



C-475-819  
Administrative Review  
POR: 01/01/2012 – 12/31/2012  
**Public Document**  
AD/CVD Office I

August 18, 2014

MEMORANDUM TO: Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

FROM: Christian Marsh *CBM*  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Countervailing  
Duty Administrative Review: Certain Pasta from Italy

## I. SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on certain pasta (pasta) from Italy. The period of review (POR) is January 1, 2012, through December 31, 2012. We preliminarily find that the mandatory respondent DeMatteis Agroalimentare S.p.A. (DeMatteis) (also known as, “De Matteis Agroalimentare SpA”) received countervailable subsidies during the POR. We also preliminarily find that the mandatory respondent Fratelli DeCecco di Filippo Fara San Martino S.p.A. (DeCecco) (also known as “F.lli DeCecco di Filippo Fara San Martino S.p.A.”) received *de minimis* countervailable subsidies during the POR. Since DeCecco received *de minimis* countervailable subsidies during the POR, DeMatteis’ preliminary CVD rate has been applied to the other firms subject to this review and not individually examined, as explained in the corresponding *Federal Register* notice for these preliminary results. As also explained in the corresponding *Federal Register* notice, the Department is rescinding the review of one company, Delverde Industrie Alimentari S.p.A., which timely withdrew its request for review.

## II. BACKGROUND

On July 24, 1996, the Department published the *Order* on pasta from Italy.<sup>1</sup> On July 2, 2013, we published a notice of “Opportunity to Request Administrative Review” for the *Order* for the POR, *i.e.*, calendar year 2012.<sup>2</sup> Subsequently, on July 31, 2013, New World Pasta Company, American Italian Pasta Company, and Dakota Growers Pasta Company (collectively, Petitioners) requested that the Department review three exporters and/or producers of the subject

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

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 78 FR 39710 (July 2, 2013).



merchandise: DeCecco, DeMatteis, and Pasta Granoro S.r.L. (also known as, “Pastifico Attilio Mastromauro Granoro S.r.L”).<sup>3</sup> Also on July 31, 2013, three exporters and/or producers of the subject merchandise respectively submitted requests for review of themselves: Delverde Industrie Alimentari S.p.A. (Delverde);<sup>4</sup> Ghigi Industria Agroalimentare in San Clemente srl (Ghigi);<sup>5</sup> and, Valdigrano di Flavio Pagani S.r.L. (Valdigrano).<sup>6</sup> Accordingly, pursuant to 19 CFR 351.221(c)(1)(i), we published a notice initiating the review on August 28, 2013.<sup>7</sup>

On September 11, 2013, we released under administrative protective order, and requested comments regarding, data obtained from U.S. Customs and Border Protection (CBP) on entries of the subject merchandise from Italy during the POR for the six exporters and/or producers of which a review was requested.<sup>8</sup> Subsequently, on November 15, 2013, we selected DeCecco and DeMatteis for individual examination, *i.e.*, as mandatory respondents, in this administrative review.<sup>9</sup>

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.<sup>10</sup> Therefore, all deadlines in this segment of the proceeding were extended by 16 days. Accordingly, the deadline for the preliminary results of this administrative review was revised to April 18, 2014. However, on April 1, 2014, we extended the time limit for completion of these preliminary results by 120 days to no later than August 16, 2014, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(2).<sup>11</sup>

The Department issued initial questionnaires to the Government of Italy (GOI), DeCecco, and DeMatteis on December 9, 2013,<sup>12</sup> and to the Commission of the European Union (the EU) on

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<sup>3</sup> See Letter from Petitioners, “Request for 2012 Administrative Review of the Countervailing Duty Order on Certain Pasta From Italy” (July 31, 2013).

<sup>4</sup> See Letter from Delverde, “Certain Pasta From Italy: Request for Administrative Reviews on Behalf of Delverde Industrie Alimentari S.p.A.” (July 31, 2013). Delverde timely withdrew its request for review on December 11, 2013. See Letter from Delverde, “Certain Pasta From Italy: Withdrawal of Request for Administrative Review on Behalf of Delverde Industrie Alimentari S.p.A.” (December 11, 2013). As explained in the corresponding *Federal Register* notice for these preliminary results, the Department is rescinding the administrative review with respect to Delverde in accordance with 19 CFR 351.213(d)(1).

<sup>5</sup> See Letter from Ghigi, “Pasta from Italy; Request for Administrative Review” (July 31, 2013).

<sup>6</sup> See Letter from Valdigrano, “Pasta from Italy; Request for Administrative Review” (July 31, 2013).

<sup>7</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 53128, 51130-51131 (August 28, 2013).

<sup>8</sup> See Memorandum to the File, “Release of Customs and Border Protection (“CBP”) Data” (September 11, 2013).

<sup>9</sup> See Memorandum to Thomas Gilgunn, “Countervailing Duty Administrative Review of Certain Pasta from Italy: Respondent Selection” (November 15, 2013).

<sup>10</sup> See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government” (October 18, 2013).

<sup>11</sup> See Memorandum to Christian Marsh, “Certain Pasta from Italy: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review” (April 1, 2014). As August 16, 2014 falls on a Saturday, these preliminary results are due no later than the next business day, Monday, August 18, 2014. See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as Amended*, 70 FR 24533 (May 10, 2005).

<sup>12</sup> See Letter from the Department, “Administrative Review of the Countervailing Duty Order on *Certain Pasta from Italy*: Initial Questionnaire” (December 9, 2013) (InitQ).

December 11, 2013. The EU submitted its initial questionnaire response (IQR) on January 14, 2014,<sup>13</sup> the GOI submitted its IQR on February 17, 2014,<sup>14</sup> DeMatteis submitted its IQR on February 17, 2014,<sup>15</sup> and DeCecco submitted its IQR on February 18, 2014.<sup>16</sup>

On April 16, 2014, we issued a first supplemental questionnaire to both DeCecco and DeMatteis, to which DeMatteis submitted its response on May 20, 2014,<sup>17</sup> and DeCecco on May 28, 2014.<sup>18</sup> In addition to the DeMatteis 1SQR, DeMatteis' unaffiliated trading company, Agritalia S.r.l. (Agritalia), submitted an IQR on May 20, 2014, at the Department's request.<sup>19</sup> On April 25, 2014, we issued a first supplemental questionnaire to both the GOI and the EU, to which the GOI submitted its response on May 16, 2014,<sup>20</sup> and the EU on July 3, 2014.<sup>21</sup>

On June 23, 2014, we issued a first supplemental questionnaire to Agritalia and a second supplemental questionnaire to DeMatteis, to which they both submitted responses on July 7, 2014.<sup>22</sup> On June 26, 2014, we issued a second supplemental questionnaire to both the GOI and DeCecco, to which DeCecco submitted a response on July 14, 2014.<sup>23</sup> Subsequently, we issued a third supplemental questionnaire to the GOI on July 8, 2014. We did not receive a response from the GOI to the second or third supplemental questionnaires.

On July 17, 2014, we issued a second supplemental questionnaire to Agritalia and a third supplemental questionnaire to DeMatteis, to which Agritalia submitted a response on July 24, 2014,<sup>24</sup> and DeMatteis submitted a response on July 29, 2014.<sup>25</sup>

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<sup>13</sup> See Letter from the EU, "2012 CVD Administrative Review Pasta from Italy" (January 14, 2014).

<sup>14</sup> See Letter from the GOI, "Seventeenth Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy (January 1, 2012 - December 31, 2012) Response to the Administrative Review Questionnaire" (February 17, 2014) (GOI IQR).

<sup>15</sup> See Letter from DeMatteis, "Pasta From Italy; De Matteis Questionnaire Response" (February 17, 2014) (DeMatteis IQR).

<sup>16</sup> See Letter from DeCecco, "Certain Pasta from Italy (C-475-819) CVD Questionnaire Response of De Cecco" (February 18, 2014) (DeCecco IQR).

<sup>17</sup> See Letter from DeMatteis, "Pasta From Italy; De Matteis Supplemental Questionnaire Response" (May 20, 2014) (DeMatteis 1SQR).

<sup>18</sup> See Letter from DeCecco, "Certain Pasta from Italy (C-475-819) Supplemental Questionnaire Response of De Cecco" (May 28, 2014) (DeCecco 1SQR).

<sup>19</sup> See Letter from Agritalia, "Pasta From Italy; Agritalia Questionnaire Response" (May 20, 2014) (Agritalia IQR).

<sup>20</sup> See Letter from the GOI, "Sixteenth *sic* Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy (January 1, 2011-December 31, 2011) *sic* .Response to the First Supplemental Questionnaire" (May 16, 2013) *sic* (GOI 1SQR).

<sup>21</sup> See Letter from the EU, "Certain Pasta from Italy: 2012 Administrative Review" (July 3, 2014).

<sup>22</sup> See Letter from Agritalia "Pasta From Italy; Agritalia Supplemental Questionnaire Response" (July 7, 2014) (Agritalia 1SQR); Letter from DeMatteis, "Pasta From Italy; De Matteis Second Supplemental Questionnaire Response" (July 7, 2014) (DeMatteis 2SQR).

<sup>23</sup> See Letter from DeCecco, "Certain Pasta from Italy (C-475-819) Supplemental Questionnaire Response of De Cecco" (July 14, 2014) (DeCecco 2SQR).

<sup>24</sup> See Letter from Agritalia, "Pasta From Italy; Agritalia Second Supplemental Questionnaire Response" (July 24, 2014) (Agritalia 2SQR).

<sup>25</sup> See Letter from DeMatteis, "Pasta From Italy; De Matteis Third Supplemental Questionnaire Response" (July 29, 2014) (DeMatteis 3SQR).

On July 29, 2014, we issued a fourth supplemental questionnaire to both DeMatteis and the GOI, to which DeMatteis submitted a response on August 4, 2014.<sup>26</sup> The fourth supplemental questionnaire to the GOI remains outstanding.

### III. SCOPE OF THE ORDER

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

Excluded from the scope of the *Order* are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are certified by a European Union authorized body and accompanied by a National Organic Program import certificate for organic products.<sup>27</sup> Pursuant to the Department's May 12, 2011 changed circumstances review, effective January 1, 2009, gluten-free pasta is also excluded from the scope of the *Order*.<sup>28</sup>

The merchandise subject to review is currently classifiable under items 1901.90.90.95 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the *Order* is dispositive.

#### Rulings Relevant to Scope

The Department issued the following rulings and determinations, among others, to date concerning the scope of the *Order*:

- (1) Multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the *Order*.<sup>29</sup>
- (2) Multipacks consisting of six one pound packages of pasta that are shrink-wrapped into a single package are within the scope of the *Order*.<sup>30</sup>

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<sup>26</sup> See Letter from DeMatteis, "Pasta From Italy; De Matteis Fourth Supplemental Questionnaire Response" (August 4, 2014) (DeMatteis 4SQR).

<sup>27</sup> See Memorandum to Susan Kuhbach, "Recognition of EU Organic Certifying Agents for Certifying Organic Pasta from Italy" (October 10, 2012), which is on file in the Department's Central Records Unit (CRU) in Room 7046 of the main Department building.

<sup>28</sup> See *Certain Pasta From Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634 (May 12, 2011).

<sup>29</sup> See Memorandum to Richard Moreland, dated August 25, 1997, which is on file in the CRU.

<sup>30</sup> See Letter from Susan H. Kuhbach to Barbara P. Sidari, dated July 30, 1998, which is on file in the CRU.

- (3) Effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the *Order*.<sup>31</sup>
- (4) Pastificio Fratelli Pagani S.p.A.'s importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention with respect to the *Order* pursuant to section 781(a) of the Act and 19 CFR 351.225(g).<sup>32</sup>
- (5) Valdigrano di Flavio Pagani S.r.L.'s pasta made from a dough that contains 2.5 percent egg white, by weight, is within the scope of the *Order*.<sup>33</sup>

#### IV. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

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

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying 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.

As discussed above, the GOI did not respond to the Department’s second or third supplemental questionnaires, issued on June 26 and July 8, 2014, respectively. By not responding to these questionnaires, the GOI withheld information that was requested by the Department, thus failing to provide information by the deadlines for submission of the information. Thus, we must rely on facts otherwise available in accordance with section 776(a)(1) and (2)(A) and (B) of the Act.

In selecting from among the facts available, the Department finds that an adverse inference is warranted, pursuant to section 776(b) of the Act. By failing to submit a response to the Department’s second or third supplemental questionnaires, the GOI did not act to the best of its ability to comply with a request for information in this administrative review. For example, in the third supplemental questionnaire to the GOI, dated July 8, 2014, we stated on page 3:

Beginning on page 13 of the {GOI IQR}, the GOI discusses the “Social Security Reductions and Exemptions 1089/68 (Unico) and Subsequent Laws—Sgravi.” Please respond to the Tax

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<sup>31</sup> See Memorandum to Richard Moreland, dated May 24, 1999, which is on file in the CRU.

<sup>32</sup> See *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003).

<sup>33</sup> See Memorandum to Christian Marsh, “Certain Pasta from Italy: Final Ruling on the Scope Inquiry Request Regarding Egg White Pasta from Valdigrano di Flavio Pagani S.r.L.” (July 18, 2013).

Programs Appendix for *each* of the programs that you report the respondents received benefits during the period of review.

Please note that the Tax Program Appendix requests specific information for the “Sgravi” programs. We have attached the Tax Program Appendix for your convenience. (emphasis in original)

Such information is essential for the Department to conduct its required financial contribution and specificity analysis of programs under sections 771(5)(D) and 771(5A) of the Act, respectively. By not completing the requested appendix and responding to our requests for information, we find that the GOI failed to cooperate in this administrative review, and as such, these preliminary results are based on partial adverse facts available (AFA).

As partial AFA, we preliminarily find that the reduced tax revenue due to the GOI, through the *Sgravi* benefits which DeCecco and DeMatteis received under Laws 276/03 and 167/2011 of the “Social Security Reductions and Exemptions 1089/68 (Unico) and Subsequent Laws – *Sgravi*” program during the POR, to be a financial contribution within the meaning of section 771(5)(D)(ii) of the Act as revenue forgone.

In drawing an adverse inference, we also preliminarily find that the reduced tax revenue due to the GOI, through the *Sgravi* benefits which DeCecco and DeMatteis received under Laws 276/03 and 167/2011, are specific within the meaning of 771(5A) of the Act.

With respect to Law 276/03, we note that in the 12<sup>th</sup> *Administrative Review*, the GOI provided usage information which allowed the Department to conduct a *de facto* specificity analysis, and thus, found *Sgravi* benefits under Law 276/03 not to be specific during that POR.<sup>34</sup> However, in the instant review, the GOI withheld information that was requested by the Department by failing to submit a response to the Department’s questions in the third supplemental questionnaire regarding the use of *Sgravi* benefits under, *inter alia*, Law 276/03, thereby negating our ability to conduct a *de facto* specificity analysis for this POR. While we would normally rely on information from the government to determine whether the law under which the *Sgravi* benefits were conferred is specific within the meaning of section 771(5A) of the Act,<sup>35</sup> the GOI elected not to respond to our questions regarding these benefits. Thus, we are applying AFA to the GOI in preliminarily finding that mandatory respondents’ receipt of *Sgravi* benefits under Law 276/03 is specific within the meaning of section 771(5A)(D)(iii) of the Act.

Section 776(c) of the Act provides that, when the Department 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

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<sup>34</sup> See *Certain Pasta from Italy: Preliminary Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 25489, 25495-96 (May 28, 2009) (*12<sup>th</sup> Administrative Review Preliminary Results*), unchanged in *Certain Pasta from Italy: Final Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 47204 (September 15, 2009) (*12<sup>th</sup> Administrative Review Final Results*) (collectively, *12<sup>th</sup> Administrative Review*).

<sup>35</sup> See, e.g., *Certain Magnesia Carbon Bricks From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 45472 (August 2, 2010), and accompanying Issues and Decision Memorandum (IDM) at Comment 6

gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.”<sup>36</sup> Our determinations regarding the financial contribution and specificity elements of the above-identified programs are based on an adverse inference under section 776(b) of the Act arising from the unwillingness of the GOI to provide necessary information pertaining to the access to, or the distribution of, the subsidies. Because the facts available determinations described above do not rely on secondary information, the corroboration requirement of section 776(c) of the Act is therefore not applicable.

Since our adverse inference relates solely to the GOI’s non-cooperation, to calculate a benefit, we are relying on the respondents’ usage information for these programs. Thus, for details on the calculation of the subsidy rate for the respondents, *see* below at “Analysis of Programs.”

## V. SUBSIDIES VALUATION INFORMATION

### A. Allocation Period

The average useful life (AUL) period in this proceeding, as described in 19 CFR 351.524(d)(2), is 12 years according to the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System, as revised.<sup>37</sup> No party in this proceeding disputed this allocation period.

### B. Attribution of Subsidies

The Department’s regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) directs that the Department will attribute subsidies received by certain other companies to the combined sales of the recipient and other companies if: (1) cross-ownership exists between the companies; and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of the Department’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 preamble to the Department’s regulations further clarifies the Department’s cross-ownership standard. According to the preamble, relationships captured by the cross-ownership definition include those where:

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<sup>36</sup> *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994), at 870.

<sup>37</sup> *See Final Affirmative Countervailing Duty Determination: Certain Pasta (“Pasta”) From Italy*, 61 FR 30288, 30289 (June 14, 1996) (*Investigation Final*) (referencing U.S. Internal Revenue Service Publication 946 (2008), *How to Depreciate Property*, at Table B-2: Table of Class Lives and Recovery Periods, publicly available at <http://www.irs.gov/publications/p946/ar02.html>).

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.<sup>38</sup>

Thus, the Department’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 the Department’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.<sup>39</sup>

### DeCecco

DeCecco was established in 1887 by the DeCecco family and in 1968, became a public company.<sup>40</sup> In the instant review, DeCecco responded on behalf of itself and three other members of the DeCecco group of companies: Molino e Pastificio De Cecco S.p.A. (Pescara), Centrale Elettrica F.lli De Cecco S.r.L. (Centrale), and Consorzio Elettrico Imprese De Cecco (C.E.I.D.).<sup>41</sup>

DeCecco and Pescara manufacture pasta for sale in Italy, to third-country markets, and to the United States.<sup>42</sup> All of Pescara’s subject merchandise was distributed by DeCecco during the POR.<sup>43</sup> Additionally, Pescara purchases semolina, used for the production of pasta, which DeCecco used during the POR.<sup>44</sup> We preliminarily find that cross-ownership exists between DeCecco and Pescara within the meaning of 19 CFR 351.525(b)(6)(vi) through common ownership,<sup>45</sup> and are attributing subsidies received by DeCecco and Pescara to the combined sales of both, excluding inter-company sales, pursuant to 19 CFR 351.525(b)(6)(ii) and 19 CFR 351.525(b)(6)(iv).

Centrale, which is majority-owned by members of the DeCecco family, is an electrical power company and sells all of its production to C.E.I.D., a consortium consisting of Centrale and DeCecco.<sup>46</sup> Neither Centrale nor C.E.I.D. received subsidies during the POR or AUL period.<sup>47</sup> Therefore, we do not reach the issue of whether cross-ownership exists or whether subsidies to

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<sup>38</sup> See *Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998).

<sup>39</sup> See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (Ct. Int’l Trade 2001).

<sup>40</sup> See DeCecco IQR at 1 - 5

<sup>41</sup> *Id.*, at 1 - 5.

<sup>42</sup> *Id.*, at 7.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*, at 2.

<sup>45</sup> *Id.*, at 1 - 5.

<sup>46</sup> *Id.*, at 1.

<sup>47</sup> See DeCecco 1SQR at 1.

Centrale or C.E.I.D. would be attributable to the pasta sold by DeCecco under 19 CFR 351.525(b)(6).

Effective January 1, 1999, Molino F.lli De Cecco di Filippo S.p.A. (Molino), another member of the DeCecco group on whose behalf DeCecco responded in the *Fourth Administrative Review*, was merged with DeCecco and ceased to be a separate entity.<sup>48</sup> Since the *Fourth Administrative Review*, the Department has considered countervailable any benefits received by Molino in past administrative review periods and allocated over a period that extends into or beyond the current POR as benefits attributable to DeCecco.<sup>49</sup> Molino was approved for a grant prior to the merger which was disbursed during the AUL.<sup>50</sup>

### DeMatteis

DeMatteis reports being wholly-owned by De Matteis Costruzioni S.r.l. (Costruzioni) during the entirety of the AUL, including the POR.<sup>51</sup> Additionally, DeMatteis submits that Costruzioni is wholly-owned by two Italian families.<sup>52</sup> DeMatteis states that, in 1993, Costruzioni purchased a mill and pasta factory from an unaffiliated company, and, in 1994, changed the company's name to DeMatteis Agroalimentare S.p.A.<sup>53</sup>

We note that despite Costruzioni's 100 percent ownership of DeMatteis, we preliminarily do not reach the issue of whether cross-ownership exists or whether subsidies to Costruzioni would be attributable to the pasta sold by DeMatteis under 19 CFR 351.525(b)(6) because Costruzioni did not receive subsidies during the POR or AUL period.<sup>54</sup> Thus, we are preliminarily attributing subsidies received by DeMatteis to its sales, in accordance with 19 CFR 351.525(b)(6).

DeMatteis reported that it made export sales of pasta to the United States through an unaffiliated trading company, Agritalia, during the POR.<sup>55</sup> DeMatteis states that, at the time of sale, it knew that its pasta was destined for the United States, and thus, at the Department's request, Agritalia submitted a complete IQR and supplemental questionnaire responses. Pursuant to 19 CFR 351.213(b) and 19 CFR 351.221(b), Agritalia is not a respondent in this review because a review was not requested for Agritalia. Consistent with our past practice in this proceeding, we preliminarily find that no subsidies received by Agritalia benefitted other companies subject to this review.<sup>56</sup> However, as noted in the *Federal Register* notice this memorandum accompanies,

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<sup>48</sup> See *Certain Pasta From Italy: Final Results of the Fourth Countervailing Duty Administrative Review*, 66 FR 64214 (December 12, 2001) (*Fourth Administrative Review*).

<sup>49</sup> See, e.g., *Certain Pasta From Italy: Final Results of the 2009 Countervailing Duty Administrative Review*, 77 FR 7129 (February 10, 2012) (*14th Administrative Review Final Results*), and accompanying IDM at "Attribution of Subsidies."

<sup>50</sup> See DeCecco IQR at Exhibit 11.

<sup>51</sup> See DeMatteis IQR at 3 and 5.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*, at 5.

<sup>54</sup> See generally DeMatteis IQR and DeMatteis 1SQR.

<sup>55</sup> See DeMatteis IQR at 7.

<sup>56</sup> See *Certain Pasta from Italy: Preliminary Results of the Tenth Countervailing Duty Administrative Review*, 72 FR 43616, 43622 (August 6, 2007) (*Tenth Administrative Review Preliminary Results*), unchanged in *Certain Pasta From Italy: Final Results of the Tenth (2005) Countervailing Duty Administrative Review*, 73 FR 7251 (February 7, 2008) (*Tenth Administrative Review Final Results*) (collectively, *Tenth Administrative Review*).

we intend to reexamine this approach before the final results in this review and are soliciting comments in that regard.

### C. Loan Benchmarks and Discount Rates

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.” Normally, the Department uses comparable commercial loans reported by the company as a benchmark.<sup>57</sup> If the firm did not have any comparable commercial loans during the period, the Department’s regulations provide that we “may use a national average interest rate for comparable commercial loans.”<sup>58</sup>

Neither DeCecco nor DeMatteis reported the receipt of any comparable commercial loans in the years in which the GOI agreed to provide loans under the programs covered in this administrative review. Due to this, pursuant to 19 CFR 351.505(a)(3)(ii), we used as our benchmark a national average interest rate for comparable commercial loans. For years 1995-1998, we used the information from Italian Bankers’ Association (ABI) from a prior administrative review.<sup>59</sup> For benefits received in 1999-2004, we used the ABI’s 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.<sup>60</sup> The Bank of Italy ceased reporting this rate in 2004.<sup>61</sup> Thus, because the ABI prime rate was no longer reported after 2004, for 2005-2011, we used the “Bank Interest Rates on Euro Loans: Outstanding Amounts, Non-Financial Corporations, Loans With Original Maturity More Than Five Years” as published by the Bank of Italy.<sup>62</sup> For the POR, we relied, in part, on Bank of Italy information supplied in the GOI 1SQR.<sup>63</sup> We placed on the record of this review the additional months to complete 2012 not included in the GOI 1SQR.<sup>64</sup> Consistent with our prior practice, we increased these rates by the average spread and bank charges described above.<sup>65</sup>

Also, neither DeCecco nor DeMatteis reported loan interest rates that could be used as discount rates.<sup>66</sup> Therefore, in order to allocate non-recurring benefits over time, we used the above-

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<sup>57</sup> See 19 CFR 351.505(a)(3)(i).

<sup>58</sup> See 19 CFR 351.505(a)(3)(ii).

<sup>59</sup> See *Certain Pasta From Italy: Preliminary Results of the Countervailing Duty Administrative Review; 2011*, 78 FR 49256 (August 13, 2013) (*16<sup>th</sup> Administrative Review Preliminary Results*), unchanged in *Certain Pasta From Italy; Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 12154 (March 4, 2014) (*16<sup>th</sup> Administrative Review Final Results*) (collectively, *16<sup>th</sup> Administrative Review*), included in Memorandum to File, “Interest Rate Benchmarks” (August 18, 2014) (Benchmark Memorandum) at Attachment I.

<sup>60</sup> See GOI IQR at Exhibit 1. The average spread and bank charges are described in *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from Italy*, 64 FR 30624, 30626-7 (June 8, 1999), included in the Benchmark Memorandum at Attachment III.

<sup>61</sup> See GOI IQR at 7.

<sup>62</sup> See Benchmark Memorandum at Attachment I.

<sup>63</sup> See GOI 1SQR at Exhibit 1, Section 3, Table 3.3.

<sup>64</sup> See Benchmark Memorandum at Attachment II.

<sup>65</sup> See, e.g., *16<sup>th</sup> Administrative Review*.

<sup>66</sup> See 19 CFR 351.524(d)(3)(i)(A).

discussed interest rates as discount rates for allocating non-recurring benefits pursuant to 19 CFR 351.524(d)(3)(i)(B).

## VI. ANALYSIS OF PROGRAMS

Based upon our analysis and the responses to our questionnaires, we preliminarily find the following:

### A. Programs Preliminarily Found To Be Countervailable

#### **Tax Programs**

##### 1. Certain Social Security Reductions and Exemptions – *Sgravi*

As stated in the *Investigation Final*,<sup>67</sup> Italian law allows companies, particularly those located in the Mezzogiorno (*i.e.*, the south of Italy), to use a variety of exemptions from and reductions of payroll contributions that employers make to the Italian social security system for health care benefits, pensions, *etc.* These social security reductions and exemptions, also known as *Sgravi* benefits, are regulated by a complex set of laws and regulations, and are sometimes linked to conditions such as job creation. We found in previous proceedings that benefits under some of these laws (*e.g.*, Law 1089) are available only to companies located in the Mezzogiorno and other “disadvantaged” regions.<sup>68</sup> Certain other laws (*e.g.*, Law 407/90) 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.<sup>69</sup> Still other laws provide benefits that are not linked to any region.

In the *Investigation Final* and subsequent reviews,<sup>70</sup> the Department found that certain types of social security reductions and exemptions constitute a financial contribution within the meaning of section 771(5)(D)(ii) of the Act, and confer a benefit in the form of revenue foregone by the GOI in the amount of the savings received by the companies. 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.<sup>71</sup>

In the instant review, no party in this proceeding challenged our past determinations in the *Investigation Final* and subsequent reviews that *Sgravi* benefits, *generally*, were countervailable for companies located within the Mezzogiorno. As stated in *Live Swine from Canada*, “it is well-established that where the Department has determined that a program is (or is not)

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<sup>67</sup> See *Investigation Final*, 61 FR at 30293.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*, at 30294.

<sup>70</sup> See, *e.g.*, *Certain Pasta From Italy: Preliminary Results of the 14th (2009) Countervailing Duty Administrative Review*, 76 FR 48130, 48139-40 (August 8, 2011) (*14<sup>th</sup> Administrative Review Preliminary Results*), unchanged in *Certain Pasta From Italy: Final Results of the 2009 Countervailing Duty Administrative Review*, 77 FR 7129 (February 10, 2012) (*14<sup>th</sup> Administrative Review Final Results*), and accompanying IDM (collectively, *14<sup>th</sup> Administrative Review*).

<sup>71</sup> *Id.*

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."<sup>72</sup> In the instant review, neither the GOI nor the respondent companies provided new information which would warrant reconsideration of our determination that *Sgravi* benefits are countervailable subsidies.

*Sgravi* benefits were provided during the POR under Law 407/90, 223/91, and 167/2011 to DeCecco.<sup>73</sup> DeMatteis reported receiving *Sgravi* benefits during the POR under Laws 276/03 and 167/2011.<sup>74</sup> Additionally, Agritalia reported receiving *Sgravi* benefits during the POR under Law 407/90.<sup>75</sup> Laws 407/90 and 223/91 (Article 25, Paragraph 9) have been previously investigated and found to be regionally specific under section 771(5A)(d)(iv) of the Act due to the lower contributions which companies located in the Mezzogiorno pay.<sup>76</sup> The GOI did not provide any information that would lead us to revisit our prior countervailability finding regarding these laws. As noted above under "Use of Facts Otherwise Available and Adverse Inferences," the GOI did not cooperate to the best of its ability when it withheld information that was requested by the Department by failing to submit a response to the Department's questions in the third supplemental questionnaire regarding the use of *Sgravi* benefits under Laws 276/03 and 167/2011. Thus, as AFA, we preliminarily find that the receipt of *Sgravi* benefits under these laws constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. Moreover, we are drawing an additional adverse inference in finding that the GOI's *Sgravi* benefits under Laws 276/03 and 167/2011 are specific within the meaning of section 771(5A) of the Act.

Accordingly, since our adverse inference relates solely to the GOI's non-cooperation, we are relying on the respondents' usage information in the calculation of a benefit, as discussed below.

*i. Law 407/90*

As stated in previous reviews of the *Order*, 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. A 100-percent exemption is allowed for companies in the Mezzogiorno, while companies located in the rest of Italy receive a 50-percent reduction.<sup>77</sup>

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<sup>72</sup> See *Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews*, 61 FR 52408, 52420 (October 7, 1996) (*Live Swine from Canada*).

<sup>73</sup> See GOI IQR at 13, DeCecco 1SQR at 5 and DeCecco 2SQR at Exhibit S2-6.

<sup>74</sup> See GOI IQR at 13 and DeMatteis IQR at 26.

<sup>75</sup> See Agritalia IQR at 16-17.

<sup>76</sup> See, e.g., *14<sup>th</sup> Administrative Review; Certain Pasta from Italy: Preliminary Results of the 11<sup>th</sup> (2006) Countervailing Duty Administrative Review*, 73 FR 45721, 45724-26 (August 6, 2008) (*11<sup>th</sup> Administrative Review Preliminary Results*), unchanged in *Certain Pasta from Italy: Final Results of the Eleventh (2006) Countervailing Duty Administrative Review*, 74 FR 5922 (February 3, 2009) (*11<sup>th</sup> Administrative Review Final Results*) (collectively, *11<sup>th</sup> Administrative Review*), and accompanying IDM at "Law 223/91" and at "Article 25, Paragraph 9."

<sup>77</sup> See, e.g., *14<sup>th</sup> Administrative Review Preliminary Results*, 76 FR at 48140, unchanged in *14<sup>th</sup> Administrative Review Final Results*.

In the *Investigation Final*, we determined that Law 407/90 confers a countervailable subsidy within the meaning of section 771(5) of the Act.<sup>78</sup> The reduction or exemption of taxes is revenue foregone that is otherwise due 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.

In accordance with 19 CFR 351.524(c), and consistent with our methodology in the *Investigation Final* and in subsequent administrative reviews, we treated social security reductions and exemptions as recurring benefits.<sup>79</sup> To calculate the countervailable subsidy for DeCecco, we divided the difference during the POR between the savings for the 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 DeCecco and Pescara's combined sales (less inter-company sales) in the POR.<sup>80</sup>

ii. *Law 223/91 (Article 25, Paragraph 9)*

As stated in the 11<sup>th</sup> *Administrative Review*, Law 223/91 is designed to increase employment by providing benefits to companies that hire unemployed workers on a special mobility list.<sup>81</sup> 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. 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.<sup>82</sup>

In the *Seventh Administrative Review*, we affirmed our findings from the *Investigation Final* that Law 223/91 conferred a countervailable subsidy within the meaning of section 771(5) of the Act.<sup>83</sup> The reduction or exemption of taxes was treated as revenue foregone and is, 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.<sup>84</sup>

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<sup>78</sup> See *Investigation Final*, 61 FR at 30294.

<sup>79</sup> See, e.g., 14<sup>th</sup> *Administrative Review*; see also *Investigation Final*, 61 FR at 30294.

<sup>80</sup> See Memorandum to the File, "Preliminary Results Calculation Memorandum for F.lli DeCecco di Filippo Fara San Martino S.p.A." (August 18, 2014) (DeCecco Preliminary Calculation Memorandum).

<sup>81</sup> See 11<sup>th</sup> *Administrative Review Final Results*, and accompanying IDM at "Law 223/91."

<sup>82</sup> *Id.*, at "Article 25, Paragraph 9."

<sup>83</sup> See *Certain Pasta from Italy: Preliminary Results and Partial Rescission of the Seventh Countervailing Duty Administrative Review*, 69 FR 45676, 45682-83 (July 30, 2004) (*Seventh Administrative Review Preliminary Results*), unchanged in *Certain Pasta from Italy: Final Results of the Seventh Countervailing Duty Administrative Review*, 69 FR 70657 (December 7, 2004) (*Seventh Administrative Review Final Results*) (collectively, *Seventh Administrative Review*), and accompanying IDM at "Social Security Reductions and Exemptions – Sgravi."

<sup>84</sup> See *Investigation Final*, 61 FR at 30293.

Because the GOI did not provide any new information or evidence of changed circumstances, we had no reason to reconsider our prior finding that benefits under Law 223/91 were countervailable.<sup>85</sup> In its IQR, the GOI stated that “DeCecco received benefits under Law ... 223/91 ... during the POR.”<sup>86</sup> Exhibit 8 of the GOI IQR shows that benefits under Law 223/91 were received by DeCecco pursuant to Article 25, Paragraph 9.<sup>87</sup> Thus, 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 *Investigation Final* and in subsequent administrative reviews,<sup>88</sup> we treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy, we divided DeCecco’s savings in social security contributions during the POR by DeCecco and Pescara’s combined sales (less inter-company sales) in the POR.<sup>89</sup>

iii. Law 276/03

In the 12<sup>th</sup> *Administrative Review*, we stated that Legislative Decree 276/03 (L.D. 276/03) is aimed at making the labor market more flexible by providing incentives to companies hiring workers under apprentice contracts that mix work and training components.<sup>90</sup> Specifically, the three categories of employee contracts recognized under this decree are: (1) working toward completion of compulsory schooling; (2) working toward completion of trade schooling; and (3) high-level training of special skills for a worker. Except for a weekly flat fee paid by the employer on behalf of the employee, the employer receives a total exemption from its social security contribution. The contributions are applied in equal measure across Italy and the decree may be used in all economic sectors.

In the 11<sup>th</sup> *Administrative Review*, the GOI argued that L.D. 276/03 is a continuation of Law 25/55, a program previously found countervailable in the *Seventh Administrative Review*.<sup>91</sup> The Department provided the GOI with an opportunity in the 11<sup>th</sup> *Administrative Review* to demonstrate that this program was not countervailable, but the GOI did not respond to the industry usage portion of the supplemental questionnaire. Thus, we found no reason to reconsider our prior finding that benefits under Law 25/55 were countervailable in the 11<sup>th</sup> *Administrative Review*.<sup>92</sup>

However, in the 12<sup>th</sup> *Administrative Review*, we found this program to be not specific and, hence, not countervailable.<sup>93</sup> We stated that Law 25/55 as modified by L.D. 276/03 evidences no *de*

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<sup>85</sup> See *Live Swine from Canada*, 61 FR at 52420.

<sup>86</sup> See GOI IQR at 11.

<sup>87</sup> *Id.*, at Exhibit 8.

<sup>88</sup> See, e.g., *Seventh Administrative Review* and *11<sup>th</sup> Administrative Review*.

<sup>89</sup> See DeCecco Preliminary Calculation Memorandum.

<sup>90</sup> See *12<sup>th</sup> Administrative Review Preliminary Results*, 74 FR at 25495-96, unchanged in *12<sup>th</sup> Administrative Review Final Results*.

<sup>91</sup> See *11<sup>th</sup> Administrative Review Final Results*, and accompanying IDM at “Legislative Decree (“L.D.”) 276/03.” See also *Seventh Administrative Review Preliminary Results*, 69 FR at 45683, unchanged in *Seventh Administrative Review Final Results*.

<sup>92</sup> See *11<sup>th</sup> Administrative Review*, and accompanying IDM at “Legislative Decree (“L.D.”) 276/03.”

<sup>93</sup> See *12<sup>th</sup> Administrative Review Preliminary Results*, 74 FR 25495, unchanged in *12<sup>th</sup> Administrative Review Final Results*.

*jure* or regional specificity, and found no evidence of *de facto* specificity. We stated that during the POR, there were numerous recipients of the benefits and neither pasta companies nor DeMatteis were predominate users or received a disproportionately large share of the benefits. Further, during the POR covered by the *12th Administrative Review*, the benefits provided to the “Industry” economic sector were not a disproportionately large amount.<sup>94</sup>

Because of the GOI’s lack of cooperation in responding to the Department’s information requests about this program, we are treating as AFA the reduction or exemption of taxes under this program as revenue foregone that is otherwise due and 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 relieved by the GOI and what DeMatteis should have paid, in accordance with 19 CFR 351.509(a). Notwithstanding our findings in the *12th Administrative Review*, due to the GOI’s non-cooperation, we are preliminarily finding the program to be specific within the meaning of section 771(5A)(D)(iii) of the Act because the GOI did not provide requested information to regarding usage of the program that would allow the Department do conduct an analysis of whether the program is *de facto* specific, as we did in the *12th Administrative Review*.

In accordance with 19 CFR 351.524(c), we treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy for DeMatteis, we first totaled DeMatteis’ monthly contributions under this law. Next, we multiplied DeMatteis’ total contributions for 2012 by the percentage relieved by the GOI to arrive at a POR benefit.<sup>95</sup> This POR benefit matched what DeMatteis reported in the DeMatteis IQR.<sup>96</sup> Finally, we divided the total 2012 amount which the GOI relieved by DeMatteis’ total sales in the POR.<sup>97</sup>

*iv. Law 167/2011*

The Department has not previously investigated benefits received under Law 167/2011. Due to the GOI’s non-cooperation, we have no information from which to ascertain the countervailability of the *Sgravi* benefits conferred under Law 167/2011 to DeCecco or DeMatteis. Thus, we are relying on facts available with an adverse inference in finding that these benefits conferred under Law 167/2011 constitute a financial contribution within the meaning of section 771(5)(D)(ii) and are specific within the meaning of section 771(5A) of the Act. The benefit is the difference in the amount of the tax savings relieved by the GOI and what DeMatteis would have paid in the absence of the program, in accordance with 19 CFR 351.509(a).

In accordance with 19 CFR 351.524(c), we treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy for DeCecco and DeMatteis, we first totaled the companies’ respective monthly contributions under this law. Next, we multiplied their total contributions in 2012 by the percentage relieved by the GOI to arrive at a POR

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<sup>94</sup> *Id.*

<sup>95</sup> See GOI IQR at Exhibit 9.

<sup>96</sup> See DeMatteis IQR at 26.

<sup>97</sup> See Memorandum to the File, “Preliminary Results Calculation Memorandum for DeMatteis Agroalimentare S.p.A. (DeMatteis)” (August 18, 2014) (DeMatteis Preliminary Calculation Memorandum).

benefit.<sup>98</sup> This POR benefit matched what DeCecco and DeMatteis reported in the DeCecco IQR and the DeMatteis IQR, respectively.<sup>99</sup> Finally, for DeCecco, we divided the total 2012 amount relieved by the GOI by DeCecco and Pescara's combined POR sales (less-intercompany sales). For DeMatteis, we divided the total 2012 amount the GOI relieved by DeMatteis' total sales in the POR.<sup>100</sup>

On the above bases, we preliminarily find the countervailable subsidy from the *Sgravi* laws to be 0.05 percent *ad valorem* for DeCecco<sup>101</sup> and 0.06 percent *ad valorem* for DeMatteis.<sup>102</sup>

## Grant Programs

### 2. Industrial Development Grants Under Law 488/92

As stated in previous administrative reviews of this *Order*, most recently in the 16<sup>th</sup> *Administrative Review*,<sup>103</sup> in 1986, the 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 by the EU as Objective 1 (underdeveloped regions), Objective 2 (declining industrial regions), or Objective 5(b) (declining agricultural regions) areas. The new policy was given legislative form in Law 488/92 under which Italian companies in the eligible regions and sectors (manufacturing, mining, and certain business services) could apply for industrial development grants.<sup>104</sup>

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.<sup>105</sup> DeCecco and DeMatteis received grants under Law 488/92 in years covered by the AUL and which conferred benefits during the POR.<sup>106</sup>

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<sup>98</sup> See GOI IQR at Exhibit 9.

<sup>99</sup> See DeCecco IQR at Exhibit 13 and DeMatteis IQR at 26.

<sup>100</sup> See DeCecco Preliminary Calculation Memorandum and DeMatteis Preliminary Calculation Memorandum.

<sup>101</sup> See DeCecco Preliminary Calculation Memorandum.

<sup>102</sup> See DeMatteis Preliminary Calculation Memorandum.

<sup>103</sup> See 16<sup>th</sup> *Administrative Review Preliminary Results* and accompanying Decision Memorandum at "Industrial Development Grants Under Law 488/92," unchanged in 16<sup>th</sup> *Administrative Review Final Results*.

<sup>104</sup> See *Certain Pasta from Italy: Preliminary Results of Countervailing Duty Administrative Review*, 64 FR 17618, 17620 (April 12, 1999) (*Second Administrative Review Preliminary Results*), unchanged in *Certain Pasta From Italy: Final Results of the Second Countervailing Duty Administrative Review*, 64 FR 44489 (August 16, 1999) (*Second Administrative Review Final Results*) (collectively, *Second Administrative Review*).

<sup>105</sup> See, e.g., *Certain Pasta From Italy: Preliminary Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 18806, 18809 (April 13, 2010) (*13th Administrative Review Preliminary Results*), unchanged in *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386 (June 29, 2010) (*13th Administrative Review Final Results*) (collectively, *13th Administrative Review*).

<sup>106</sup> See DeCecco IQR at 13 and DeMatteis IQR at Exhibit 10.

In the *Second Administrative Review*, the Department determined that Law 488/92 grants confer a countervailable subsidy within the meaning of section 771(5) of the Act.<sup>107</sup> They are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant.<sup>108</sup> Also, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act.<sup>109</sup>

Consistent with *Live Swine from Canada*,<sup>110</sup> our 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."<sup>111</sup> In the instant review, neither the GOI nor the respondent companies provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.

In the *Second Administrative Review*, the Department treated these industrial development grants as non-recurring.<sup>112</sup> No new information has been placed on the record of this review that would cause us to depart from this treatment. Therefore, we followed the methodology described in 19 CFR 351.524(b) 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. Because the grants received by DeCecco and DeMatteis under Law 488/92 exceeded 0.5 percent of their respective sales in the year in which the grants were approved, we allocated the benefits over the AUL period using the allocation methodology described in 19 CFR 351.524(d). We divided the amounts allocated to the POR by the respective total sales of DeCecco and Pescara's combined sales (less inter-company sales) in the POR, and DeMatteis in the POR.

On this basis, we preliminarily find the countervailable subsidy from the Law 488/92 industrial development grants to be 0.01 percent *ad valorem* for DeCecco,<sup>113</sup> and 0.08 percent *ad valorem* for DeMatteis.<sup>114</sup>

### 3. Industrial Development Grants Under Law 64/86

As stated in the *14<sup>th</sup> Administrative Review*, Law 64/86 provided assistance to promote development in the Mezzogiorno.<sup>115</sup> 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

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<sup>107</sup> See *Second Administrative Review Preliminary Results*, 64 FR at 17620, unchanged in *Second Administrative Review Final Results*.

<sup>108</sup> See section 771(5)(D)(i) of the Act; 19 CFR 351.504(a).

<sup>109</sup> See *Second Administrative Review Preliminary Results*, 64 FR at 17620, unchanged in *Second Administrative Review Final Results*.

<sup>110</sup> See *Live Swine from Canada*, 61 FR at 52420.

<sup>111</sup> See generally InitQ.

<sup>112</sup> See *Second Administrative Review Preliminary Results*, 64 FR at 17620, unchanged in *Second Administrative Review Final Results*.

<sup>113</sup> See DeCecco Preliminary Calculation Memorandum.

<sup>114</sup> See DeMatteis Preliminary Calculation Memorandum.

<sup>115</sup> See *14<sup>th</sup> Administrative Review Preliminary Results*, 76 FR at 48134, unchanged in *14<sup>th</sup> Administrative Review Final Results*.

close to saturated. Grants were made only after a private credit institution chosen by the applicant made a positive assessment of the project.<sup>116</sup>

In 1992, the Italian Parliament abrogated Law 64/86 and replaced it with Law 488/92 (*see supra*). 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.<sup>117</sup>

In the *Investigation Final*,<sup>118</sup> the Department determined that these grants constituted a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, and conferred a benefit in the amount of the grant.<sup>119</sup> Also, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act.<sup>120</sup> In this review, neither the GOI nor the respondent companies provided new information that would warrant reconsideration of our determination that these grants are countervailable subsidies.<sup>121</sup>

In the *Investigation Final*, the Department treated these industrial development grants as non-recurring.<sup>122</sup> No new information has been placed on the record of this review that would cause us to depart from this treatment. Therefore, we followed the methodology described in 19 CFR 351.524(b), 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. In the *14<sup>th</sup> Administrative Review*, we determined that certain grants received by DeCecco under Law 64/86 exceeded 0.5 percent of their sales in the years in which the grants were approved.<sup>123</sup>

Consequently, we continue to use the allocation methodology described in 19 CFR 351.524(d) to allocate the benefit from those grants over the AUL. We divided the amounts allocated to the POR by DeCecco and Pescara's combined sales (less inter-company sales) in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 64/86 industrial development grants to be 0.07 percent ad valorem for DeCecco.<sup>124</sup>

#### 4. Law 662/96 – *Patti Territoriali*

As stated in the *12<sup>th</sup> Administrative Review*, *Patti Territoriali* grants (Law 662/96 Article 2, Paragraph 203, Letter d) are being provided to companies for entrepreneurial initiatives such as

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<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *See Investigation Final*, 61 FR at 30292-93.

<sup>119</sup> *See* 19 CFR 351.504(a).

<sup>120</sup> *See Investigation Final*, 61 FR at 30292-93.

<sup>121</sup> *See Live Swine from Canada*, 61 FR at 52420.

<sup>122</sup> *See Investigation Final*, 61 FR at 30292-93.

<sup>123</sup> *See 14<sup>th</sup> Administrative Review Preliminary Results*, 76 FR at 48134, unchanged in *14<sup>th</sup> Administrative Review Preliminary Results*.

<sup>124</sup> *See* DeCecco Preliminary Calculation Memorandum.

new plants, additions, modernization, restructuring, conversion, reactivation, or transfer.<sup>125</sup> 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. Based upon project submissions, the provincial government ranks the projects and selects the projects it considers to be the best. 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.<sup>126</sup>

DeMatteis received disbursements from the *Patti Territoriali* in 2004 and 2007 from a grant approved on January 29, 1999.<sup>127</sup>

In the *Tenth Administrative Review*, the Department found that this grant confers a countervailable subsidy within the meaning of section 771(5) of the Act, because it is a direct transfer of funds from the GOI under section 771(5)(D)(i) of the Act, bestowing a benefit in the amount of the grant.<sup>128</sup> 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.<sup>129</sup> In the instant review, neither the GOI nor DeMatteis provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.<sup>130</sup>

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. As such, we followed the methodology described in 19 CFR 351.524(b) 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. We determined that the grant received by DeMatteis under Law 662/96 exceeded 0.5 percent of its sales in the year in which the grant was approved.

We used the allocation methodology described in 19 CFR 351.524(d) to allocate the benefits over time. We divided the amount allocated to DeMatteis in POR by its total sales in the POR.

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<sup>125</sup> See *12<sup>th</sup> Administrative Review Preliminary Results*, 74 FR at 25494, unchanged in *12<sup>th</sup> Administrative Review Final Results*.

<sup>126</sup> *Id.*

<sup>127</sup> See DeMatteis IQR at Exhibit 10.

<sup>128</sup> See *Certain Pasta from Italy: Preliminary Results of the Tenth Countervailing Duty Administrative Review*, 72 FR 43616 (August 6, 2007) (*Tenth Administrative Review Preliminary Results*); unchanged in *Certain Pasta From Italy: Final Results of the Tenth (2005) Countervailing Duty Administrative Review*, 73 FR 7251 (February 7, 2008) (*Tenth Administrative Review Final Results*) (collectively, *Tenth Administrative Review*).

<sup>129</sup> *Id.*

<sup>130</sup> See *Live Swine from Canada*, 61 FR 52408, 52420.

On this basis, we preliminarily find the countervailable subsidy from the *Patti Territoriali* grant to be 0.06 percent *ad valorem* for DeMatteis.<sup>131</sup>

#### 5. Law 662/96 – *Contratto di Programma*

As stated in the 12<sup>th</sup> *Administrative Review*, the GOI describes *Contratto di Programma* (Law 662/96, Article 2, Paragraph 203, Letter e) as an instrument provided for the expansion of existing facilities in regions that meet the criteria of Objective 1 or Objective 2 under the Structural Funds or Article 87.3.c. of the Treaty of Rome.<sup>132</sup> The expenses eligible for these grants are design, study, company land, brickwork, machinery, plants, and equipment. There are three types of entities eligible for these grants: (1) large businesses operating in the industrial sector (mining, manufacturing, construction, production and distribution of power, vapor, and hot water), services, tourism, agriculture, fishing, and aquaculture industries; (2) associations of small and medium businesses operating in one or more of the above-indicated sectors; or (3) representatives of industrial, agricultural, agri-food, and fishing districts in which beneficiaries are small, medium, and large enterprises.

During the first stage, an entity must apply for the grant through the Ministry of Economic Development (MED) (formerly the Ministry of Productive Activities) which verifies the technical and economic validity of the proposed project, the entrepreneurship requirements of the proposing party, and the adequacy of the allocated funds. The MED files a report with the Interministerial Committee for Economic Planning to approve the financial contribution. During the second stage, the proposing party provides an Executive Project for the implementation of the Project Plan. Following approval, the *Contratto di Programma* is signed by the entity or entities receiving grants and the GOI. The grant is disbursed based on the progress of the work, except for the first installment which is made as an advance payment.<sup>133</sup>

DeMatteis received disbursements from the *Contratto di Programma* in 2007 and 2008 as a result of a grant approved on March 27, 2006.<sup>134</sup>

In the 12<sup>th</sup> *Administrative Review*, the Department found that this grant confers a countervailable subsidy within the meaning of section 771(5) of the Act.<sup>135</sup> It is a direct transfer of funds under section 771(5)(D)(i) of the Act from the GOI and Regione Campania which bestows a benefit in the amount of the grant pursuant to 19 CFR 351.504(a). Also, this grant is 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.<sup>136</sup>

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<sup>131</sup> See DeMatteis Preliminary Calculation Memorandum.

<sup>132</sup> See 12<sup>th</sup> *Administrative Review Preliminary Results*, 74 FR at 25494-95, unchanged in 12<sup>th</sup> *Administrative Review Final Results*.

<sup>133</sup> *Id.*

<sup>134</sup> See DeMatteis IQR at Exhibit 10.

<sup>135</sup> See 12<sup>th</sup> *Administrative Review Preliminary Results*, 74 FR at 25494-95, unchanged in 12<sup>th</sup> *Administrative Review Final Results*.

<sup>136</sup> *Id.*

We followed the methodology described in 19 CFR 351.524(b) 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. We determined that the grant received by DeMatteis the *Contratto di Programma* exceeded 0.5 percent of its sales in the year in which the grant was approved. We used the allocation methodology described in 19 CFR 351.524(d) to allocate the benefits over time. On this basis, we preliminarily find the countervailable subsidy from the *Contratto di Programma* grant to be 0.40 percent *ad valorem* for DeMatteis.<sup>137</sup>

#### 6. Law 289/02 – Article 62 - Investments in Disadvantaged Areas

As stated in the 12<sup>th</sup> *Administrative Review*, Article 62 of Law 289/02 provides a benefit in the form of a credit towards direct taxes, indirect taxes, or social security contributions.<sup>138</sup> The credit must be used within three years. 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.” 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.

In the *Tenth Administrative Review*, we determined that Article 62 of Law 289/02 confers a countervailable subsidy.<sup>139</sup> The credits are a financial contribution within the meaning of section 771(5)(D)(ii) of the Act because they constitute revenue foregone that is otherwise due to 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 enterprises located within designated geographical regions in Italy, specifically, the regions of Calabria, Campania, Basilicata, Puglia, Sicilia, and Sardegna, and certain municipalities in the Abruzzo and Molise regions, and certain municipalities in central and northern Italy.<sup>140</sup> No new information has been placed on the record of this review that would cause us to depart from this treatment.<sup>141</sup>

DeMatteis is located in Campania and took advantage of this program.<sup>142</sup> 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 DeMatteis was approved in 2005 and a portion was used to reduce the company's income taxes in 2005, 2006, and 2007.

In the *Tenth Administrative Review* and the 12<sup>th</sup> *Administrative Review*, the Department treated the amount credited against 2005 income as a non-recurring grant in accordance with the criteria set forth in 19 CFR 351.524(c)(2)(i)-(iii). Specifically, the Department found that the tax credit is exceptional because it was only available for a limited period of time, and was dependent upon

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<sup>137</sup> See DeMatteis Preliminary Calculation Memorandum.

<sup>138</sup> See 12<sup>th</sup> *Administrative Review Preliminary Results*, 74 FR at 25493, unchanged in 12<sup>th</sup> *Administrative Review Final Results*.

<sup>139</sup> See *Tenth Administrative Review Preliminary Results*, 72 FR at 43620, unchanged in *Tenth Administrative Review Final Results*.

<sup>140</sup> *Id.*

<sup>141</sup> See *Live Swine from Canada*, 61 FR at 52420

<sup>142</sup> See DeMatteis IQR at Exhibit 10.

companies making specific investments. Further, the tax credit required the GOI's authorization, and was tied to capital assets of the firm.

In accordance with 19 CFR 351.524(b), we determined that the tax credit received by DeMatteis exceeded 0.5 percent of its sales in each year in which the tax credit was approved. Therefore, in the 12<sup>th</sup> *Administrative Review*, we treated the portion of the tax credit used to offset income in 2005, 2006, and 2007, as a grant received in each of these years and allocated the benefit over the respective AUL using the formula described in 19 CFR 351.524(d).<sup>143</sup> We then divided the benefit allocated to the POR from the 2005, 2006, and 2007 grants over DeMatteis' total sales in the POR. On this basis, we preliminarily find the countervailable subsidy from Law 289/02, Article 62, to be 0.34 percent *ad valorem* for DeMatteis.<sup>144</sup>

## Loan Programs

### 7. Interest Contributions Under Law 488/92

In the *Second Administrative Review*, we found that "loans are not provided under Law 488/92."<sup>145</sup> However, in the 13<sup>th</sup> *Administrative Review*, the GOI provided documentation that a May 14, 2005 Law at Article 80 and implementing decree changed this practice to permit companies to obtain loans, in addition to grants, for initiatives in the areas eligible for such assistance under Law 488/92.<sup>146</sup> The preliminary examination of companies' loan applications by an authorized bank, the ranking by the Ministry of Economic Development, and the award of loans based on the ranking are similar to the process described for Law 488/92 grants.<sup>147</sup> In addition, the bank is responsible for assessing the company's credit.<sup>148</sup>

Under this modification to Law 488/92, the loans must have a duration not exceeding 15 years and not less than six years. The fixed-interest rates on these long-term loans are set at a rate of 0.50 percent with the GOI covering the difference in interest amount between that rate and the market rate. DeCecco received interest contributions under Law 488/92 during the POR.<sup>149</sup>

In the 13<sup>th</sup> *Administrative Review*, the Department found that these interest contributions confer a countervailable subsidy within the meaning of section 771(5) of the Act.<sup>150</sup> They are a direct transfer of funds from the GOI under section 751(5)(D)(i) of the Act and confer a benefit in the amount of the difference between the benchmark interest rate and the interest rate paid by the

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<sup>143</sup> See 12<sup>th</sup> *Administrative Review Preliminary Results*, 74 FR at 25493, unchanged in 12<sup>th</sup> *Administrative Review Final Results*.

<sup>144</sup> See DeMatteis Preliminary Calculation Memorandum.

<sup>145</sup> See 2<sup>nd</sup> *Administrative Review Preliminary Results*, 64 FR at 17620, unchanged in *Second Administrative Review Final Results*.

<sup>146</sup> See 13<sup>th</sup> *Administrative Review Preliminary Results*, 75 FR at 18809, unchanged in 13<sup>th</sup> *Administrative Review Final Results*.

<sup>147</sup> See, e.g., 16<sup>th</sup> *Administrative Review Preliminary Results* and accompanying Decision Memorandum at "Industrial Development Grants Under Law 488/92," unchanged in 16<sup>th</sup> *Administrative Review Final Results*.

<sup>148</sup> *Id.*

<sup>149</sup> See DeCecco IQR at 14.

<sup>150</sup> See 13<sup>th</sup> *Administrative Review Preliminary Results*, 75 FR at 18809, unchanged in 13<sup>th</sup> *Administrative Review Final Results*.

companies.<sup>151</sup> Also, these interest contributions are regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because they are limited to companies located within regions which meet the criteria of Objective 1, Objective 2, and Objective 5(b) areas determined by the EU.<sup>152</sup> No new information has been placed on the record of this review that would cause us to depart from this finding of countervailability.<sup>153</sup>

In accordance with 19 CFR 351.505(c)(2), we calculated the benefit for the POR by calculating the difference between the amount of interest paid during the POR by DeCecco on its Law 488/92 loans and the amount of interest DeCecco would have paid at the benchmark interest rate. We divided the benefit received by DeCecco in the POR by DeCecco and Pescara's combined sales (less inter-company sales) in the POR.

On this basis, we preliminarily find the countervailable subsidy from the Law 488/92 interest contributions to be 0.04 percent *ad valorem* for DeCecco.<sup>154</sup>

#### 8. Article 14 of Law 46/82 (*Fondo Innovazione Tecnologica*) – Loans

This program is part of “Article 14 of Law 46/82 (*Fondo Innovazione Tecnologica*) – Grants” program described below, and the Department has previously countervailed this program, most recently in the 16<sup>th</sup> *Administrative Review*.<sup>155</sup> DeMatteis reported that it maintained a loan under this program outstanding during the POR.<sup>156</sup> In the 14<sup>th</sup> *Administrative Review*, we found loans provided under this program to be countervailable.<sup>157</sup> No new information has been placed on the record of this review that would cause us to depart from our previous findings with regard to this program.<sup>158</sup> Consistent with the 14<sup>th</sup> *Administrative Review*, we preliminarily continue to find that loans under Article 14 of Law 46/82 convey a countervailable subsidy within the meaning of section 771(5) of the Act because they provide a benefit from the GOI in the amount of the difference between the interest a company paid on the loan and the interest the company would have paid on a comparable commercial loan, are specific within the meaning of section 771(5A)(D) of the Act, and are financial contributions because they are a direct transfer of funds from the GOI.<sup>159</sup> In accordance with 19 CFR 351.505(c)(2), we calculated the countervailable benefit DeMatteis received from the loan outstanding under this program in the POR by computing the difference between the interest payments DeMatteis made on the loan during the POR and the interest payments DeMatteis would have made on a benchmark loan. We divided the benefit received by DeMatteis by its total sales in the POR.

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<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> See *Live Swine from Canada*, 61 FR at 52420

<sup>154</sup> See DeCecco Preliminary Calculation Memorandum.

<sup>155</sup> See 16<sup>th</sup> *Administrative Review Preliminary Results*, 78 FR 49256, and accompanying Decision Memorandum at “Article 14 of Law 46/1982 (*Fondo Innovazione Tecnologica*),” unchanged in 16<sup>th</sup> *Administrative Review Final Results*.

<sup>156</sup> See DeMatteis IQR at 20-24.

<sup>157</sup> See 14<sup>th</sup> *Administrative Review Preliminary Results*, 76 FR at 48137, unchanged in 14<sup>th</sup> *Administrative Review Final Results*.

<sup>158</sup> See *Live Swine from Canada*, 61 FR at 52420

<sup>159</sup> See 14<sup>th</sup> *Administrative Review Preliminary Results*, 76 FR at 48137, unchanged in 14<sup>th</sup> *Administrative Review Final Results*; see also section 771(5)(D)(i) of the Act

On this basis, we preliminarily determine the countervailable subsidy from Law 46/82 research loan to be 0.02 percent *ad valorem* for DeMatteis.<sup>160</sup>

#### B. Programs For Which More Information Is Required

- Article 42 of Law 78/2010

DeCecco submits that Article 42 of Law 78/2010 allows companies to create a corporate network with the purpose of doing common activities.<sup>161</sup> Additionally, DeCecco states that the law allows companies to elect to put some of their profits in non-distributed reserves, wherefrom the income tax is deferred until when the company distributes the reserves. DeCecco reported receiving a deferral of income tax under this program during the POR.<sup>162</sup>

Based on DeCecco's response in the DeCecco 2SQR, we sought information from the GOI regarding this program in the fourth supplemental questionnaire. We intend to analyze this program in a post-preliminary analysis.

- Article 1 of Law 296/06

DeMatteis submits that, under Article 1 of Law 296/06, DeMatteis was eligible to apply for a tax credit for realizing an investment project, pursuant to paragraph 273 of Article 1, located in the region of, *inter alia*, Campania, as prescribed in paragraph 271 of Article 1.<sup>163</sup> DeMatteis reported applying and receiving approval to complete an investment under this program in 2008.<sup>164</sup> Being located in Campania, DeMatteis took advantage of this program during the AUL.<sup>165</sup>

Based on DeMatteis' response in the DeMatteis 3SQR, we sought information from the GOI regarding this program in the fourth supplemental questionnaire. We intend to analyze this program in a post-preliminary analysis.

- Arte Bianca Training Project Grant

DeMatteis reports receiving one-time assistance under this program in the form of a disbursement of funds authorized by the Regione Campania, contingent on the realization of a training project.<sup>166</sup> DeMatteis submits that once an agreement was in place between the Regione Campania, who partially financed the training project, DeMatteis, who incurred the costs of the project, and the "SME Service Promoter Company," who carried out the training activities and charged DeMatteis, the funds were disbursed from the Regione Campania.<sup>167</sup> Thus, DeMatteis avers that the benefits received were both for training of its workers/employees, as well as

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<sup>160</sup> See DeMatteis Preliminary Calculation Memorandum.

<sup>161</sup> See DeCecco 2SQR at 9-10 and Exhibit S2-7.

<sup>162</sup> *Id.*

<sup>163</sup> See DeMatteis 3SQR at 3 and Exhibit 4.

<sup>164</sup> *Id.*, at 4 and Exhibits 5-6.

<sup>165</sup> *Id.*, at 5-7.

<sup>166</sup> See DeMatteis 2SQR at Exhibit 3 and DeMatteis 4SQR at 2.

<sup>167</sup> See DeMatteis 4SQR at 2.

financial assistance from the Regione Campania. In order to be eligible to participate in the program, DeMatteis submits that it had to be located in a specific region and carry out a training project, stating that the amount of assistance was directly related to the costs incurred by DeMatteis through the realization of the project.<sup>168</sup>

Based on DeMatteis' response in the DeMatteis 2SQR and DeMatteis 4SQR, we sought information from the GOI regarding this program in the fourth supplemental questionnaire. We intend to analyze this program in a post-preliminary analysis.

C. Programs Preliminarily Found to Be Not Used or Provided No Benefit During the POR

- Article 14 of Law 46/82 (*Fondo Innovazione Tecnologica*) – Grants

The Department has previously found this program to be countervailable, most recently in the 16<sup>th</sup> *Administrative Review*.<sup>169</sup> DeMatteis reported that it received grants under Article 14 of Law 46/1982 in 2008 and 2011, which is since the company was last reviewed in the 12<sup>th</sup> *Administrative Review*.<sup>170</sup>

We have previously treated grants conferred under this program as “non-recurring,” and allocated the benefits over time.<sup>171</sup> However, because the grants received by DeMatteis under Article 14 of Law 46/1982 do not exceed 0.5 percent of its sales in the year the grant was approved, we have not allocated the benefit over time and have expensed the grants to the respective year of receipt. We therefore did not include this program in our net subsidy rate calculations for DeMatteis for the POR.

- Integrated Supply Chain Project (P.I.F.) Grant

DeMatteis submits that, in 2009 and 2010, it carried out an integrated supply chain project (also called a “P.I.F.”) for the Regione Campania, and that as the leader of the project, it had the right to ask for reimbursement of expenses incurred for the startup, animation, and planning of the project.<sup>172</sup> However, DeMatteis states that, as of the end of the POR, it had not received any financial assistance or benefit in relation to this project from the GOI.<sup>173</sup> Based on DeMatteis' responses, we sought information from the GOI regarding this program, to which the GOI did not respond. However, DeMatteis submitted information to substantiate that, as of the end of the POR, it had yet to receive any disbursement of funds under this program.<sup>174</sup> Thus,

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<sup>168</sup> See DeMatteis 2SQR at 1-2.

<sup>169</sup> See 16<sup>th</sup> *Administrative Review Preliminary Results*, 78 FR 49256, and accompanying Decision Memorandum at “Article 14 of Law 46/1982 (*Fondo Innovazione Tecnologica*),” unchanged in 16<sup>th</sup> *Administrative Review Final Results*.

<sup>170</sup> See DeMatteis IQR at 14-24.

<sup>171</sup> See *Preliminary Results of the 15th (2010) Countervailing Duty Administrative Review and Rescission, In Part*, 77 FR at 45582, 45585-86 (15<sup>th</sup> *Administrative Review Preliminary Results*), unchanged in *Certain Pasta From Italy; Final Results of Countervailing Duty Administrative Review; 2010*, 77 FR 69793 (15<sup>th</sup> *Administrative Review Final Results*) (collectively, 15<sup>th</sup> *Administrative Review*); see also 19 CFR 351.524(b).

<sup>172</sup> See DeMatteis 1SQR at 5 and DeMatteis 2SQR at 3.

<sup>173</sup> See DeMatteis 1SQR at 5.

<sup>174</sup> *Id.*

notwithstanding the GOI's lack of a response to our request for information, we preliminarily find that record information submitted by DeMatteis demonstrates that there is no evidence of the existence of a financial contribution conferred during the POR within the meaning of section 771(5)(D) of the Act. Therefore, we find this program to be not used.

- Industrial Development Grants Under Law 183/76
- Industrial Development Grants Under Law 341/95
- Law 236/93 Training Grants
- Development Grants Under Law 30/84<sup>175</sup>
- Article 23 of Legislative Decree 38/2000<sup>176</sup>
- Region of Sicily: Measure 3.14 of the POR Sicilia 2000/2006
- Social Security Reductions and Exemptions – *Sgravi*
  - Law 223/91
    - Article 8, Paragraph 4
  - Law 449/97
  - Law 448/98
  - Law 56/87
  - Law 56/97
  - Law 25/55
- Duty-Free Import Rights
- Law 289/02, Article 63 - Increase in Employment
- Tax Credits Under Article 280 of Law 296/06
- Law 317/91 Benefits for Innovative Investments
- Interest Subsidies Under Law 598/94
- Law 908/55 *Fondo di Rotazione Iniziative Economiche* (Revolving Fund for Economic Initiatives) Loans
- Law 1329/65 Interest Contributions (Sabatini Law) (Formerly Lump-Sum Interest Payment Under the Sabatini Law for Companies in Southern Italy)
- Law 341/95 Interest Contributions on Debt Consolidation Loans (Formerly Debt Consolidation Law 341/95)
- Article 23 of Legislative Decree 38/2000<sup>177</sup>
- Region of Sicily: Regional Law 15/93, as Amended by Regional Law 66/1995
- Region of Sicily: Regional Law 34/88
- Export Restitution Payments
- Grant Received Pursuant to the Community Initiative Concerning the Preparation of Enterprises for the Single Market (PRISMA)
- European Regional Development Fund (ERDF) Grants
  - ERDF *Programma Operativo Plurifondo* Grant
  - ERDF *Programma Operativo Multiregionale* Grant
- European Social Fund
- Ministerial Decree 87/02

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<sup>175</sup> May have also been called “Development Grants Under Law 30 of 1984.”

<sup>176</sup> May have also been called “Article 23 of Legislative Decree 38/00.”

<sup>177</sup> May have also been called “Article 23 of Legislative Decree 38/00.”

- Law 10/91 Grants to Fund Energy Conservation
- Export Credits Under Law 227/77
- Capital Grants Under Law 675/77
- Retraining Grants Under Law 675/77
- Interest Contributions on Bank Loans Under Law 675/77
- Preferential Financing for Export Promotion Under Law 394/81
- Urban Redevelopment Under Law 181
- Law 113/86 Training Grants
- European Agricultural Guidance and Guarantee Fund
- Interest Grants Financed by IRI Bonds
- Law 317/91 Benefits for Innovative Investments
- Brescia Chamber of Commerce Training Grants
- C.C. Article 44 of Law 448/01
- PO FESR Measure 4.1.1.1.
- Tremonti Ter
- Regional Law 35/96
- Training Grants from the Fondo Impresa
- Piano Operativo Nazionale (National Operating Plan)
- Bandi Monosettoriali Ob. 2.1.1.b
- Aid to Economic Development

**VII. RECOMMENDATION**

We recommend applying the above methodology for these preliminary results.

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\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

*Ronald K Lorentzen*

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

*August 18, 2014*

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(Date)