



C-475-819
Administrative Review
POR: 1/1/2013 – 12/31/2013
Public Document
AD/CVD Office I

July 31, 2015

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

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

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

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, 2013, through December 31, 2013. We preliminarily find that La Molisana, S.p.A. (La Molisana) and De Matteis Agroalimentare S.p.A. (De Matteis) received countervailable subsidies during the POR.

A. Background

On July 24, 1996, we published the CVD *Order* on pasta from Italy.¹ On July 1, 2014, we published a notice of “Opportunity to Request Administrative Review” for the CVD *Order*.² The petitioners³ requested an administrative review of DeMatteis⁴ and we received individual review requests from the following producers/exporters of subject merchandise: 1) Industria Alimentare Filiberto Bianconi 1947 S.p.A. (Bianconi); 2) Delverde Industrie Alimentari S.p.A. (Delverde); 3) La Molisana, S.p.A. (La Molisana), including its purported predecessor company La Molisana Industrie Alimentari S.p.A. (LMIA) and 4) Ghigi Industria Agroalimentare in San Clemente srl (Ghigi).⁵ Before the review was initiated, Ghigi withdrew its review request.⁶ In

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

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review*, 79 FR 18260 (July 1, 2014).

³ The petitioners are American Italian Pasta Company, Dakota Growers Pasta Company and New World Pasta Company.

⁴ See Letter from the petitioners to the Department, “Request for 2013 Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy,” (July 31, 2014).

⁵ See Letter from Bianconi to the Department, “Pasta from Italy: Request for Administrative Review” (July 31,



accordance with 19 CFR 351.221(c)(1)(i), we published a notice initiating the review on August 29, 2014.⁷ On September 8, 2014, we released data we obtained from CBP regarding entries of the subject merchandise from Italy during the POR.⁸ La Molisana submitted comments on these data on September 15, 2014.⁹ Both Bianconi and Delverde subsequently timely withdrew their review requests.¹⁰

We issued the initial questionnaire to the Government of Italy (GOI), De Matteis, and La Molisana on December 5, 2014.¹¹ The GOI, La Molisana, and De Matteis timely responded to the initial questionnaire.¹² Agritalia S.r.l (Agritalia), an unaffiliated trading company through which DeMatteis sells subject merchandise to the United States, also submitted a response.¹³

On March 13, 2015, we extended the deadline for the preliminary results of this administrative review from April 2, 2015, to July 31, 2015.¹⁴ As requested, La Molisana resubmitted the exhibits to Section III of the initial questionnaire on April 3, 2015.¹⁵ We issued supplemental questionnaires to the De Matteis, Agritalia, and La Molisana on May 20, 2015, and June 4, 2015, respectively,¹⁶ and received timely responses.¹⁷ On June 25, 2015, we also sent a supplemental

2014); Letter from Delverde to the Department, "Certain Pasta From Italy: Request for Administrative Reviews on Behalf of Delverde Industrie Alimentari S.p.A." (July 31, 2014); Letter from La Molisana to the Department, "Certain Pasta From Italy: Request for Review by La Molisana, S.p.A." (July 31, 2014); and Letter from Ghigi to the Department, "Pasta from Italy; Request for Administrative Review" (July 31, 2014).

⁶ Letter from Ghigi to the Department, "Pasta from Italy; Cancellation of request for Administrative Review" (July 31, 2014).

⁷ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 51548 (August 29, 2014). The Department also published a correction to the initiation notice because only one of the two names in La Molisana's administrative review request was included in the initiation notice. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 58729 (September 30, 2014).

⁸ See Memorandum to the File, "Certain Pasta from Italy: Countervailing Duty Administrative Review; 2013: U.S. Customs and Border Protection (CBP) Data Release" (September 8, 2014) (CBP Data Release).

⁹ See Letter from La Molisana, "Certain Pasta From Italy: C-475-818; Comments on Respondent Selection and U.S. Customs and Border Protection Data" (September 15, 2014).

¹⁰ See Letter from Bianconi, "Pasta from Italy; Withdrawal of Request for Administrative Review," (November 24, 2014), and see Letter from Delverde regarding, "Certain Pasta From Italy: Withdrawal of Request for Administrative Review on Behalf of Delverde Industrie Alimentari S.p.A."(November 27, 2014).

¹¹ See Letter from the Department to the GOI, De Matteis, and La Molisana, "Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy: Initial Questionnaire" (December 5, 2014)(initial questionnaire).

¹² See Letter from De Matteis, "Pasta from Italy: De Matteis Questionnaire Response" (January 26, 2015)(DQR).

¹³ See Letter from Agritalia, "Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy: Affiliation and Initial Questionnaire Response" (September 16, 2014) (AQR) at 14; see Letter from the GOI, "GOI Response to the Initial Questionnaire,"(February 17, 2015)(GQR); and see Letter from La Molisana, "Certain Pasta from Italy: C-475-819; Response to Section III of the Department's Initial Countervailing Duty Questionnaire," (February 2, 2015)(LQR).

¹⁴ See Memorandum to the File, "Certain Pasta from Italy: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review" (March 13, 2015).

¹⁵ See Letter from La Molisana, "Certain Pasta From Italy: C-475-819; Response to Department Supplemental Questionnaire of March 31, 2015 and Resubmission of Exhibits to Response to Section III of the Department's Initial Countervailing Duty Questionnaire," (April 3, 2015).

¹⁶ See Letter from the Department, "Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy: Supplemental Questionnaire" (May 20, 2015)(DSQ1); see Letter from the Department, "Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy: Supplement Questionnaire" (May 20, 2015)(ASQ1); and see Letter from the Department, "Administrative Review of the Countervailing Duty Order on

questionnaire¹⁸ to the GOI and received a timely response.¹⁹ We sent additional supplemental questionnaires on July 7, 2015, to De Matteis and Agritalia²⁰ and received timely responses from both parties.²¹

We are conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act).

B. 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 accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, by Associazione Italiana per l'Agricoltura Biologica, or by Ambientale.²² 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*.²³ Effective January 1, 2012, ravioli and tortellini filled with cheese and/or vegetables are also excluded from the scope of the *Order*.²⁴

Certain Pasta from Italy: First Supplement Questionnaire" (June 4, 2015)(LSQ1).

¹⁷ See Letter from De Matteis, "Pasta From Italy; De Matteis Questionnaire Response" (June 15, 2015)(DSQR1); see Letter from Agritalia, "Pasta From Italy; Agritalia Supplemental Questionnaire Response" (May 31, 2015)(ASQR1); and see Letter from La Molisana, "Certain Pasta from Italy: C-475-819; Response to Supplemental CVD Questionnaire" June 25, 2015)(LSQR1).

¹⁸ See Letter from the Department, "Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy Supplemental Questionnaire," (June 25, 2015)(GSQ1).

¹⁹ See Letter from the GOI, "Response to the Supplemental Questionnaire," (July 16, 2015)(GSQR1). We note that this supplemental questionnaire was filed in ACCESS on July 16, 2015 but was inadvertently dated as "July 25" by the GOI.

²⁰ See Letter from the Department, "Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy Second Supplemental Questionnaire" (July 6, 2015)(ASQ2) and see Letter from the Department, "Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy Second Supplemental Questionnaire" (July 6, 2015)(DSQ2).

²¹ See Letter from De Matteis, "Pasta from Italy: De Matteis Second Supplemental Questionnaire Response" (July 13, 2015)(DSQR2) and see Letter from the Agritalia, "Pasta from Italy: Agritalia Second Supplemental Questionnaire Response"(July 13, 2015)(ASQR2).

²² 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 B8024 of the main Department building.

²³ See *Certain Pasta From Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634 (May 12, 2011).

²⁴ See *Certain Pasta From Italy: Final Results of Antidumping Duty and Countervailing Duty Changed Circumstances Reviews and Revocation, in Part* 79 FR 58319, 58320 (September 29, 2014).

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

To date, the Department issued the following rulings and determinations, among others, 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*.²⁵
- (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*.²⁶
- (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*.²⁷
- (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).²⁸
- (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*.²⁹

C. Partial Rescission of, and Preliminary Intent To Rescind, the Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested the review withdraw the request within 90 days of the date of publication of the notice initiating the review. As explained above, the administrative review requests for Bianconi and Delverde were timely withdrawn. Therefore, in accordance with 19 CFR 351.213(d), we are rescinding this review with respect to these two companies.

D. Intent to Rescind, in Part, the Administrative Review

²⁵ See Memorandum to Richard Moreland, dated August 25, 1997, which is on file in the CRU.

²⁶ See Letter from Susan H. Kuhbach to Joseph A. Sidari Company Inc., dated July 30, 1998, which is on file in the CRU.

²⁷ See Memorandum to Richard Moreland, dated May 24, 1999, which is on file in the CRU.

²⁸ 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).

²⁹ 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).

We initiated a review for LMIA. However, as explained below, the record demonstrates that LMIA ceased operations prior to the POR. Moreover, La Molisana reported that all entries, which could be identified under either company name (La Molisana or LMIA), were of subject merchandise produced and exported by La Molisana.³⁰ Accordingly, because we find that LMIA was not operational during the POR, and made no entries of subject merchandise during the POR, we preliminarily intend to rescind the review with respect to LMIA.

E. Use of Facts Otherwise Available and Adverse Inferences

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply “facts otherwise available,” subject to section 782(d) of the Act, 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 has failed to cooperate by not acting to the best of its ability to comply with a request for information.

When the government fails to provide requested information concerning alleged subsidy programs, the Department, as adverse facts available (AFA), typically finds that a financial contribution exists under the alleged program and that the program is specific.³¹ However, where possible, the Department will normally rely on the foreign producer’s or exporter’s records to determine the existence and amount of the benefit to the extent that such information is useable and verifiable. Consistent with its past practice, as described below, because the GOI failed to provide information concerning certain alleged subsidies identified below, the Department, as AFA, has determined that those programs confer a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act, respectively. The analysis of the extent of the benefit, if any, is discussed under the sections below entitled “Analysis of Programs.”

³⁰ See Letter from La Molisana to the Department, “Certain Pasta from Italy: Request for Clarification of Liquidation Instructions,” September 15, 2014 at 1.

³¹ See, e.g., *Hardwood and Decorative Plywood from the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2011*, 78 FR 58283 (September 23, 2013), and accompanying IDM at Comment 3, “Provision of Electricity.”

Application of Adverse Facts Available (AFA)

A. *Social Security Reductions and Exemptions 1089/68 (Unico) and Subsequent Laws – Sgravi (Sgravi)*

In the prior administrative review, the Department found this program specific and to provide a financial contribution under sections 771(5A) and 771(5)(D) of the Act, respectively, because the GOI did not provide the requested laws, regulations or usage information governing this program.³² In this administrative review, the Department again requested that the GOI answer all questions in the Standard Questions Appendix and other appendices (as applicable).³³ The GOI provided a portion of some of the Sgravi program laws, usage information for the POR, and made statements regarding the countervailability of some of the Sgravi programs. The GOI did not submit a completed Standard Questions Appendix or any other applicable appendices. In its response, the GOI stated, “As already explained in the GOI response to the 2011 CVD Administrative Review- Certain Pasta from Italy (C-475-819), Law 1089/68 was repealed by Legislative Decree 212 of December 13, 2010, which came into force on December 16, 2010.”³⁴

In a supplemental questionnaire to the GOI, we noted that the Department does not consider citations to documents on the record of other segments or the provision of hyperlinks to information found on the Internet to constitute the provision of information for the record of this administrative review.³⁵ We also noted that De Matteis reported receiving benefits under this program and requested that the GOI complete the Standard Questions Appendix and the Tax Program Appendix with respect to certain laws under the Sgravi program including Law 276/03 and Law 25/55, and Law 167/2011.³⁶ With respect to Law 25/55, and Law 167/2011, the GOI stated

It should be noted that, as stated in previous anti-subsidy administrative reviews, that the aid received by pasta manufacturers pursuant to Law 25/55 (now Legislative Decree No. 167/2011) should not be mentioned, given the fact the U.S. Department of Commerce, on the occasion of the final decision regarding the XII revision in question (year 2007) – also taken following the visit of U.S. Officials to Italy – acknowledged that the above – mentioned provisions are not liable to Countervailing Duty.³⁷

Though the GOI stated Law 25/55 is now Law 167/2011, we find that there is no information on the record or in public decision memoranda in prior reviews that Law 25/55 is the predecessor to Law 167/2011. Instead, the Department has found only that Law 276/03 is a modification of Law 25/55. Specifically, the Department found the Sgravi program Law 25/55 countervailable

³² See *Certain Pasta From Italy: Final Results of Countervailing Duty Administrative Review*; 2012, 80 FR 11172 (March 2, 2015)(*Pasta from Italy 2012AR*) and accompanying Issues and Decision Memorandum (IDM) at 4-5 and 12-13.

³³ See initial questionnaire at 4.

³⁴ See GQR at 9.

³⁵ See GSQ1 at 1.

³⁶ See GSQ1 at 4. In this question, we noted “Subsequent Laws” of the program’s title “Social Security Reductions and Exemptions 1089/68(Unico) and Subsequent Laws” included Laws 276/03 and 167/2011.

³⁷ See GSQR1 at 4.

in *Pasta from Italy 2002AR*³⁸ and to be modified into Law 276/03 in *Pasta from Italy 2007AR*.³⁹ Furthermore, although we did determine that benefits under Law 25/55, as modified by Law 276/03, were not specific in *Pasta from Italy 2007AR*, as set forth in greater detail below, the GOI in that review provided information that enabled to the Department to conduct a *de facto* specificity analysis.⁴⁰ The GOI has not provided the same information in this review, despite the Department's request for such information.⁴¹

Law 276/03 and Law 25/55

In the supplemental questionnaire to the GOI, we noted that De Matteis reported receiving benefits under the Sgravi Program: Law 276/03 and Law 25/55 and requested that the GOI complete the Standard Questions Appendix, the Tax Programs Appendix and a chart stating the amounts approved and the approval dates.⁴² The GOI stated, "On this issue we recall the same text ready underlined in answer to the question of which to point 8) of the note." The GOI provided a chart stating the amounts and dates of the contributory reductions provided to De Matteis under this program during the POR.⁴³ The GOI also provided a short description of this law and translated copies of part of the law but did not provide necessary information as requested by the Department in its questionnaires, *i.e.*, translation of the relevant sections of the laws, regulations, and relevant usage information governing Law 276/03 and Law 25/55.⁴⁴

Because necessary information is not on the record and the GOI withheld information requested by the Department, and failed to provide information in the form and manner requested, we are relying on facts otherwise available in accordance with sections 776(a)(1) and 776(a)(2)(A) and (B) of the Act. In selecting from among the facts otherwise available, we find that an adverse inference is warranted within the meaning of section 776(b) of the Act because we find that by not providing information requested, the GOI did not act to the best of its ability in responding to our requests. As AFA, we find that the reduced tax revenue due to the GOI under Laws 276/03 and 25/55 of the Sgravi program during the POR constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act as revenue forgone. We also find, as AFA, that Laws 276/03 and 25/55 are specific within the meaning of 771(5A) of the Act.

Law 167/2011

We noted in the supplemental questionnaire to the GOI that De Matteis reported receiving benefits under the Sgravi Program: Law 167/2011 and requested that the GOI complete the Standard Questions Appendix, the Tax Programs Appendix and a chart stating the amounts

³⁸ See *Pasta from Italy 2002AR*, and accompanying IDM at 20.

³⁹ See *Certain Pasta from Italy: Preliminary Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 25489, 25495 (May 28, 2009) (*Pasta from Italy 2007 Prelim*), unchanged in *Certain Pasta from Italy: Final Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 47204 (September 15, 2009) (*Pasta from Italy 2007 Final*) (collectively, *Pasta from Italy 2007AR*).

⁴⁰ *Id.*

⁴¹ The GOI also stated in its initial questionnaire response that Law 223/91 (discussed in more detail below in the section "Analysis of Programs") was found not countervailable in *Pasta from Italy 2007 AR*. However, the Department's finding in that review did not relate to the particular provision of Law 223/91 under which De Matteis reported receiving benefits in this review (specifically, Article 25, Paragraph 9, which the Department found not to be used in *Pasta from Italy 2007AR*).

⁴² See GSQ1 at 4.

⁴³ See GSQR1 at 7.

⁴⁴ See GSQ1 at 4-5 and Exhibits 2,3, and 4.

approved and the approval dates.⁴⁵ The GOI stated, “On this issue we recall the same text ready underlined in answer to the question of which to point 8) of the note.”⁴⁶ The GOI provided a chart stating the amounts and dates of the contributory reductions provided to De Matteis under this program during the POR.⁴⁷ The GOI provided a short description of this law but did not provide necessary information as requested by the Department in its questionnaires, *i.e.*, translated copies of the laws, regulations, and relevant usage information governing Law 167/2011.⁴⁸

Because necessary information is not on the record, the GOI withheld information as requested by the Department, and failed to provide information in the form and manner requested, we are relying on facts otherwise available, in accordance with sections 776(a)(1) and 776(a)(2)(A) and (B) of the Act. In selecting from among the facts otherwise available, we find that an adverse inference is warranted within the meaning of section 776(b) of the Act because we find that by not providing the requested information, the GOI did not act to the best of its ability in responding to our requests. As AFA, we find that the reduced tax revenue due to the GOI under Law 167/2011 of the Sgravi program during the POR constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act as revenue forgone. We also find, as AFA, that Law 167/2011 is specific within the meaning of 771(5A) of the Act.

B. Article 42 of Law 78/2010

In the prior administrative review, the Department found this program specific as AFA because the GOI did not provide laws, regulations, and relevant usage information governing this program as requested.⁴⁹ In this administrative review, the Department again requested the GOI to answer all questions in the Standard Questions Appendix and other appendices (as applicable). The GOI did not submit a completed Standard Questions Appendix or any other applicable appendices. Instead the GOI stated, “{t}he information is not currently available (competent Authority in charge of providing the answer is the Italian Ministry of Economy and Finance – Agenzia delle Entrate).” The GOI also stated that none of the respondent companies benefitted from the program during the POR.⁵⁰

In a supplemental questionnaire to the GOI, we noted La Molisana reported receiving some benefits under Article 42 of Law 78/2010 prior to the POR.⁵¹ We again asked the GOI to complete the Standard Questions Appendix and the Grant Appendix, along with a chart stating the amounts and dates the contribution was approved and disbursed under this program prior to the POR and during the POR.⁵² In its response, the GOI stated, “{t}he information is not currently available (competent Authority in charge of providing the answer is the Italian Ministry of Economy and Finance – Agenzia delle Entrate).”⁵³

⁴⁵ See GSQ1 at 4.

⁴⁶ See GSQR1 at 6.

⁴⁷ *Id.* at 6-7.

⁴⁸ See GSQ1 at 4-5 and Exhibits 2, 3, and 4.

⁴⁹ See *Pasta from Italy 2012AR* and accompanying IDM at 6-7 and 17-18.

⁵⁰ *Id.*

⁵¹ See GSQ1 at 5.

⁵² *Id.*

⁵³ See GSQR1 at 8.

While we normally rely on information from the government to determine whether assistance provided under a law is specific within the meaning of section 771(5A) of the Act, the GOI did not provide necessary information as requested by the Department in its questionnaires, *i.e.*, translated copies of the laws, regulations, and relevant usage information.

Because the GOI withheld necessary information as requested by the Department, and failed to provide information by the deadlines for submission of the information, we are relying on facts otherwise available, in accordance with sections 776(a)(1) and 776(a)(2)(A) and (B) of the Act. In selecting from among the facts otherwise available, we find that an adverse inference is warranted within the meaning of section 776(b) of the Act because we find that by failing to provide requested information, the GOI did not act to the best of its ability in responding to our requests related to Article 42 of Law 78/2010. As AFA, we therefore preliminarily find that this program specific within the meaning of section 771(5A)(D)(iii) of the Act. For the Department's analysis, which is not based on AFA, please see the section below entitled "Analysis of Programs."

Application of Facts Available (FA)

A. Article 1 of Law 296/06

In the prior administrative review, the Department found as FA pursuant to section 776(a)(1) and (2)(B) of the Act that Article 1 of Law 296/06 provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act because the GOI did not provide laws and regulations governing this program as requested.⁵⁴ In this administrative review, the Department again requested that the GOI answer all questions in the Standard Questions Appendix and other appendices (as applicable).⁵⁵ The GOI did not submit a completed Standard Questions Appendix or any other applicable appendices. Instead the GOI stated "Please refer to the response to the supplemental questionnaires to the 2012 Administrative Review of the Countervailing Duty Order on Certain Pasta from Italy (C-475-819)."⁵⁶ The GOI also stated that none of the respondent companies benefitted from the program during the POR.⁵⁷

In a supplemental questionnaire to the GOI, we noted that the Department does not consider citations to documents from records of other segments to be on the record of this administrative review.⁵⁸ In this supplemental questionnaire to the GOI, we noted that De Matteis reported receiving a grant under this program; however, a full response for this program was not provided.⁵⁹ We again asked the GOI to complete the Standard Questions Appendix and the Grant Appendix, along with a chart stating the amounts and dates the contribution was approved and disbursed under this program prior to the POR and during the POR.⁶⁰ In its response, the GOI stated, "The information is not currently available (competent Authority in charge of

⁵⁴ See *Pasta from Italy 2012AR* and accompanying IDM at 5-6 and 18-19.

⁵⁵ See initial questionnaire at 6.

⁵⁶ See GQR at 15-16.

⁵⁷ *Id.*

⁵⁸ See GSQ1 at 1.

⁵⁹ *Id.* at 2.

⁶⁰ *Id.*

providing the answer is the Italian Ministry of Economy and Finance – Agenzia delle Entrate).”⁶¹

We find that necessary information is not on the record and the GOI withheld information requested by the Department in its questionnaires and, thus, did not provide this information by the deadlines for submission of the information, *i.e.*, the GOI did not provide translated copies of the laws and regulations governing Article 1 of Law 296/06. Accordingly, we must rely in part on facts otherwise available, in accordance with sections 776(a)(1) and (2)(A) and (B) of the Act. In selecting from among the facts available, we preliminarily find that this program confers a financial contribution under section 771(5)(D)(i) of the Act in the form of a direct transfer of funds, as DeMatteis reported receiving disbursements from the GOI under this program during the average useful life (AUL) that equaled the amount approved in 2008.⁶²

Our FA finding is limited to the GOI’s failure to provide adequate responses to certain requests for information regarding the nature of a financial contribution within the meaning of section 771(5)(D) of the Act. DeMatteis has fully cooperated in this review and consistent with the Department’s practice, we will rely on the information provided by DeMatteis in order to calculate a benefit for each program. The calculation of a benefit to DeMatteis and our finding of specificity, which are not based on FA, are discussed below at “Analysis of Programs.”

Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information when selecting among facts available, rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.”⁶³ Because the facts available determinations described above do not rely on secondary information, the corroboration requirement of section 776(c) of the Act is not applicable.

F. Subsidy Valuation Information

Allocation Period

Pursuant to 19 CFR 351.524(d)(2), we will presume the allocation period for non-recurring subsidies to be the AUL of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service’s (IRS) 1997 Class Life Asset Depreciation Range System, as updated by the Department of the Treasury. The presumption will apply unless a party claims and establishes that the IRS tables do not reasonably reflect the company-specific AUL or the country-wide AUL for the industry under examination and that the difference between the

⁶¹ See GSQR at 1-2.

⁶² See DQR at 18 and DSQR2 Exhibit 1.

⁶³ See Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994), at 870.

company-specific and/or country-wide AUL and the AUL from the IRS tables is significant. The AUL period in this proceeding, as described in 19 CFR 351.524(d)(2), is 12 years according to the IRS Tables at Table B-2: Table of Class Lives and Recovery Periods.⁶⁴ No party in this proceeding has disputed this allocation period.

Attribution of Subsidies

In accordance with 19 CFR 351.525(a), we calculated *ad valorem* subsidy rates by dividing the amount of the benefit allocated to the POR by the appropriate sales value during the same period. We have determined sales values on a free-on-board basis. In accordance with 19 CFR 351.525(b)(2), we attributed export subsidies only to products exported by a firm. In accordance with 19 CFR 351.525(b)(3), we have attributed domestic subsidies to all products sold by the firm, including products that were exported.

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 those 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:

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.⁶⁵

Thus, 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

⁶⁴ See U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.

⁶⁵ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998).

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.⁶⁶

De Matteis

De Matteis reported being wholly-owned by De Matteis Costruzioni S.r.l. (Costruzioni) during the entirety of the AUL, including the POR.⁶⁷ De Matteis also reported that Costruzioni is wholly-owned by two Italian families.⁶⁸ De Matteis states that, in 1993, Costruzioni purchased a mill and pasta factory from an unaffiliated company, and, in 1994, changed the company's name to De Matteis Agroalimentare S.p.A.⁶⁹

We note that despite Costruzioni's 100 percent ownership of De Matteis, we do not reach the issue of whether cross-ownership exists or whether subsidies to Costruzioni would be attributable to the pasta sold by De Matteis under 19 CFR 351.525(b)(6) because Costruzioni did not receive subsidies during the POR or the AUL period.⁷⁰ Thus, we are attributing subsidies received by De Matteis to its sales, in accordance with 19 CFR 351.525(b)(6)(i).

De Matteis reported that it made export sales of pasta to the United States through an unaffiliated trading company, Agritalia, during the POR.⁷¹ Accordingly, consistent with the Department's requirements, Agritalia submitted a complete questionnaire response and responded to two supplemental questionnaires.

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. However, pursuant to 19 CFR 351.525(c), benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm that is producing subject merchandise that is sold through the trading company, regardless of whether the trading company and the producing firm are affiliated. Thus, we are cumulating the benefits from subsidies received by Agritalia with the benefits from subsidies received by De Matteis based on the ratio of Agritalia's exports to the United States of subject merchandise produced by De Matteis during the POR to Agritalia's total exports of subject merchandise to the United States during the POR (based on volume).⁷² We find that cumulating Agritalia's benefits with those received by De Matteis for purposes of this review comports with 19 CFR 351.525(c) and the Department's determination in *Pasta from Italy 2012AR*.⁷³

⁶⁶ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (Ct. Int'l Trade 2001).

⁶⁷ See DQR at 2 and 5.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ See generally DQR and DSQR1.

⁷¹ See DQR at 6; DSQR2 at 1; AQR at 13.

⁷² See ASQR2 at 1; and see also Memorandum to the File, "Preliminary Calculation Memorandum for Agritalia S.r.L.," dated concurrently with this memorandum (Agritalia Calculation Memorandum).

⁷³ See *Pasta from Italy 2012AR*, and accompanying IDM at 10.

La Molisana

La Molisana reported that it is part of the Ferro Group, owned by F.lli Ferro (Ferro), which acquired La Molisana in 2011. Ferro was established in 1972 and started operating as a mill in 1975. During the POR, Ferro provided certain raw material inputs (semolina) to La Molisana, which produced and exported the subject merchandise. La Molisana responded to our questionnaire on behalf of the Ferro Group. We preliminarily find that cross-ownership exists between La Molisana and Ferro within the meaning of 19 CFR 351.525(b)(6)(vi) through Ferro's ownership of La Molisana, and we are attributing subsidies received by La Molisana to La Molisana's sales and subsidies received by Ferro to the combined sales of both, excluding inter-company sales, pursuant to 19 CFR 351.525(b)(6)(iii).⁷⁴

La Molisana Industrie Alimentari S.p.A. (LMIA) underwent a bankruptcy proceeding in 2011, after which the entity under review (La Molisana) was created. Specifically, La Molisana took over the assets and operations of LMIA following that proceeding, and LMIA ceased to operate following 2011.⁷⁵ Ferro acquired what is now La Molisana in 2011, and La Molisana has not rebutted our presumption that the non-recurring allocable subsidies provided to LMIA prior to this change in ownership continue to benefit La Molisana. Therefore, for purposes of these preliminary results, we are continuing to attribute non-recurring allocable subsidies provided to LMIA prior to the change in ownership to La Molisana and to allocate the benefits to the POR.

G. Loan Benchmarks and Discount Rates

Section 771(5)(E)(ii) of the Act provides 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. If the firm did not have any comparable commercial loans during the period, 19 CFR 351.505(a)(3)(ii) provides that we “may use a national average interest rate for comparable commercial loans.”

Neither La Molisana nor De Matteis 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. Therefore, pursuant to 19 CFR 351.505(a)(3)(ii), we are using as our benchmark a national average interest rate for comparable commercial loans. For years 1995-1998, we used the information from the Italian Bankers' Association (ABI) from a prior administrative review.⁷⁶ 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.⁷⁷ For benefits received in 2005-2013, we have used the “Bank Interest Rates on Euro Loans: Outstanding Amounts, Non-

⁷⁴ See LQR at 2-3.

⁷⁵ *Id.* at 4.

⁷⁶ See *Certain Pasta From Italy: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 11172 (March 2, 2015)(*Pasta from Italy 2012AR*) and accompanying Issues and Decision Memorandum (IDM) at 4-5 and 12-13.

⁷⁷ See GQR 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).

Financial Corporations, Loans With Original Maturity More Than Five Years” as published by the Bank of Italy.⁷⁸ For the POR, we relied on Bank of Italy information supplied in the GOI’s questionnaire response.⁷⁹

Also, in the absence of long-term loan interest rates reported by La Molisana and De Matteis, we are using the above-discussed interest rates as discount rates for purposes of allocating non-recurring benefits over time pursuant to 19 CFR 351.524(d)(3)(i)(B).

H. Analysis of Programs

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

I. Programs Preliminarily Determined To Be Countervailable

A. Grant Programs

1. Article 1 of Law 296/06

This law established an income tax credit for companies who carried out new investments in manufacturing facilities located in the “disadvantaged areas” of Abruzzo, Basilicata, Calabria, Campania, Molise, Puglia, Sardinia and Sicily, during the years 2007 through 2013.⁸⁰ Under Article 1 of Law 296/06, companies located in Campania were eligible to apply for a tax credit for realizing an investment project. This tax credit is in proportion to the total cost of new goods, and the proportion is a percentage based the location and size of the company.⁸¹ Also, Law 296/06 provides that the tax credit “might be used for the payment of the income taxes; and any excess can be used in compensation.”⁸² We interpret this to mean that that the benefit is given in the form of a tax credit; however if a company’s tax situation does not permit the use of the awarded amount as a tax credit, then the company can apply to be directly compensated for the awarded amount.

In the prior administrative review covering the 2012 POR, we determined that tax credits provided under this program conferred a countervailable subsidy. This determination was made, in part, on the basis of FA, because the GOI did not provide requested laws and regulations governing this program. Thus, as FA, where a respondent reported receiving disbursements from the GOI under this program, we found that there was a financial contribution under section 771(5)(D)(i) of the Act in the form of a direct transfer of funds. We also found this program specific within the meaning of 771(5A)(D)(iv) of the Act because it is limited to certain enterprises located within designated geographical regions. As summarized above, we are again finding as FA that the program provided a financial contribution under section 771(5)(D)(i) of

⁷⁸ The Bank of Italy ceased reporting the ABI prime rate in 2004 and, thus, the ABI prime rate was no longer reported after 2004. See GQR at 2-3.

⁷⁹ See GQR at Exhibits 1-3.

⁸⁰ See *Pasta From Italy 2012AR* and accompanying IDM at 18.

⁸¹ See Memorandum to the File, “Additional Documents,” (July 31, 2015) at Attachment 1.

⁸² *Id.*

the Act in the form of a direct transfer of funds. Furthermore, because no interested party provided new information which would warrant reconsideration of our specificity determination, we continue to find that these tax credits are specific within the meaning of 771(5A)(D)(iv) of the Act.

De Matteis reported applying for and receiving approval to complete an investment under this program in 2008 and, subsequently, constructing pasta manufacturing facilities (including plant and machinery) during the AUL.⁸³ De Matteis also reported receiving disbursements from the GOI during the AUL that equaled the total awarded amount approved under this program in 2008.⁸⁴ De Matteis stated that it received no additional assistance under this program during the POR.⁸⁵ In *Pasta From Italy 2012*, we found that the subsidy De Matteis received was exceptional, not automatic, and was provided for, or tied to, its capital structure or capital assets, and, thus, it is non-recurring in nature.⁸⁶

To calculate the benefit, we first determined whether the subsidy received by De Matteis exceeded 0.5 percent of its sales in the year in which it was approved, in accordance with 19 CFR 351.524(b)(2). Because the benefits that De Matteis received in each year exceeded 0.5 percent of the relevant sales value in the year of approval, we allocated the benefits over the AUL using the formula described in 19 CFR 351.524(d). We then divided the benefits allocated to the POR by De Matteis' total sales in the POR. On this basis, we preliminarily determine the countervailable subsidy rate of 0.97 percent *ad valorem* for De Matteis.⁸⁷

2. Law 662/96 – Patti Territoriali

The *Patti Territoriali* (Law 662/96 Article 2, Paragraph 203, Letter d) program provides grants to companies for entrepreneurial initiatives such as new plants, additions, modernization, restructuring, conversion, reactivation, or transfer.⁸⁸ To be eligible for these grants, companies must be involved in mining, manufacturing, production of thermal or electric power from biomass, service companies, tourist companies, agricultural, maritime and salt-water fishing businesses, aquaculture enterprises, or their associations.

This program provides grants to companies located within 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. 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.⁸⁹

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ See DQR at 13.

⁸⁶ See *Pasta From Italy 2012AR* and IDM at 19.

⁸⁷ See Memorandum to the File, "Preliminary Calculation Memorandum for De Matteis Agroalimentare S.p.A.," dated concurrently with this memorandum (De Matteis Calculation Memorandum).

⁸⁸ See *Pasta from Italy 2007 Prelim*, 74 FR at 25494, unchanged in *Pasta from Italy 2007 Final* and accompanying IDM at 7.

⁸⁹ *Id.*

In *Pasta from Italy 2005AR*, 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.⁹⁰ 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.⁹¹ No interested party provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.

De Matteis was approved for a grant under the *Patti Territoriali* on January 29, 1999, and it received disbursements of this grant in 2004 and 2007.⁹² In accordance with 19 CFR 351.524(c) and consistent with our prior findings related to this program, we are treating this one-time grant as a non-recurring subsidy, and we performed the “0.5 percent test” of 19 CFR 351.524(b).⁹³ We divided the total amount of the grant by De Matteis’ total sales in the year of approval/receipt. Because the resulting percentage is greater than 0.5 percent, we are allocating the grant over the AUL.⁹⁴ To determine De Matteis’ subsidy rate, we divided the amounts allocated to the POR by its total sales in the POR. On this basis, we preliminarily determine the countervailable subsidy rate of 0.05 percent *ad valorem* for De Matteis.⁹⁵

3. Law 662/96 – Contratto di Programma

The *Contratto di Programma* (Law 662/96, Article 2, Paragraph 203, Letter e) program provides grants for the expansion of existing facilities in regions that meet the criteria of Objective 1 or Objective 2 under the Structural Funds or Article 87.3.c. of the Treaty of Rome.⁹⁶ 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, steam, 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.

There are several stages for the application and provision of grants under this program. 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

⁹⁰ See *Certain Pasta From Italy: Final Results of the Tenth (2005) Countervailing Duty Administrative Review*, 73 FR 7251 (February 7, 2008)(*Pasta from Italy 2005AR*) and accompanying IDM at 11.

⁹¹ *Id.*

⁹² See DQR at 13 and Exhibit 10, and see DSQR2 Exhibit 1.

⁹³ In *Pasta from Italy 2005AR*, the Department treated the *Patti Territoriali* grant as a non-recurring subsidy.

⁹⁴ See 19 CFR 351.524(d).

⁹⁵ See De Matteis Prelim Calculation Memorandum.

⁹⁶ See *Pasta from Italy 2007 Prelim*, 74 FR at 25494-95, unchanged in *Pasta from Italy 2007 Final*.

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.⁹⁷

In *Pasta from Italy 2007AR*, the Department found that this grant confers a countervailable subsidy within the meaning of section 771(5) of the Act.⁹⁸ In that review, we found that the grant constitutes a financial contribution in the form of 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, we found that the 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.⁹⁹ No interested party provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.

De Matteis was approved for a grant under the *Contratto di Programma* on March 27, 2006, and it received disbursements of this grant in 2007 and 2008.¹⁰⁰ De Matteis stated it received no additional assistance under this program during the POR.¹⁰¹ In accordance with 19 CFR 351.524(c), we are treating this one-time grant as a non-recurring subsidy, and we performed the “0.5 percent test” of 19 CFR 351.524(b).¹⁰² We divided the total amount of the grant by De Matteis’ total sales in the year of approval/receipt. Because the resulting percentage is greater than 0.5 percent, we are allocating the grant over the AUL.¹⁰³ To determine De Matteis’ subsidy rate, we divided the amount allocated to De Matteis in the POR by its total sales in the POR. On this basis, we preliminarily determine the countervailable subsidy rate of 0.36 percent *ad valorem* for De Matteis.¹⁰⁴

4. Article 14 Law 46/82 (*Fondo Innovazione Tecnologica*) – Grants

La Molisana reported receiving benefits under an unspecified European Regional Development Program (ERDF) program.¹⁰⁵ However, the supporting documentation that La Molisana provided identifies these benefits as having been provided pursuant to Article 14 of Law 46/1982, and not through the ERDF.¹⁰⁶ Therefore, for purposes of these preliminary results, we are relying on the documentation, which shows the grant was provided under Article 14 of Law 46/1982, rather than the narrative statement that the grant was provided pursuant to an ERDF

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ See DQR at 13 and Exhibit 10; see DSQR1 at 5, and 11; and see DSQR2 Exhibit 1.

¹⁰¹ See DQR at 13.

¹⁰² In *Pasta from Italy 2005AR*, the Department treated the *Patti Territoriali* grant as a non-recurring subsidy.

¹⁰³ See 19 CFR 351.524(b)(1) and (d).

¹⁰⁴ See De Matteis Prelim Calculation Memorandum.

¹⁰⁵ See LQR at 13 and Exhibit CVD-10(a).

¹⁰⁶ *Id.*

program. We intend to seek confirmation for the final results from the GOI and La Molisana that the benefits in question were indeed provided under Article 14 of Law 46/1982.¹⁰⁷

This program provides grants and loans to companies for technological innovation. La Molisana reported that it used these benefits to purchase production equipment.¹⁰⁸ In the prior administrative review, the Department determined that benefits provided under Article 14 of Law 46/1982 are countervailable.¹⁰⁹ The Department found that loans provided under Article 14 of Law 46/1982 are financial contributions and specific under section 771(5)(D)(i) and 771(5A)(D) of the Act, and to have a benefit and be specific under 19 CFR 351.504(a). No new information has been placed on the record of this review that warrants the reconsideration of this determination.

In accordance with 19 CFR 351.524(c), we are treating this grant as a non-recurring subsidy, and we performed the “0.5 percent test” of 19 CFR 351.524(b). Because the grant under Article 14 of Law 46/1982 exceeded 0.5 percent of La Molisana’s sales in the year the grant was approved, we allocated the benefit over time using the grant methodology described in 19 CFR 351.524(d). We divided the amount allocated to the POR by La Molisana’s total sales during the POR. On this basis we preliminarily determine the countervailable subsidy from the grant under Law 46/1982 to be 0.06 percent *ad valorem* for La Molisana.

5. European Social Fund – Arte Bianca Training Project

De Matteis reported receiving a grant under Arte Bianca, with two disbursements of funds authorized by the Regione Campania government, contingent on the realization of a training project.¹¹⁰ The GOI also reported that De Matteis was granted a contribution under the European Social Fund for an “Arte Bianca” training project.¹¹¹ De Matteis states that the Regione Campania government disbursed the funds after an agreement was concluded between the Regione Campania government (which partially financed the training project), De Matteis (which incurred the costs of the project), and the “SME Service Promoter Company” (which carried out the training activities and charged De Matteis).¹¹² De Matteis also reported that in order to be eligible to participate in the program, a company had to be located in a specific region and carry out a training project. Also, the amount of assistance provided by the Regione Campania government is directly related to the costs incurred by the company through the realization of the project.¹¹³

In accordance with 19 CFR 351.524(c), we are treating this grant as a non-recurring subsidy, and we performed the “0.5 percent test” of 19 CFR 351.524(b). De Matteis reported the total amount

¹⁰⁷ See GSQ1 at 3.

¹⁰⁸ See LQR at Exhibit 9(c).

¹⁰⁹ See *Pasta from Italy 2009AR*, and accompanying IDM at 16-18; see *Certain Pasta from Italy; Final Results of Countervailing Duty Administrative Review; 2010*, 77 FR 69793 (November 21, 2012) (*Pasta from Italy 2010AR*); and see *Pasta from Italy 2011AR*, and accompanying IDM at 13..

¹¹⁰ See DQR at 18-23 and Exhibit 12.

¹¹¹ See GQR at 12.

¹¹² *Id.*; see also *Pasta from Italy 2012AR* and accompanying IDM at 28-29.

¹¹³ *Id.*

approved by the Regione Campania government in 2009 and the amount disbursed in 2013.¹¹⁴ We divided the total amount of the grant by De Matteis' total sales in the year of approval. Because the resulting percentage is less than 0.5 percent, we are allocating the grant to the POR.¹¹⁵ To determine De Matteis' subsidy rate, we divided the 2013 disbursed amount to De Matteis in the POR by its total sales in the POR. On this basis, we preliminarily determine the countervailable subsidy rate of 0.07 percent *ad valorem* for De Matteis.¹¹⁶

6. Law 289/02 – 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.¹¹⁷ 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 credits obtained prior to this date may be used in future years.¹¹⁸

In *Pasta from Italy 2005AR*, we determined that Article 62 of Law 289/02 confers a countervailable subsidy.¹¹⁹ 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 771(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; certain municipalities in the Abruzzo and Molise regions; and certain municipalities in central and northern Italy.¹²⁰ No new information has been placed on the record of this review that would cause us to depart from this treatment.¹²¹

DeMatteis is located in Campania and took advantage of this program.¹²² 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 2007.¹²³

In previous reviews, 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).¹²⁴ 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 companies making specific investments.

¹¹⁴ See DQR at 18 and 20 and Exhibit 12.

¹¹⁵ See 19 CFR 351.524(b)(1) and (d).

¹¹⁶ See De Matteis Prelim Calculation Memorandum.

¹¹⁷ See *Pasta from Italy 2007AR*.

¹¹⁸ *Id.*

¹¹⁹ See *Pasta from Italy 2005AR*.

¹²⁰ *Id.*

¹²¹ See *Live Swine from Canada*, 61 FR at 52420.

¹²² See *Pasta from Italy 2012AR* and accompanying IDM at 25.

¹²³ *Id.*

¹²⁴ See *Pasta from Italy 2005AR*; see also *Pasta from Italy 2007AR*.

Further, the tax credit required the GOI's authorization, and was tied to capital assets of the firm.¹²⁵

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, consistent with our determination in *Pasta from Italy 2007AR*, 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 AUL using the formula described in 19 CFR 351.524(d).¹²⁶ 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 find the countervailable subsidy from Law 289/02, Article 62, to be 0.30 percent *ad valorem* for DeMatteis.¹²⁷

7. POR FESR Molise 2007/2013

La Molisana reported that it received a grant to upgrade its production capacity under a program it identified as POR FESR Molise 2007/2013 (POR FESR Molise), a regional program of the ERDF during the POR.¹²⁸ The GOI confirmed that La Molisana received benefits under POR FESR Molise. The GOI reported that this program makes funds available for improving technological innovation to small and medium sized enterprises in the Molise region. The GOI reported that 150 of the 250 companies that applied for grants met the eligibility criteria and were approved for benefits.¹²⁹

We have found ERDF programs countervailable in prior administrative reviews.¹³⁰ The ERDF is one of the European Union's Structural Funds, created under the authority in Article 130 of the Treaty of Rome to reduce regional disparities in socio-economic performance within the European Union. The ERDF program provides grants to companies located within regions which meet the criteria of Objective 1 (underdeveloped regions), Objective 2 (declining industrial regions), or Objective 5(b) (declining agricultural regions) under the Structural Funds.¹³¹ The GOI reported that these programs have not changed in the POR.¹³²

We preliminarily determine that POR FESR Molise confers a countervailable subsidy. The grant provided is a financial contribution within the meaning of section 771(5)(D)(i) as a direct transfer of funds. We preliminarily determine that this program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act, because its availability is limited to companies located in a specific region and the GOI has reported that there have been no changes that would warrant reconsideration of our previous specificity findings. For purposes of these preliminary

¹²⁵ See *Pasta from Italy 2005AR*.

¹²⁶ See *Pasta from Italy 2007AR*.

¹²⁷ See DeMatteis Preliminary Calculation Memorandum.

¹²⁸ See LQR at 13 and Exhibit CVD-9(b).

¹²⁹ See GQR at 17 and Exhibit 14.

¹³⁰ See *Certain Pasta From Italy: Preliminary Results of the Countervailing Duty Administrative Review; 2011*, 78 FR 49256 (August 13, 2013)(*Pasta from Italy 2011AR*), and accompanying IDM at 10-11 (the ERDF programs are "Measure 3.14 of the POR Sicilia 2000/2006," and "PO FESR Measure 4.1.1.1.").

¹³¹ See *Pasta from Italy 2011AR*, and accompanying Decision Memorandum at 10-11 (the ERDF programs are "Measure 3.14 of the POR Sicilia 2000/2006," and "PO FESR Measure 4.1.1.1.").

¹³² See GSQR1 at 9.

results, we are treating the entire amount of the grant as the benefit to La Molisana.

In accordance with 19 CFR 351.524(c), we are treating this one-time grant as a non-recurring subsidy, and we performed the “0.5 percent test” of 19 CFR 351.524(b). Because the amount of the grant that was approved exceeded 0.5 percent of the reported total sales in the year of approval, we are allocating the benefits over the AUL; thus, we allocated the disbursements received in 2012 over the AUL, in accordance with 19 CFR 351.524(b) to determine the benefit allocable to the POR. We divided the benefit attributable to the POR by the value of the total sales in the POR to determine the rate for the countervailable subsidy during the POR.

On this basis, we preliminarily determine the countervailable subsidy from the grant under POR FESR Molise 2007/2013 to be 0.04 percent ad valorem for La Molisana.¹³³

B. Tax Programs

8. Certain Social Security Reductions and Exemptions – Sgravi

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.*¹³⁴ 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 have found in prior administrative reviews of this order that benefits under some of these laws (*e.g.*, Law 1089) are available only to companies located in the Mezzogiorno and other “disadvantaged” regions.¹³⁵ Certain other laws (*e.g.*, Law 407/90) provide benefits to companies throughout 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.¹³⁶ Other laws provide benefits that are not linked to any region.

In the *Pasta from Italy Determination* and subsequent reviews,¹³⁷ 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. The Sgravi benefits provide a financial contribution under section 771(5)(D)(ii) of the Act in the form of revenue foregone by the GOI conferring a benefit in the amount of the tax savings received by the companies. Also, certain types of the Sgravi benefits 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.¹³⁸

¹³³ See La Molisana Preliminary Calculation Memo.

¹³⁴ See *Final Affirmative Countervailing Duty Determination: Certain Pasta (“Pasta”) From Italy*, 61 FR 30288 (June 14, 1996)(*Pasta from Italy Determination*).

¹³⁵ *Id.*

¹³⁶ *Id.* at 30294.

¹³⁷ See, *e.g.*, *Certain Pasta From Italy: Final Results of the 2009 Countervailing Duty Administrative Review*, 77 FR 7129 (February 10, 2012) (*Pasta From Italy 2009AR*), and accompanying IDM at 22.

¹³⁸ *Id.*

As discussed below, we preliminarily determine the total countervailable subsidy from the Sgravi laws, identified in subsections (i) to (iv) below, to be 0.27 percent *ad valorem* for De Matteis.¹³⁹ (including the countervailable subsidy received by Agritalia and cumulated with the subsidy received by De Matteis).¹⁴⁰

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

Law 223/91 is designed to increase employment by providing benefits to companies that hire unemployed workers on a special mobility list.¹⁴¹ The mobility list identifies recently fired workers in certain sectors of the economy, and companies in any sector may hire workers named on the mobility list. Under Law 223/91, Article 25, Paragraph 9, an employer is exempted from social security contributions for a period of 18 months when a worker is hired from the mobility list on a permanent basis.¹⁴²

The Department has previously determined that Law 223/91, Article 25, Paragraph 9, conferred a countervailable subsidy within the meaning of section 771(5) of the Act.¹⁴³ Specifically, we treated the reduction or exemption of taxes as revenue forgone and is, therefore, a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. The benefit was calculated as 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.¹⁴⁴

In the supplemental questionnaire to the GOI, we noted that De Matteis reported receiving benefits under Sgravi Program: Law 223/91 Article 25, Paragraph 9 and we asked the GOI to report any changes made to this program and if changes had occurred, then to complete the Standard Questions Appendix and the Tax Programs Appendix.¹⁴⁵ The GOI stated that the law was not replaced during the POR, but further noted that this program would be repealed under Law 92/2012 with an effective date of January 2017.¹⁴⁶ The GOI did not provide Law 92/2012 in its response. The GOI submitted information on both Law 223/91, Article 25, Paragraph 9 and Law 276/2003, articles 54-59 in a single Standard Question Appendix and a single Tax Programs Appendix¹⁴⁷ even though we requested the GOI to submit a separate appendix for each program.¹⁴⁸ The GOI provided a description of Law 223/91, Article 25, Paragraph 9 in the submitted appendices; however the GOI did not provide any information, such as Law 92/2012, that warrants reconsidering our prior determination of countervailability. Furthermore, no other interested party provided new information which would warrant reconsideration of our determination that these tax reductions or exemptions are countervailable subsidies.

¹³⁹ See De Matteis Prelim Calculation Memorandum.

¹⁴⁰ See Agritalia Calculation Memorandum.

¹⁴¹ See *Pasta from Italy 2006AR* and accompanying IDM at 8.

¹⁴² *Id.*, at 12.

¹⁴³ See *Certain Pasta from Italy: Final Results of the Seventh Countervailing Duty Administrative Review*, 69 FR 70657 (December 7, 2004) (*Pasta from Italy 2002AR*), and accompanying IDM at 20.

¹⁴⁴ See *Pasta from Italy Determination*, 61 FR at 30293.

¹⁴⁵ See GSQ1 at 4.

¹⁴⁶ See GSQR1 at 5.

¹⁴⁷ *Id.* at 5 and Exhibits 2 and 3.

¹⁴⁸ See GSQ1 at 4.

De Matteis reported receiving Sgravi benefits during the POR under Law 223/91 (Article 25, Paragraph 9).¹⁴⁹ In accordance with 19 CFR 351.524(c) and consistent with our methodology in the *Pasta from Italy Determination* and in subsequent administrative reviews,¹⁵⁰ we treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy, we divided De Matteis' savings in social security contributions during the POR by De Matteis' total sales during the POR.¹⁵¹ On this basis, we preliminarily determine the countervailable subsidy rate of 0.13 percent *ad valorem* for De Matteis.¹⁵²

ii. *Law 167/2011*

Under Law 167/2011, companies can receive Sgravi benefits such as tax reductions or exemptions. In *Pasta from Italy 2012AR*, we determined that this program conferred a countervailable subsidy.¹⁵³ We relied on FA pursuant to sections 776(a)(1) and (2)(A) and (B) of the Act with an adverse inference pursuant to section 776(b) of the Act because the GOI did not provide requested laws and regulations governing this program. We requested this information again in this administrative review. As summarized above, due to the GOI's non-cooperation with respect to information concerning this Sgravi program, we are again relying on AFA in finding that these social security reductions/exemptions conferred under Law 167/2011 constitute a financial contribution within the meaning of section 771(5)(D)(ii) of the Act as revenue forgone and are specific within the meaning of section 771(5A) of the Act. The benefit is the difference between the amount of taxes the respondent would have paid absent the program, and the amount the respondent actually paid in light of the program, *i.e.*, the amount of tax savings, 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 De Matteis, we first summed the company's monthly contributions under this law. Next, we multiplied the total contributions in 2013 by the percentage refunded by the GOI to arrive at a POR benefit.¹⁵⁴ We then divided the total benefit by De Matteis' total sales in the POR.¹⁵⁵ On this basis, we preliminarily determine the countervailable subsidy rate of 0.14 percent *ad valorem* for De Matteis.¹⁵⁶

9. Article 42 of Law 78/2010

La Molisana reported that, under Article 42 of Law 78/2010, companies can receive a fiscal and financial benefit in the form of a deferral of tax when the companies form a "network of enterprises" and deposit a certain minimum investment of profit.¹⁵⁷ Under this program, taxes are deferred until the network implements new investments, and then withdrawals of these

¹⁴⁹ See DQR at 15-16 and Exhibit 11, and see DSQR1 Exhibit 3.

¹⁵⁰ See, e.g., *Pasta from Italy 2002AR* and *Pasta from Italy 2006AR*.

¹⁵¹ See De Matteis Preliminary Calculation Memorandum.

¹⁵² See De Matteis Preliminary Calculation Memorandum.

¹⁵³ See *Pasta From Italy 2012AR* and accompanying IDM at 18.

¹⁵⁴ See GQR at Exhibit 10.

¹⁵⁵ See De Matteis Preliminary Calculation Memorandum.

¹⁵⁶ *Id.*

¹⁵⁷ See LQR at 15 and Exhibits CDV-11 and -12; see also LSQR2.

deposits are potentially taxed, unless they are used for specific purposes.¹⁵⁸ La Molisana and Ferro reported receiving a deferral of taxes under this program during the POR.¹⁵⁹

In the prior administrative review, we determined that tax deferrals provided under this program conferred a countervailable subsidy.¹⁶⁰ We determined that this program constitutes a financial contribution under section 771(5)(D)(ii) of the Act in the form of the foregoing or not collecting of revenue that is otherwise due through the suspension of tax collection.¹⁶¹ Also, on the basis of AFA, we also determined that this program is specific within the meaning of 771(5A)(D)(iv) of the Act because it is limited to certain enterprises located within designated geographical regions.¹⁶² Pursuant to 19 CFR 351.509(a), normally a deferral of direct taxes will be treated as a government-provided loan in the amount of the tax deferred. A benefit exists to the extent that appropriate interest charges are not collected. The GOI did not provide the requested information in this administrative review to determine specificity. No interested party provided new information which would warrant reconsideration that these tax deferrals are countervailable subsidies.

La Molisana provided necessary information for us to perform a benefit calculation. We are directed by 19 CFR 351.509(a)(2) to treat the deferral of taxes otherwise due as a government-provided interest-free loan. Accordingly, using the benchmark interest rate discussed in the section above, “Loan Benchmarks and Discount Rates,” we calculated the interest that would have been paid by La Molisana and by Ferro on a comparable commercial loan in the amount of the taxes deferred. We divided the resulting benefit to La Molisana’s sales and we divided the resulting benefit to Ferro by La Molisana’s and Ferro’s POR total sales, net of intercompany sales. We added the resulting rates together to determine an *ad valorem* countervailable subsidy rate of 0.19 percent during the POR for La Molisana.¹⁶³

C. Loans

10. Article 14 of Law 46/82 (Fondo Innovazione Tecnologica) - Loans

Article 14 of Law 46/1982 authorized the creation of a revolving fund for technology innovation, also known as the “FIT Program.” Through the fund, the Ministry of Economic Development provides aid for experimental and industrial research projects in the form of soft loans, grants against interest, and capital grants. After an application is submitted to one of the banks approved by the Ministry to administer the program, the application is evaluated on a number of scientific, technological and economic criteria. Subject matter experts in relevant fields may be asked to help evaluate the technical merits of the proposal. Within 90 days from the submission of an application, the bank is required to report to the Ministry of Economic Development whether it believes the project is feasible. Projects that pass this examination are funded in order

¹⁵⁸ See LQR Exhibit CDV-11.

¹⁵⁹ *Id.*

¹⁶⁰ See *Pasta from Italy 2012AR* and accompanying IDM at 17.

¹⁶¹ See LQR Exhibit CDV-11.

¹⁶² See *Pasta from Italy 2012AR* and IDM at 17-18.

¹⁶³ See La Molisana Preliminary Calculation Memorandum.

of the highest to lowest score, until all the resources appropriated for the program have been exhausted.¹⁶⁴

In prior administrative reviews, the Department has found that this program provides countervailable subsidies.¹⁶⁵ The Department found that loans provided under Article 14 of Law 46/1982 are financial contributions and specific under section 771(5)(D)(i) and 771(5A)(D) of the Act, and to have a benefit and be specific under 19 CFR 351.505(a). No new information has been placed on the record of this review that warrants reconsideration of this determination.

De Matteis reported that it had a loan under this program that was outstanding during the POR.¹⁶⁶ In accordance with 19 CFR 351.505(c)(2), we calculated the benefit De Matteis received from the loan outstanding under this program in the POR by computing the difference between the interest payments De Matteis made on the loan during the POR and the interest payments De Matteis would have made at the benchmark interest rate.¹⁶⁷ We divided the benefit received by De Matteis by its total sales in the POR. On this basis, we determine the countervailable subsidy from the Law 46/82 research loan to be 0.01 percent *ad valorem* for De Matteis.¹⁶⁸

In addition to the grant La Molisana reported that we have preliminarily found to be under this program, as discussed above, La Molisana also reported a loan which it attributed to an ERDF program but which we are applying under this program.

In accordance with 19 CFR 351.505(c)(2), we calculated the countervailable benefit by computing the difference between the payments La Molisana made on the loan during the POR and the payments La Molisana would have made on a benchmark loan. *See* the “Benchmarks for Long-Term Loans and Discount Rates” section of this notice above. We divided the benefit received by La Molisana by its total sales in the POR. On this basis, we preliminarily determine the countervailable subsidy from Law 46/1982 loan to be 0.04 percent *ad valorem* for La Molisana.¹⁶⁹

II. Programs Preliminarily Determined Not to Confer a Measurable Benefit During the POR

11. Certain Social Security Reductions and Exemptions – Sgravi

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.*¹⁷⁰ These social

¹⁶⁴ *See Pasta from Italy 2009AR* and accompanying IDM at 16.

¹⁶⁵ *Id.* at 16-18; *see also Pasta from Italy 2011AR* and accompanying IDM at 13.

¹⁶⁶ *See* DQR at 13-14; *see* DSQR1 at 13-14 and Exhibit 4.

¹⁶⁷ *See* “F. Loan Benchmarks and Discount Rates” section above.

¹⁶⁸ *See* De Matteis Preliminary Calculation Memorandum.

¹⁶⁹ *See* La Molisana Preliminary Calculation Memorandum.

¹⁷⁰ *See Final Affirmative Countervailing Duty Determination: Certain Pasta (“Pasta”) From Italy*, 61 FR 30288 (June 14, 1996)(*Pasta from Italy Determination*).

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 have found in prior administrative reviews of this order that benefits under some of these laws (e.g., Law 1089) are available only to companies located in the Mezzogiorno and other “disadvantaged” regions.¹⁷¹ Certain other laws (e.g., Law 407/90) provide benefits to companies throughout 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.¹⁷² Other laws provide benefits that are not linked to any region.

i. 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. A 100-percent exemption is allowed for companies in the Mezzogiorno, while companies located in the rest of Italy receive a 50-percent reduction.¹⁷³

In the *Pasta from Italy Determination*, we determined that Law 407/90 confers a countervailable subsidy within the meaning of section 771(5) of the Act.¹⁷⁴ In that segment, we determined that the reduction or exemption of taxes is revenue foregone that is otherwise due and is, therefore, a financial contribution pursuant to section 771(5)(D)(ii) of the Act and provides a benefit in the difference in the amount of tax savings available to companies located in the Mezzogiorno and the tax savings available to companies located in the rest of Italy, in accordance with 19 CFR 351.509(a). Additionally, we found that the program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because the higher level of benefit is limited to companies in the Mezzogiorno.¹⁷⁵ No interested party provided new information which would warrant reconsideration of our determination that these tax reductions or exemptions are countervailable subsidies.

In accordance with 19 CFR 351.524(c), and consistent with our methodology in the *Pasta from Italy Determination* and subsequent administrative reviews, we treated the reductions and exemptions of social security taxes as recurring benefits.¹⁷⁶ To calculate the countervailable subsidy received by Agritalia to cumulate with De Matteis’ countervailable subsidies, we first multiplied the total amount of the GOI refunded of Agritalia’s Sgravi payments made during the POR. We then divided this amount by Agritalia’s total sales during the POR. We then multiplied this subsidy rate by the ratio of Agritalia’s exports to the United States of subject merchandise produced by De Matteis during the POR to Agritalia’s total exports of subject merchandise to the United States during the POR (based on volume).¹⁷⁷ Based on this

¹⁷¹ *Id.*

¹⁷² *Id.* at 30294.

¹⁷³ See, e.g., *Pasta From Italy 2009AR*, and accompanying IDM at 22

¹⁷⁴ See *Pasta from Italy Determination*, 61 FR at 30294.

¹⁷⁵ *Id.*

¹⁷⁶ See, e.g., *Pasta from Italy Determination*, 61 FR at 30294; see also *Pasta From Italy 2009AR*, and accompanying IDM at 22-23

¹⁷⁷ See Agritalia Calculation Memorandum.

calculation, we find that this program did not provide a measurable benefit to DeMatteis during the POR.¹⁷⁸

ii. *Law 276/03 (Law 25/55)*

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 combine work and training components.¹⁷⁹ 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.¹⁸⁰ 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.¹⁸¹ The contributions are applied in equal measure across Italy and the decree may be used in all economic sectors.¹⁸²

In the *Pasta from Italy 2006AR*,¹⁸³ the GOI argued that L.D. 276/03 is a continuation of Law 25/55, a program we previously found countervailable in the *Pasta from Italy 2002AR*.¹⁸⁴ However, in the *Pasta from Italy 2007AR*, we found this program to be not specific and, hence, not countervailable.¹⁸⁵ We stated that Law 25/55 as modified by L.D. 276/03 evidences no *de 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 De Matteis were predominant users or received a disproportionately large share of the benefits. Further, during the POR covered by the *Pasta from Italy 2007AR*, the benefits provided to the “Industry” economic sector were not a disproportionately large amount.¹⁸⁶

In the *Pasta from Italy 2012AR*, we determined that this program conferred a countervailable subsidy.¹⁸⁷ Specifically, we stated that because of the GOI’s lack of cooperation in responding to the Department’s information requests about this program, we were unable to examine the distribution of benefits under this program in order to determine whether there remained no evidence of *de facto* specificity in POR covered by *Pasta from Italy 2012AR*. Similarly, in this review, as described above, despite requesting this information from the GOI, the GOI failed to provide the requested information for the Department’s evaluation of *de facto* specificity. Therefore, as discussed in the “Use of Facts Otherwise Available and Adverse Inferences” section above, we are relying on the application of AFA for purposes of determining that this program is specific within the meaning of section 771(5A)(D)(iii) of the Act. Further, as AFA we find that the reduction or exemption of taxes under this program is revenue foregone that is otherwise due, and, thus, constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. The benefit is the amount of the tax obligation relieved by the GOI,

¹⁷⁸ See De Matteis Prelim Calculation Memorandum.

¹⁷⁹ See *Pasta from Italy 2007AR* and accompanying IDM.

¹⁸⁰ *Id.*, at 74 FR 25495.

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ See *Pasta from Italy 2006AR* and accompanying IDM.

¹⁸⁴ See *Pasta from Italy 2011* and accompanying IDM at 12-14; see also *Pasta from Italy 2002AR*.

¹⁸⁵ See *Pasta from Italy 2007AR*.

¹⁸⁶ *Id.*

¹⁸⁷ See *Pasta From Italy 2012AR* and accompanying IDM at 18.

i.e., the difference between what De Matteis paid and what De Matteis 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 benefit for De Matteis, we first totaled De Matteis' monthly contributions under this law. Next, we multiplied De Matteis' total contributions for 2013 by the percentage refunded by the GOI to arrive at a POR benefit.¹⁸⁸ We divided the benefit, the total 2013 amount which the GOI refunded, by De Matteis' total sales during the POR.¹⁸⁹ On this basis, we find that this program did not provide a measurable benefit to DeMatteis during the POR.¹⁹⁰

III. Programs Preliminarily Determined To Have Been Not Used By Respondent or Not To Provide Benefits During The POR

We also preliminarily determine the following programs to have been not used by the respondents:

- Industrial Development Grants Under Law 183/76
- Industrial Development Grants Under Law 341/95
- Industrial Development Grants Under Law 488/92
- Industrial Development Grants Under Law 64/86
- Law 236/93 Training Grants
- Development Grants Under Law 30/84¹⁹¹
- Article 23 of Legislative Decree 38/2000¹⁹²
- 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
- 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

¹⁸⁸ See GQR at Exhibit 10.

¹⁸⁹ See De Matteis Preliminary Calculation Memorandum

¹⁹⁰ *Id.*

¹⁹¹ May have also been called “Development Grants Under Law 30 of 1984.”

¹⁹² May have also been called “Article 23 of Legislative Decree 38/00.”

- 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 38/2000¹⁹³
- 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)
- ERDF Grants
- ERDF *Programma Operativo Plurifondo* Grant
- ERDF *Programma Operativo Multiregionale* Grant
- European Social Fund
- Ministerial Decree 87/02
- Law 10/91 Grants to Fund Energy Conservation
- Export Credits Under Law 227/77
- Capital Grants Under Law 675/77
- Retraining Grants Under Law 675/77
- Interest Contributions on Bank Loans Under Law 675/77
- Preferential Financing for Export Promotion Under Law 394/81
- Urban Redevelopment Under Law 181
- Law 113/86 Training Grants
- European Agricultural Guidance and Guarantee Fund
- Interest Grants Financed by IRI Bonds
- Law 317/91 Benefits for Innovative Investments
- Brescia Chamber of Commerce Training Grants
- C.C. Article 44 of Law 448/01
- PO FESR Measure 4.1.1.1.
- Tremonti Ter
- Regional Law 35/96
- Training Grants from the Fondo Impresa
- Piano Operativo Nazionale (National Operating Plan)
- Bandi Monosettoriali Ob. 2.1.1.b
- Aid to Economic Development
- Interest Contributions Under Law 488/92

¹⁹³ May have also been called “Article 23 of Legislative Decree 38/00.”

IV. **Recommendation**

We recommend applying the above methodology for these preliminary results.

✓

Agree

Disagree

Ronald K Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

July 31, 2015

(Date)