Union ("EU") initiated an investigation of the GOI's regional subsidy practices. As a result of this investigation, the GOI changed the regions eligible for regional subsidies to include depressed areas in central and northern Italy in addition to the *Mezzogiorno*. After this change, the areas eligible for regional subsidies are the same as those classified as Objective 1 (underdeveloped regions), Objective 2 (declining industrial regions), or Objective 5(b) (declining agricultural regions) areas by the EU. The new policy was given legislative form in Law 488/92 under which Italian companies in the eligible sectors (manufacturing, mining, and certain business services) may apply for industrial development grants.

Law 488/92 grants are made only after a preliminary examination by a bank authorized by the Ministry of Industry. On the basis of the findings of this preliminary examination, the Ministry of Industry ranks the companies applying for grants. The ranking is based on indicators such as the amount of capital the company will contribute from its own funds, the number of jobs created, regional priorities, etc. Grants are then made based on this ranking.

De Matteis, Garofalo, and De Cecco received grants under Law 488/92 which conferred a benefit during the POR. Based upon findings at verification, we adjusted De Matteis's reported disbursement amounts to include an interest amount received by De Matteis as a result of a lag in payment. See Memorandum to the File, "Verification of the Questionnaire Responses of De Matteis Agroalimentare S.p.A. in the 11th Administrative Review," dated July 30, 2008 ("De Matteis Verification Report"), at 8; see also De Matteis Preliminary Calc Memo.

In the Second Administrative Review,[4] the Department determined that these grants confer a countervailable subsidy within the meaning of section 771(5) of the Act. They are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. See section 771(5)(D)(i); see also 19 CFR 351.504(a). Also, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies. See Live Swine from Canada.

In the Second Administrative Review, the Department treated the industrial development grants as non-recurring. No new information has been placed on the record of this review that would cause us to depart from this treatment. Therefore, we have followed the methodology described in 19 CFR 351.524(b)(2) which directs us to allocate over time those non-recurring grants whose total authorized amount exceeds 0.5 percent of the recipient's sales in the year of authorization. Where the total amount authorized is less than 0.5 percent of the recipient's sales in the year of authorization, the benefit is expensed in the year of receipt. We determined that grants received by De Matteis, Garofalo, and De Cecco under Law 488/92 exceeded 0.5 percent of their sales in the year in which the grants were approved.

We used the grant methodology described in 19 CFR 351.524(d) to allocate the benefits over time. We divided the benefit received by each company in the POR by its total sales in the POR.

[4] See Certain Pasta From Italy: Preliminary Results of Countervailing Duty Administrative Review, 64 FR 17618 (April 12, 1999) ("Second Administrative Review"); Certain Pasta From Italy: Final Results of Second Countervailing Duty Administrative Review, 64 FR 44489 (August 16, 1999) (unchanged in Final Results).

On this basis, we determine the countervailable subsidy from the Law 488/92 industrial development grants to be 1.11 percent *ad valorem* for De Matteis, 0.81 percent *ad valorem* for Garofalo, and 0.25 percent *ad valorem* for De Cecco. See De Matteis Preliminary Calc Memo, Garofalo Preliminary Calc Memo, and De Cecco Preliminary Calc Memo.

D. European Regional Development Fund ("ERDF") *Programma Operativo Plurifondo* (P.O.P.) Grant

The ERDF is one of the EU's Structural Funds. It was created pursuant to the authority in Article 130 of the Treaty of Rome to reduce regional disparities in socio-economic performance within the EU. The ERDF program provides grants to companies located within regions which meet the criteria, as described above, of Objective 1, Objective 2, or Objective 5(b) under the Structural Funds.

De Matteis received a P.O.P. Grant from the Regione Campania in 1998.[5] The P.O.P. Grants were funded by the EU, the GOI, and the Regione Campania.

In the Pasta Investigation, the Department determined that ERDF P.O.P. Grants confer a countervailable subsidy within the meaning of section 771(5) of the Act. They are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. See section 771(5)(D)(i); see also 19 CFR 351.504(a). Also, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. In this review, neither the EU, the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that ERDF grants are countervailable subsidies. See Live Swine from Canada.

In the Pasta Investigation, the Department treated ERDF grants as non-recurring. No new information has been placed on the record of this review that would cause us to depart from this treatment. In accordance with 19 CFR 351.524(b)(2), we determined that the ERDF grant received by De Matteis exceeded 0.5 percent of its sales in the year in which the grant was approved, as was the case in the Fourth Administrative Review.

We used the grant methodology described in 19 CFR 351.524(d) to allocate the benefits over time. We divided the benefit received by De Matteis in the POR by its total sales in the POR.

On this basis, we determine the countervailable subsidy from the ERDF P.O.P. Grant to be 0.05 percent *ad valorem* for De Matteis. See De Matteis Preliminary Calc Memo.

E. Social Security Reductions and Exemptions – *Sgravi*

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[5] See Certain Pasta from Italy: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review, 66 FR 40987 (August 6, 2001) ("Fourth Administrative Review"); Certain Pasta From Italy: Final Results of the Fourth Countervailing Duty Administrative Review, 66 FR 64214 (December 12, 2001) (unchanged in Final Results).

Italian law allows companies, particularly those located in the *Mezzogiorno* region, to use a variety of exemptions from and reductions of payroll contributions that employers make to the Italian social security system for health care benefits, pensions, etc. The *sgravi* benefits are regulated by a complex set of laws and regulations, and are sometimes linked to conditions such as creating more jobs. We have found in past segments of this proceeding that benefits under some of these laws (e.g., Laws 183/76, 449/97, and 223/91) are available only to companies located in the *Mezzogiorno* and other disadvantaged regions. Certain other laws (e.g., Laws 407/90 and 863/84) provide benefits to companies all over Italy, but the level of benefits is higher for companies in the *Mezzogiorno* and other disadvantaged regions than for companies in other parts of the country. Still, other laws provide benefits that are not linked to any region.

In the Pasta Investigation and subsequent reviews, the Department determined that certain types of social security reductions and exemptions confer countervailable subsidies within the meaning of section 771(5) of the Act. They represent revenue foregone by the GOI bestowing a benefit in the amount of the savings received by the companies. See section 771(5)(D)(ii) of the Act. Also, they were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because they were limited to companies in the *Mezzogiorno* or because the higher levels of benefits were limited to companies in the *Mezzogiorno*.

In the instant review, no party in this proceeding challenged our past determinations in the Pasta Investigation and subsequent reviews that *sgravi* benefits, generally, were countervailable for companies located within the *Mezzogiorno* region. See Live Swine from Canada. However, the GOI has submitted information claiming that benefits provided under Article 8 of Law 223/91 should be found not countervailable. See Memorandum to the File, "GOI's June 11, 2008, Letter," dated July 30, 2008.

The laws identified as having provided *sgravi* benefits during the POR are the following: Law 863/84 (De Matteis and Garofalo), Law 196/97 (De Matteis), Law 407/90 (De Matteis and Garofalo), Law 223/91 Article 8 Paragraph 2 (De Matteis), Law 223/91 Article 25 Paragraph 9 (De Matteis), and Legislative Decree 276/03 (De Matteis, De Cecco, and Garofalo).

1) Law 863/84

Law 863/84 provides social security reductions or exemptions when a company hires a worker under a non-renewable contract with a term of 24 months or less and the contract includes an educational or training component. The GOI refers to these as "skilling" contracts. See GOI Verification Report,[6] at 10-11. The employer may receive reductions or exemptions from social security contributions for a period of up to 24 months. Id. Typically, employees hired under these contracts must be no more than 29 years old, but in the *Mezzogiorno*, the maximum age is 32 years old. Id. Also, a company in the *Mezzogiorno* is exempted from making social security contributions for employees hired under these skilling contracts, while companies in other areas of Italy receive a 25 percent reduction in social security contributions. Id.

[6] See Memorandum to the File, "Verification of the Questionnaire Responses of the Government of Italy in the 11th Administrative Review," dated July 30, 2008 ("GOI Verification Report").

Legislative Decree ("L.D.") 276/03 repealed the provision related to skilling contracts by private companies and, as of November 2004, no new skilling contracts could be made. Id. However, for skilling contracts entered into as of October 2004, benefits could be realized for the duration of the two-year period. Id.

In the Pasta Investigation, we determined Law 863/84 conferred a countervailable subsidy within the meaning of section 771(5) of the Act. The reduction or exemption of taxes is revenue forgone and is, therefore, a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. The benefit is the difference in the amount of the tax savings between companies located in the *Mezzogiorno* and companies located in the rest of Italy in accordance with 19 CFR 351.509(a). Additionally, the program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because higher levels of benefits are limited to companies in the *Mezzogiorno* region.

In accordance with 19 CFR 351.524(c) and consistent with our methodology in the Pasta Investigation and in reviews subsequent to the Pasta Investigation, we have treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy for De Matteis and Garofalo, we calculated the difference during the POR between the savings for each of these respondent companies located in the *Mezzogiorno* and the savings a company located in the rest of Italy would have received. This amount was divided by the respondent's total sales in the POR.

On this basis, we determine the countervailable subsidy from Law 863/84 to be 0.01 percent *ad valorem* for De Matteis and 0.03 percent *ad valorem* for Garofalo. See De Matteis Preliminary Calc Memo and Garofalo Preliminary Calc Memo.

2) Law 196/97

Law 196/97 is closely related to Law 863/84. See GOI Verification Report, at 11-12. It provides additional exemptions for employers in the *Mezzogiorno* that hire on a long-term (or permanent) basis, employees hired under skilling contracts. Id. Law 196/97 permits such employers a total exemption from social security contributions for an additional 12-month period.

Benefits from Law 196/97 could only be requested after an employee had participated in a 24-month skilling contract under Law 863/84. As noted above, no new skilling contracts under Law 863/84 could be made after October 31, 2004. Thus, the last possible date to request exemptions under Law 196/97 was October 31, 2006. Moreover, because the exemption granted under Law 196/97 only lasts for twelve months, benefits were set to expire by October 31, 2007.

In the Fourth Administrative Review, we determined Law 196/97 confers a countervailable subsidy within the meaning of section 771(5) of the Act. The reduction or exemption of taxes is revenue forgone and is, therefore, a financial contribution within the meaning of section 771(5)(D)(ii) of the Act . The benefit is the amount of the tax savings in accordance with 19 CFR 351.509(a). Additionally, the program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because benefits are limited to companies in the *Mezzogiorno* region.

In accordance with 19 CFR 351.524(c) and consistent with our methodology in the Pasta Investigation and in reviews subsequent to the Pasta Investigation, we have treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy, we divided De Matteis's savings in social security contributions during the POR by its total sales in the POR.

On this basis, we determine the countervailable subsidy from Law 196/97 to be 0.09 percent *ad valorem* for De Matteis. See De Matteis Preliminary Calc Memo.

3) Law 407/90

Law 407/90 grants an exemption from social security taxes for three years when a company hires a worker who (1) has received wage supplementation for a period of at least two years, or (2) has been previously unemployed for a period of two years. See GOI Verification Report, at 12-13. A 100-percent exemption is allowed for companies in the *Mezzogiorno*, while companies located in the rest of Italy receive a 50-percent reduction.

In the Pasta Investigation, we determined Law 407/90 confers a countervailable subsidy within the meaning of section 771(5) of the Act. The reduction or exemption of taxes is revenue forgone and is, therefore, a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. The benefit is the difference in the amount of the tax savings between companies located in the *Mezzogiorno* and companies located in the rest of Italy in accordance with 19 CFR 351.509(a). Additionally, the program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because higher levels of benefits are limited to companies in the *Mezzogiorno* region.

In accordance with 19 CFR 351.524(c) and consistent with our methodology in the Pasta Investigation and in reviews subsequent to the Pasta Investigation, we have treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy for De Matteis and Garofalo, we divided the difference during the POR between the savings for each respondent company located in the *Mezzogiorno* and the savings a company located in the rest of Italy would have received. This amount was divided by the respondent's total sales in the POR.

On this basis, we determine the countervailable subsidy from Law 407/90 to be 0.03 percent *ad valorem* for De Matteis and 0.01 percent *ad valorem* for Garofalo. See De Matteis Preliminary Calc Memo and Garofalo Preliminary Calc Memo.

4) Law 223/91

Law 223/91 is designed to increase employment by providing benefits to companies that hire unemployed workers on a special mobility list. The mobility list comprises recently fired workers in certain sectors of the economy, but companies in any sector may hire workers off the mobility list.

(a) Article 8, Paragraph 2

Under Law 223/91, Article 8, Paragraph 2, the employer is exempted from social security contributions when a mobility-listed worker is hired under a short-term contract of up to 12 months. See GOI Verification Report, at 13-14. The employer receives such benefits for the length of the contract to a maximum of 12 months. Id. But if the short-term contract is converted to a permanent contract, the employer receives benefits for an additional 12 months. Id.

In the Seventh Administrative Review,[7] we determined that Law 223/91 conferred a countervailable subsidy within the meaning of section 771(5) of the Act. The reduction or exemption of taxes was treated as revenue forgone and was, therefore, a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. The benefit is the amount of tax savings in accordance with 19 CFR 351.509(a). Additionally, we found that the program was regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because it was limited to companies in the *Mezzogiorno* or because the higher levels of benefits were limited to companies in the *Mezzogiorno*.

Based on verification and record evidence, we provided opportunities to the GOI to demonstrate that Law 223/91, Article 8, Paragraph 2 is not countervailable. On June 16, 2008, we sent a supplemental questionnaire to the GOI which in part asked for a list of the industries that received benefits under this law. The GOI did not respond to this portion of the supplemental questionnaire. See GOI's June 27, 2008, SQR. On August 13, 2008, we sent another supplemental questionnaire to the GOI asking for lists of company-specific benefit amounts and industry usage information for 2004, 2005, and 2006. The GOI responded that it could not supply these lists because of the huge number of companies involved. See GOI's August 13, 2008, SQR. Again, the GOI did not respond to the industry usage portion of this supplemental questionnaire. Id.

Because the GOI has not provided any new information or evidence of changed circumstances, we have no reason to reconsider our prior finding that benefits under Law 223/91 are countervailable. See Live Swine from Canada. Accordingly, we continue to find the exemptions provided under Law 223/91, Article 8, Paragraph 2, countervailable.

In accordance with 19 CFR 351.524(c) and consistent with our methodology in the Pasta Investigation and in reviews subsequent to the Pasta Investigation, we have treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy, we divided De Matteis's savings in social security contributions during the POR by its total sales in the POR.

On this basis, we determine the countervailable subsidy from Law 223/91, Article 8, Paragraph 2 to be 0.02 percent *ad valorem* for De Matteis. See De Matteis Preliminary Calc Memo.

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[7] See Certain Pasta from Italy: Preliminary Results and Partial Rescission of the Seventh Countervailing Duty Administrative Review, 69 FR 45676, 45683 (July 30, 2004) ("Seventh Administrative Review"); Certain Pasta from Italy: Final Results of the Seventh Countervailing Duty Administrative Review, 69 FR 70657 (December 7, 2004) (unchanged in Final Results).

(b) Article 25, Paragraph 9

Under Law 223/91, Article 25, Paragraph 9, an employer is exempted from social security contributions for a period of 18 months when the worker is hired from the mobility list on a permanent basis. See GOI Verification Report, at 13-14.

In the Seventh Administrative Review, we determined that Law 223/91 conferred a countervailable subsidy within the meaning of section 771(5) of the Act. The reduction or exemption of taxes was treated as revenue forgone and was, therefore, a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. The benefit is the amount of tax savings in accordance with 19 CFR 351.509(a). Additionally, we found that the program was regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because it was limited to companies in the *Mezzogiorno* or because the higher levels of benefits were limited to companies in the *Mezzogiorno*.

Based on verification and record evidence, we provided opportunities to the GOI to demonstrate that Law 223/91, Article 25, Paragraph 9 is not countervailable. On June 16, 2008, we sent a supplemental questionnaire to the GOI which in part asked for a list of the industries that received benefits under this law. The GOI did not respond to this portion of the supplemental questionnaire. See GOI's June 27, 2008, SQR. On August 13, 2008, we sent another supplemental questionnaire to the GOI asking for lists of company-specific benefit amounts and industry usage information for 2004, 2005, and 2006. The GOI responded that it could not supply these lists because of the huge number of companies involved. See GOI's August 13, 2008, SQR. Again, the GOI did not respond to the industry usage portion of this supplemental questionnaire. Id.

Because the GOI has not provided any new information or evidence of changed circumstances, we have no reason to reconsider our prior finding that benefits under Law 223/91 are countervailable. See Live Swine from Canada. Accordingly, we continue to find the exemptions provided under Law 223/91, Article 25, Paragraph 9, countervailable.

In accordance with 19 CFR 351.524(c) and consistent with our methodology in the Pasta Investigation and in reviews subsequent to the Pasta Investigation, we have treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy, we divided De Matteis's savings in social security contributions during the POR by its total sales in the POR.

On this basis, we determine the countervailable subsidy from Law 223/91, Article 25, Paragraph 9, to be 0.00 percent *ad valorem* for De Matteis. See De Matteis Preliminary Calc Memo.

5) Legislative Decree ("L.D.") 276/03

De Matteis, De Cecco, and Garofalo reported receiving benefits under L.D. 276/03. L.D. 276/03 is aimed at making the labor market more flexible by providing incentives for apprentice contracts. See GOI's April 1, 2008, SQR. Companies receive benefits for hiring workers under mixed contracts possessing a work component and a training component. See GOI Verification Report, at 14-15. Specifically, three categories of employee contracts recognized under this decree are: (1) working toward completion of compulsory schooling, (2) working toward completion of trade schooling, and (3) high-level training of special skills for a worker. Id.

Except for a weekly flat fee paid by the employer on behalf of the employee, the employer receives a total exemption from its social security contribution. See GOI Verification Report, at 14-15. The contributions are applied in equal measure across Italy and the decree may be used in all sectors of activity. See GOI's May 19, 2008, SQR and Exhibit 1; see also GOI Verification Report, at 14-15.

In a change from the Preliminary Results, we find that L.D. 276/03 is a continuation of Law 25/55 or Law 56/87, programs found countervailable in the Seventh Administrative Review. Article 53 of L.D. 276/03 states that "{t}he provisions on social security and assistance envisioned by Law 25 of 19 January 1955, as amended, remain unvaried." See GOI's May 19, 2008, SQR at Exhibit 1. The official translation of Law 56/87 states that "starting from October 24, 2003, the apprenticeship discipline was revised after the new regulations of the Legislative Decree 276/03, from articles 47 to 53."[8] Also, both Law 25/55 and Law 56/87 discuss an apprenticeship program. Id. Therefore, we find that L.D. 276/03 is a continuation of at least one of these countervailable programs.

In the Seventh Administrative Review, we determined that Law 25/55 and Law 56/87 conferred countervailable subsidies within the meaning of section 771(5) of the Act. The reduction or exemption of taxes was treated as revenue forgone and was, therefore, a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. The benefit is the amount of tax savings in accordance with 19 CFR 351.509(a). Additionally, we found that these programs were regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because they were limited to companies in the *Mezzogiorno* or because the higher levels of benefits were limited to companies in the *Mezzogiorno*.

Based on verification and record evidence, we provided an opportunity to the GOI to demonstrate that L.D. 276/03 is not countervailable. On August 13, 2008, we sent a supplemental questionnaire to the GOI asking for lists of company-specific benefit amounts and industry usage information for 2004, 2005, and 2006. The GOI responded that it could not supply these lists because of the huge number of companies involved. See GOI's August 13, 2008, SQR. The GOI did not respond to the industry usage portion of this supplemental questionnaire. Id.

Because the GOI has not provided any new information or evidence of changed circumstances, we have no reason to reconsider our prior finding that Law 25/55 and Law 56/97 are countervailable. See Live Swine from Canada. Accordingly, we continue to find the exemptions provided under L.D. 276/03, as a continuation program, countervailable.

[8] See Memorandum to the File, "Relevant Portions of GOI's Public Questionnaire Responses in the Seventh (2001) Countervailing Duty Administrative Review," dated January 27, 2009, at Exhibit 1.

In accordance with 19 CFR 351.524(c) and consistent with our methodology in the Pasta Investigation and in reviews subsequent to the Pasta Investigation, we have treated social security reductions and exemptions as recurring benefits.

For De Matteis, because we could not reconcile a small difference between the reported social security savings by De Matteis and the GOI, we have used the amount reported by the GOI as it is the higher of the two. See GOI Verification Report at 15; see also De Matteis Verification Report at 16. To calculate the countervailable subsidy for De Matteis, De Cecco, and Garofalo, we divided each respondent's savings in social security contributions during the POR by its total sales in the POR.

On this basis, we determine the countervailable subsidy from L.D. 276/03 to be 0.04 percent *ad valorem* for De Matteis, 0.05 percent *ad valorem* for De Cecco, and 0.02 percent *ad valorem* for Garofalo. See Memorandum to the File, "2006 Final Results Calculation Memorandum for De Matteis Agroalimentare S.p.A.," dated January 27, 2009 ("De Matteis Final Calc Memo"); Memorandum to the File, "2006 Final Results Calculation Memorandum for F.lli De Cecco di Filippo Fara San Martino S.p.A.," dated January 27 , 2009 ("De Cecco Final Calc Memo"); and Memorandum to the File, "2006 Final Results Calculation Memorandum for Pastificio Lucio Garofalo S.p.A.," dated January 27, 2009 ("Garofalo Final Calc Memo").

F. Law 289/02

1) Article 62 - Investments in Disadvantaged Areas

Article 62 of Law 289/02 provides a benefit in the form of a credit towards direct taxes, indirect taxes, or social security contributions. See GOI Verification Report, at 2-4. The credit must be used within three years. Id. The law was established to promote investment in disadvantaged areas by providing credits to companies that undertake new investment by purchasing capital goods, equipment, patents, licenses, or know how. Id. The granting of new benefits under Article 62 of Law 289/02 expired as of December 31, 2006, but the credits obtained prior to this date may be used in future years. Id.

In the Tenth Administrative Review,[9] we determined that Article 62 of Law 289/02 confers a countervailable subsidy. The credits are a financial contribution within the meaning of section 771(5)(D)(ii) of the Act because they represent revenue foregone by the GOI, and a benefit is conferred in the amount of the tax savings in accordance with 19 CFR 351.509(a). Finally, the program is specific within the meaning of 751(5A)(D)(iv) of the Act because it is limited to certain geographical regions in Italy, specifically, the regions of Calabria, Campania, Basilicata, Pugilia, Sicilia, and Sardegna, and certain municipalities in the Abruzzo and Molise region, and certain municipalities in central and northern Italy. No new information has been placed on the record of this review that would cause us to depart from this treatment. See Live Swine from Canada.

[9] See Certain Pasta From Italy: Preliminary Results of the Tenth Countervailing Duty Administrative Review, 72 FR 43616 (August 6, 2007) ("Tenth Administrative Review"); Certain Pasta From Italy: Final Results of the Tenth (2005) Countervailing Duty Administrative Review, 73 FR 7251 (February 7, 2008) (unchanged in Final Results).

De Matteis is located in Campania and took advantage of this program. It did so by constructing a new semolina milling facility, including wheat silos, by-product storage silos, semolina silos, and milling equipment. A tax credit for De Matteis was approved in 2005 and a portion was used to reduce the company's income taxes for 2005 and 2006.

In the Tenth Administrative Review, the Department treated the amount credited against 2005 income as a non-recurring grant in accordance with the criteria in 19 CFR 351.524(c)(2)(i)-(iii). Specifically, the tax credit is exceptional because it was only available for a limited period of time, and was dependent upon companies making specific investments. Further, the tax credit required the GOI's authorization, and was tied to capital assets of the firm. Moreover, in accordance with 19 CFR 351.524(b)(2), we determined that the tax credit received by De Matteis exceeded 0.5 percent of its sales in the year in which the tax credit was approved. Therefore, we treated the portion of the tax credit used to offset income in 2005 as a grant received in that year and allocated the benefit over the AUL using the formula described in 19 CFR 351.524(d).

We have followed the same methodology for the portion of the tax credit used to offset income earned during the POR. Consequently, we divided the benefit received by De Matteis from the 2005 and 2006 grants in the POR by the company's total sales in the POR. On this basis, we determine the countervailable subsidy from Law 289/02 Article 62 to be 0.74 percent *ad valorem* for De Matteis. See De Matteis Preliminary Calc Memo.

2) Article 63 - Increase in Employment

Article 63 of Law 289/02 provides a benefit in the form of a credit towards direct taxes, indirect taxes, or social security contributions. See GOI Verification Report, at 4-5. The law was established to promote employment by providing a tax credit to companies that increase the number of employees at the company by hiring new workers to long-term contracts. Id. The monthly credit is 100 euros for a new hire for any company in Italy. If the employee is 45 years old or older, the monthly amount increases to 150 euros. The monthly credit is 300 euros if the company is located in the *Mezzogiorno*. Id. Under the law, the granting of new credits ceased as of December 31, 2006. Id. There is no limit as to when the credits can be applied as these credits carry over from one year to the next. Id. However, as of 2007, the credits must be used as soon as possible and failure to do so forfeits the portion of the credit that could have been taken during the given year. Id.

In the Tenth Administrative Review, we determined that Article 63 of Law 289/02 confers a countervailable subsidy. The credits are a financial contribution within the meaning of section 771(5)(D)(ii) of the Act because they represent revenue foregone by the GOI, and a benefit is conferred in the amount of the tax savings in accordance with 19 CFR 351.509(a). Finally, the program is specific within the meaning of 751(5A)(D)(iv) of the Act because the greater benefit amount is limited to certain geographical regions in Italy, specifically, Campania, Basilicata, Puglia, Calabria, Sicilia, Sardegna, Abruzzo, Molise, and the municipalities of Tivoli, Formia, Sora, Cassino, Frosnone, Viterbo, and Massa. No new information has been placed on the record of this review that would cause us to depart from this treatment. See Live Swine from Canada.

De Matteis and Garofalo are located in Campania; however, only De Matteis claimed the higher tax credits on the income tax forms filed during the POR.

Consistent with the Tenth Administrative Review, we are treating these as recurring subsidies and attributing the benefit to the year in which the taxes would otherwise have been due, i.e., the year in which the company filed its tax form.[10] Based upon findings at verification, we revised De Matteis's reported amount to reflect the amount associated with the tax return filed during the POR. See De Matteis Verification Report and De Matteis Preliminary Calc Memo. To calculate the countervailable subsidy, we divided the credit taken by De Matteis on the tax return filed during the POR by its total sales in the POR.

On this basis, we determine the countervailable subsidy from Law 289/02 Article 63 to be 0.05 percent *ad valorem* for De Matteis. See De Matteis Preliminary Calc Memo.

G. Law 662/96

The GOI describes Patti Territoriali grants (Law 662/96 Article 2, Paragraph 203, Letter d) as being provided to companies for entrepreneurial initiatives such as new plants, additions, modernization, restructuring, conversion, reactivation, or transfer. To be eligible for these grants companies must be involved in mining, manufacturing, production of thermal or electric power from biomasses, service companies, tourist companies, agricultural, maritime and salt-water fishing businesses, aquaculture enterprises, or their associations.

The Patti Territoriali provides grants to companies located within regions which meet the criteria of Objective 1 or Objective 2 under the Structural Funds or article 87.3.c of the Treaty of Rome. A Patti Territoriali is signed between the provincial government and the GOI. See GOI Verification Report, at 5-7. Based upon project submissions, the provincial government ranks the projects and selects the projects it considers to be the best. Id. The provincial government submits the detailed plans to the GOI and, if approved, a special authorizing decree is issued for each company specifying the investment required and a schedule of the benefits. Id.

The GOI reported that De Matteis received disbursements from the Patti Territoriali in 2000 and 2004 from a grant approved on January 29, 1999.

In the Tenth Administrative Review, the Department determined that this grant confers a countervailable subsidy within the meaning of section 771(5) of the Act. It is a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. See Section 771(5)(D)(i); see also 19 CFR 351.504(a). Also, this grant was found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because it is limited to companies located within regions which meet the criteria of Objective 1 or Objective 2 under the Structural Funds or article 87.3.c of the Treaty of Rome. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies. See Live Swine from Canada.

[10] See 19 CFR 351.509(b).

In the Tenth Administrative Review, the Department treated the Patti Territoriali grant as non-recurring. No new information has been placed on the record of this review that would cause us to depart from this treatment. We have followed the methodology described in 19 CFR 351.524(b)(2) which directs us to allocate over time those non-recurring grants whose total authorized amount exceeds 0.5 percent of the recipient's sales in the year of authorization. Where the total amount authorized is less than 0.5 percent of the recipient's sales in the year of authorization, the benefit is expensed in the year of receipt. We determined that the grant received by De Matteis under Law 662/96 exceeded 0.5 percent of its sales in the year in which the grant as approved.

We used the grant methodology described in 19 CFR 351.524(d) to allocate the benefits over time. We divided the benefit received by De Matteis in the POR by its total sales in the POR.

On this basis, we determine the countervailable subsidy from the Patti Territoriali grant to be 0.50 percent *ad valorem* for De Matteis. See De Matteis Preliminary Calc Memo.

II. *Programs Determined to be Not Countervailable*

A. Research and Investigation Program of Legislative Decree 297/99 and Ministerial Decree 593/00

Garofalo has reported receiving benefits under L.D. 297/99 which is implemented by Ministerial Decree ("M.D.") 593/00. M.D. 593/00 provides a tax credit or contribution to costs for planned research or analytical investigations aimed at acquiring new knowledge for new products, production processes, or services or to improve existing products, production processes, or services. See GOI's April 1, 2008, SQR at Exhibit 3. Requests for these benefits can be filed by (1) companies engaged in industrial activities aimed at the production of goods and/or services, (2) companies engaged in transportation by land, sea, or air; (3) companies engaged in handicraft activities; (4) research centers, and (5) consortia companies. See GOI's April 1, 2008, SQR. The benefits are paid automatically after the filing of the request and after verification of eligibility. Id. Additionally, M.D. 593 has no provisions that restrict eligibility by region.

We find that L.D. 297/99 is a nationwide program that potentially provides a similar level of deductions to all recipients and is not *de jure* specific to any particular company or industry pursuant to sections 771(5A)(D)(i) or 771(5A)(D)(ii) of the Act. We reviewed the translated text of this law and find the only location requirement for consideration under L.D. 297/99 Article 5 is that applicants must have a permanent establishment in the national territory. See GOI's April 1, 2008, SQR at Exhibit 3. Therefore, it is not regionally specific under section 771(5A)(D)(iv) of the Act. Additionally, we find that L.D. 297/99/M.D. 593/00 is not *de facto* specific pursuant to 771(5A)(D)(iii), as during the POR, companies from diverse sectors were granted benefits under this law and the agro-food sector received only 3.7 percent of the total disbursements granted by the Ministry of University and Research. See GOI's May 19, 2008, SQR at Exhibit 2. Moreover, there is no record evidence indicating that there are a limited number of recipients under this program. See section 771(5A)(D)(iii)(I) of the Act. Accordingly, we determine that assistance provided under L.D. 297/99 and M.D. 593/00 is not countervailable.

III. *Programs Determined to Not be Used or Not to Provide Benefits During the POR*

We examined the following programs and determine that the producers and/or exporters of the subject merchandise under review did not apply for or receive benefits under these programs during the POR:

A. Grant Received Pursuant to the Community Initiative Concerning the Preparation of Enterprises for the Single Market ("PRISMA")

PRISMA, a program funded by the European Structural Fund, seeks to contribute to the creation of a single EU market by improving standardization and quality control procedures, and seeks to assist small- and medium-sized enterprises in Objective 1 regions to adapt to a single EU market and increased competition. Garofalo received a PRISMA grant in 1996.

In the First Administrative Review,[11] the Department determined that PRISMA grants confer a countervailable subsidy within the meaning of section 771(5) of the Act. They are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. See section 771(5)(D)(i); see also 19 CFR 351.504(a). Also, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because they are limited to firms located in designated geographic regions. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.

Because the grant received by Garofalo was less than 0.5 percent of the company's sales in 1996, the year in which the grant was approved, we expensed the entire grant in the year of receipt, i.e., 1996. Therefore, this program was not used in the POR. See Garofalo Preliminary Calc Memo.

B. European Regional Development Fund ("ERDF") *Programma Operativo Multiregionale* ("P.O.M.") Grant

The P.O.M. Grants are managed by the central government and the Ministry of Industry (now the Ministry of Economic Development) is responsible for the administration of grants related to industry and services. See GOI's May 19, 2008, SQR.

Garofalo was approved to receive a P.O.M. Grant from the GOI in 1998. The P.O.M. Grants are co-funded by the EU and the GOI. Because the amount was less than 0.5 percent of Garofalo's sales in 1998, we expensed the entire grant in the years of receipt, i.e., 1998 and 2000. Therefore, this program was not used in the POR. See Garofalo Preliminary Calc Memo.

C. Certain Social Security Reductions and Exemptions – *Sgravi* (including Law 223/91, Article 8, Paragraph 4)

D. Law 236/93 Training Grants

[11] See Certain Pasta From Italy: Preliminary Results of the First Countervailing Duty Administrative Review, 63 FR 17372 (April 9, 1998) ("First Administrative Review"); Certain Pasta From Italy: Final Results of Countervailing Duty Administrative Review, 63 FR 43905 (August 17, 1998) (unchanged in Final Results).

E. Law 1329/65 Interest Contributions (Sabatini Law) (Formerly Lump-Sum Interest Payment Under the Sabatini Law for Companies in Southern Italy)
F. Development Grants Under Law 30 of 1984
G. Law 908/55 Fondo di Rotazione Iniziative Economiche (Revolving Fund for Economic Initiatives) Loans
H. Law 317/91 Benefits for Innovative Investments
I. Brescia Chamber of Commerce Training Grants
J. Ministerial Decree 87/02
K. Law 10/91 Grants to Fund Energy Conservation
L. Export Restitution Payments
M. Export Credits Under Law 227/77
N. Capital Grants Under Law 675/77
O. Retraining Grants Under Law 675/77
P. Interest Contributions on Bank Loans Under Law 675/77
Q. Preferential Financing for Export Promotion Under Law 394/81
R. Urban Redevelopment Under Law 181
S. Industrial Development Grants under Law 183/76
T. Interest Subsidies Under Law 598/94
U. Duty-Free Import Rights
V. European Social Fund Grants
W. Law 113/86 Training Grants
X. European Agricultural Guidance and Guarantee Fund
Y. Law 341/95 Interest Contributions on Debt Consolidation Loans (Formerly Debt Consolidation Law 341/95)
Z. Interest Grants Financed by IRI Bonds
AA. Article 44 of Law 448/01

Analysis of Comments

Comment 1: Garofalo's Benchmark Rate for Its 1998 Loan under Law 64/86

Garofalo's Argument: Garofalo contends that record evidence contradicts the Department's statement that Garofalo reported no comparable commercial loans in 1998.[12] Garofalo contends that it reported a long-term commercial loan with a loan agreement date in 1998, the same year as the loan approval for the Euro loan for industrial development under Law 64/86. According to Garofalo, it reported a 10-year variable-rate term loan sourced from Banco di Brescia, with a stated initial interest rate.[13] Garofalo argues that this loan should be used for the benchmark rate for its 1998 loan under Law 64/86.

Department's Position: We disagree with Garofalo. Under 19 CFR 351.505(a)(1), the benchmark rate is determined based on "the amount the firm would pay on a comparable commercial loan(s) that the firm could actually obtain on the market." In defining "comparable" under 19 CFR 351.505(a)(2)(i), the Department "normally will place primary emphasis on

[12] See Memorandum to the File, "2006 Preliminary Results Calculation Memorandum for Pastificio Lucio Garofalo S.p.A.," dated July 30, 2008.
[13] See Garofalo's Nov. 8, 2007, questionnaire response at Exhibit 19.

similarities in the structure of the loans (e.g., fixed interest rate v. variable interest rate), the maturity of the loans (e.g., short-term v. long-term), and the currency in which the loans are denominated." The Banco di Bresica loan is a variable-rate loan, while the GOI provided loan under Law 64/86 is a fixed-rate loan. Garofalo has not demonstrated that using its variable-rate loan should be considered a "comparable commercial loan" under the Department's regulations. Therefore, under 19 CFR 351.505(a)(3)(ii), we continue to use the national average cost of long-term, fixed-rate loans as a benchmark rate for Garofalo's Law 64/86 loans.

Comment 2: Garofalo's Discount Rate for Grants under Law 64/86

Garofalo's Argument: Citing to 19 CFR 351.524(d), Garofalo asserts that it reported a commercial loan covering the years in which the Law 64/86 grants were approved (i.e., 1993 and 1995). Garofalo notes that it received a non-subsidized loan signed in 1987 that expired in 1996.[14] Garofalo contends that there is no regulatory requirement that the long-term, fixed-rate loans of the respondent be approved during the year in which the grant was authorized. Therefore, the Department should recalculate the countervailable benefit received under these grants relying on the rate of its non-subsidized loan expiring in 1996.

Department's Position: We disagree with Garofalo. Under 19 CFR 351.524(d), the Department "will select a discount rate based upon data for the year in which the government agreed to provide the subsidy." For Garofalo's Law 64/86 grants, the government agreed to provide the subsidies in 1993 and 1995. In this review, Garofalo did not take out any loans in 1993 or 1995. Therefore, under 19 CFR 351.524(d)(3)(i)(B), we continue to use the national average cost of long-term, fixed-rate loans as a discount rate for Garofalo's Law 64/86 grants.

[14] See Garofalo's Mar. 14, 2008, supplemental questionnaire response at 21.

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review and the final net subsidy rates for the reviewed producers/exporters of the subject merchandise in the Federal Register.

________ ________

Agree Disagree

____

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

____

Date