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Investigation
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November 2, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Affirmative
Determination: Countervailing Duty Investigation of Certain
Corrosion-Resistant Steel Products from Italy

I. SUMMARY

The Department of Commerce (“Department”) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain corrosion-resistant steel products (“corrosion-resistant steel”), as provided in section 703 of the Tariff Act of 1930, as amended (the “Act”).

II. BACKGROUND

A. Initiation and Case History

On June 3, 2015, the Department received countervailing duty (“CVD”) and antidumping duty (“AD”) Petitions concerning imports of corrosion-resistant steel from Italy, filed in proper form by United States Steel Corporation, Nucor Corporation, Steel Dynamics Inc., California Steel Industries, ArcelorMittal USA LLC, and AK Steel Corporation (collectively, “Petitioners”).¹ On June 23, 2015, the Department signed a notice of initiation for the CVD investigation of

¹ See “Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Corrosion-Resistant Steel Products from the People’s Republic of China, India, Italy, the Republic of Korea, and Taiwan,” dated June 3, 2015 (“Petition”).



corrosion-resistant steel from Italy.² Supplements to the Petition and our consultations with the Government of Italy (“GOI”) are described in the Initiation Checklist.

The Department stated in the Initiation that we intended to select respondents based on data obtained from U.S. Customs and Border Protection (“CBP”).³ On June 24, 2015, we released the CBP entry data under administrative protective order (“APO”) for the Harmonized Tariff Schedule of the United States (“HTSUS”) listed in the scope of the investigation. Also on June 24, 2015, we received a request for voluntary respondent treatment from Marcegaglia S.p.A. (“Marcegaglia”). On July 6, 2015, we received comments on the CBP data from Petitioners.

On July 22, 2015, the Department selected Ilva S.p.A. and Acciaieria Arvedi S.p.A. (“Arvedi”) as mandatory respondents for this investigation⁴ and, on July 23, 2015, issued a CVD questionnaire to the GOI.⁵ The Department instructed the GOI to forward the questionnaire to the selected mandatory respondents. On July 24, 2015, Ilva informed the Department that it would not participate in this investigation.⁶ On July 30, 2015, the Department selected Marcegaglia as an additional mandatory respondent.⁷ On July 30, 2015, we issued the CVD questionnaire to Marcegaglia.⁸

We received affiliation responses from Arvedi and Marcegaglia on August 11, 2015, and August 18, 2015, respectively.⁹ Between August 19 and 20, 2015, we issued supplemental questionnaires on these responses to Arvedi and Marcegaglia, and they filed responses to these questionnaires between September 2 and 3, 2015. The GOI and the two participating mandatory respondents filed primary questionnaire responses (“PQR”) with the Department on September 14, 2015. Between September 22 and October 9, 2015, the Department issued supplemental

² See Certain Corrosion-Resistant Steel Products from the People’s Republic of China, India, Italy, the Republic of Korea, and Taiwan: Initiation of Countervailing Duty Investigations, 80 FR 37223 (June 30, 2015) (“Initiation”). On the same date we also published a notice of initiation for the AD investigation of corrosion-resistant steel from Italy. See Certain Corrosion-Resistant Steel Products from the People’s Republic of China, India, Italy, the Republic of Korea, and Taiwan: Initiation of Antidumping Duty Investigation, 80 FR 37228 (June 30, 2015).

³ See Initiation, 80 FR at 37227.

⁴ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Ryan Mullen, International Trade Compliance Analyst, Office V, Antidumping and Countervailing Duty Operations, re: “Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Italy: Respondent Selection,” dated July 22, 2015 (“Respondent Selection Memo”).

⁵ See Letter to the Government of Italy, re: “Investigation of Certain Corrosion-Resistant Steel Products from Italy: Countervailing Duty Questionnaire,” dated July 23, 2015.

⁶ See Letter from Ilva S.p.A, re: “Letter Regarding Respondent Selection,” dated July 24, 2015 (“Ilva Letter”).

⁷ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Ryan Mullen, International Trade Compliance Analyst, Office V, Antidumping and Countervailing Duty Operations, re: “Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Italy: Selection of Additional Mandatory Respondent,” dated July 30, 2015 (“Second Respondent Selection Memo”).

⁸ See Letter to Marcegaglia, re: “Investigation of Certain Corrosion-Resistant Steel Products from Italy: Countervailing Duty Questionnaire,” dated July 30, 2015.

⁹ See Letter from Arvedi, re: “Affiliated Companies Response,” dated August 11, 2015 and Letter from Marcegaglia, re: “Affiliated Companies Response,” dated August 18, 2015.

questionnaires to Arvedi and Marcegaglia, and they filed responses to these questionnaires between October 9 and 19, 2015.

On September 23, 2015, Petitioners filed two new subsidy allegations (“NSA”), which were specific to Arvedi.¹⁰ We initiated an investigation on one of them on October 9, 2015.¹¹ On October 9, 2015, we issued a questionnaire to Arvedi and the GOI requesting additional information regarding the allegation. The Department received the questionnaire responses from the GOI and Arvedi on October 23 and October 26, 2015, respectively. The timing of these questionnaire responses is such that we are not able to consider them in our preliminary determination. As explained below, we intend to examine the initiated allegation after the preliminary determination, if time permits.

B. Postponement of Preliminary Determination

On August 3, 2015, Petitioners requested an extension of the preliminary determination. On August 13, 2015, the Department fully extended the preliminary determination pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).¹²

C. Period of Investigation

The period of investigation (“POI”) is January 1, 2014, through December 31, 2014.

III. SCOPE COMMENTS

In accordance with the Preamble to the Department’s regulations, and as noted in the Initiation, we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the Initiation.¹³ We are currently evaluating the scope comments filed by interested parties. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations no later than the preliminary determination of the companion AD investigations, which are due for signature on December 21, 2015. We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determinations after considering any relevant comments submitted in the case and rebuttal briefs.

IV. SCOPE OF THE INVESTIGATION

The products covered by this investigation are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-,

¹⁰ See Petitioners’ New Subsidy Allegation, dated September 23, 2015 (“NSA Submission”).

¹¹ See Memorandum to James C. Doyle, Director, Office V, Enforcement and Compliance, re: “New Subsidy Allegation,” dated October 9, 2015 (“NSA Initiation”).

¹² See Certain Corrosion-Resistant Steel Products from the People’s Republic of China, India, Italy, the Republic of Korea, and Taiwan: Notice of Postponement of Preliminary Determination in the Countervailing Duty Investigation, 80 FR 48499 (August 13, 2015).

¹³ See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997) (“Preamble”); see also Initiation, 80 FR at 37224.

nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (e.g., in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (e.g., in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (e.g., in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, i.e., products which have been "worked after rolling" (e.g., products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (e.g., the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels.

IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin free steel"), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

V. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

On July 23, 2015, Petitioners filed allegations that critical circumstances exist with respect to imports of subject merchandise from all five countries under investigation.¹⁴ On October 29, 2015, the Department issued its preliminary critical circumstances determinations for all five countries.¹⁵ Pursuant to this determination, the Department determined that critical circumstances exist for imports of the merchandise under consideration from Ilva S.p.A.

VI. INJURY TEST

Because Italy is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (“ITC”) is required to determine whether imports of the subject merchandise from Italy materially injure, or threaten material injury to, a U.S. industry. On July 24, 2015, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of corrosion-resistant steel from Italy.¹⁶

VII. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, the Department shall apply “facts otherwise available” if: (1) necessary information is not on the record; or (2) 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.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (“TPEA”), which made numerous amendments to the antidumping and CVD law, including amendments to section 776(b) and 776(c) of the Act and the addition of

¹⁴ See Letter from Petitioners, “Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea, and Taiwan: Critical Circumstances Allegations,” July 23, 2015.

¹⁵ See Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical Circumstances, 80 FR _____, (November __, 2015) (signed October 29, 2015).

¹⁶ See Certain Corrosion-Resistant Steel Products From China, India, Italy, Korea, and Taiwan, 80 FR 44151 (July 24, 2015).

section 776(d) of the Act.¹⁷ The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.¹⁸

Section 776(b) of the Act 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. In doing so, and under the TPEA, the Department is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.¹⁹ Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the countervailing duty investigation, a previous administrative review, or other information placed on the record.²⁰

Section 776(c) of the Act provides that, in general, when the Department relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.²¹ Secondary information is defined as information derived from the petition that gave rise to the investigation, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.²²

Finally, under the new section 776(d) of the Act, when applying an adverse inference, the Department may use a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the Department considers reasonable to use.²³ The TPEA also makes clear that, when selecting facts available with an adverse inference, the Department is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.²⁴

As discussed below, for the preliminary determination, we find the application of partial adverse facts available (“AFA”) is warranted with respect to the GOI’s responses to questions on the alleged provisions of *Industrial Development Grants Under Law 488/92, Technological*

¹⁷ See TPEA, Pub. L. No. 114-27, 129 Stat. 362 (2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission. See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793 (August 6, 2015) (“Applicability Notice”). The text of the TPEA may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

¹⁸ See Applicability Notice, 80 FR at 46794-95.

¹⁹ See section 776(b)(1)(B) of the Act; TPEA, section 502(1)(B).

²⁰ See also 19 CFR 351.308(c).

²¹ See also 19 CFR 351.308(d).

²² See SAA at 870 (1994).

²³ See section 776(d)(1) of the Act; TPEA, section 502(3).

²⁴ See section 776(d)(3) of the Act; TPEA, section 502(3).

Innovation Grants and Loans Under Law 46/82, and Certain Social Security Reductions and Exemptions (“Sgravi” Benefits). In addition, we find the application of total AFA warranted with respect to Ilva, who withdrew from participation in this investigation.

A. GOI

When the government fails to provide requested information concerning whether or not an alleged subsidy program exists, and the nature and details of that program, it is the Department’s practice, as AFA, to determine that a financial contribution exists absent that requested information, in accordance with section 771(5)(D) of the Act.²⁵ Furthermore, when the Department requests information which addresses the universe of enterprises or industries which can benefit from a subsidy, and the government fails to provide the requested information, it is also the Department’s practice, as AFA, to find that the subsidy is specific, in accordance with section 771(5A) of the Act.²⁶ 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 our practice, as described below, because the GOI failed to provide information concerning certain alleged subsidies identified below, the Department, as AFA, has determined that a financial contribution is conferred under the *Sgravi* program pursuant to section 771(5)(D) of the Act, and that the programs are specific pursuant to section 771(5A) of the Act. The analysis of the extent of the benefit, if any, is discussed under the section below entitled “Analysis of Programs.”

As Arvedi and Marcegaglia have fully cooperated in this investigation we will rely on the information provided by Arvedi and Marcegaglia in order to determine whether a benefit exists for each program. See "Analysis of Programs" section.

a. Certain Social Security Reductions and Exemptions (“Sgravi” Benefits)

The Department requested that the GOI answer all questions in the Standard Questions Appendix and other appendices (as applicable) pertaining to this allegation.²⁷ In its PQR, the GOI provided charts indicating contributory reductions received by the Arvedi Group under Article 10 of Law 53/2000 and Law 223/91²⁸ and benefits received by Marcegaglia under Law 167/2011,²⁹ but did not complete the Standard Questions Appendix or the Tax Program Appendix with respect to these *Sgravi* programs. Both the Arvedi Group and Marcegaglia reported receiving benefits under these *Sgravi* programs.³⁰ In our supplemental questionnaire to the GOI, we requested they complete the Standard Questions Appendix or the Tax Program Appendix with respect to these

²⁵ 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 Issues and Decisions Memorandum (“IDM”) at Comment 3, “Provision of Electricity.”

²⁶ Id.

²⁷ See GOI PQR.

²⁸ The GOI reported reductions for Arvedi and Finarvedi. See GOI PQR at 8.

²⁹ See GOI PQR at 7-8.

³⁰ See Arvedi Group PQR at Exhibit 24 and Marcegaglia’s PQR at Exhibit 19.

Sgravi programs.³¹ In the GOI's supplemental questionnaire response ("SQR"), it did not provide any information on these programs.³² Such information is essential for the Department to conduct its required analyses of financial contribution and specificity under sections 771(5)(D) and 771(5A) of the Act, respectively.

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 partial AFA, we find that the reduced tax revenue due to the GOI under Laws 53/2000, 167/2011 and 223/91 of the *Sgravi* program during the POI constitute financial contributions within the meaning of section 771(5)(D)(ii) of the Act as revenue forgone. We also find, as AFA, that Laws 53/2000 and 167/2011 are *de facto* specific in accordance with 771(5A)(iii) of the Act, consistent with our determinations in the most recently completed administrative review of Pasta 2012.³³ Furthermore, in accordance with our determination in the Pasta 2005, as AFA, we find that Law 223/91 is regionally specific, in accordance with section 771(5A)(D)(iv).³⁴

b. Technological Innovation Grants and Loans Under Law 46/82

As Commerce explained in the 14th administrative review of Pasta from Italy:

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 for 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 of highest to lowest score, until the all the resources appropriated for the program have been exhausted.³⁵

³¹ See Letter to the GOI, re: "GOI Supplemental Questionnaire," dated October 2, 2015, at 9.

³² See GOI SQR, dated October 13, 2105 ("GOI SQR1") and GOI SQR, dated October 16, 2015 ("GOI SQR2").

³³ See Certain Pasta From Italy: Final Results of Countervailing Duty Administrative Review; 2012, 80 FR 11172 (March 2, 2015) ("Pasta 2012"), and accompanying IDM at 4-5 and 12-13.

³⁴ See Certain Pasta from Italy: Final Results of Tenth (2005) Countervailing Duty Administrative Review, 73 FR 7251 (February 7, 2008) ("Pasta 2005"), and accompanying IDM at "Programs Determined to Confer Subsidies During the POR."

³⁵ See Certain Pasta from Italy: Preliminary Results of the 14th (2009) Countervailing Duty Administrative Review, 76 FR 48130 (August 8, 2011) and accompanying Preliminary Determination Memorandum at "Programs Preliminarily Determined to be Countervailable." ("Pasta 2009 Prelim").

In the most recently completed administrative review of Pasta 2012, the Department determined that Law 46/82 grants and loans confer a countervailable subsidy within the meaning of section 771(5) of the Act.³⁶ Specifically, in that case, the Department determined that the loans under Law 46/82 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.³⁷

Further, in that case, the Department determined that the grants provided under this program are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant.³⁸ Also, these grants were found to be specific within the meaning of section 771(5A)(D) of the Act and under 19 CFR 351.504(a).³⁹ The Arvedi Group reported receiving disbursements the GOI under this program during the AUL, as well as loans at preferential rates.⁴⁰

In this investigation, the Department requested the GOI answer all questions in the Standard Questions Appendix and other appendices (as applicable).⁴¹ In its PQR, the GOI provided a narrative description of this program but did not provide supporting documentation.⁴² In a supplemental questionnaire, we again requested that the GOI provide all laws pertaining to these programs and copies of applications for these programs.⁴³ In its responses to the Department, the GOI provided the law and a narrative explanation of the law;⁴⁴ however, the GOI did not provide blank or completed applications for assistance under these programs, as requested by the Department in its questionnaires.⁴⁵ Such information is essential for the Department to conduct its required analyses of specificity under section 771(5A) of the Act. Therefore, we find that necessary information to make a determination with respect to whether this program is specific is not on the record of this investigation. The GOI withheld the information described above requested by the Department in its questionnaires and, thus, did not provide this information by the deadlines for submission of the information. Specifically, including the missing information, they did not provide details of records maintained for this program or application approval documentation. 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 determining whether this program is specific. 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

³⁶ See Pasta 2012 and accompanying IDM at Comment VI.A.10. We note in this administrative review, the Department determined that the grant portion of this program provided no benefit. Id., and accompanying IDM at Comment VI.B.1.

³⁷ Id.

³⁸ Id.

³⁹ See Certain Pasta From Italy: Preliminary Results of Countervailing Duty Administrative Review, Rescission in Part, and Preliminary Intent To Rescind in Part; 2013, 80 FR 47900 (August 10, 2015) (“Pasta 2013 Prelim”) and accompanying Preliminary Decision Memo at H.I.C.10.

⁴⁰ See, e.g., Arvedi’s PQR at Exhibit 20.

⁴¹ See Initial Questionnaire, dated July 23, 2015, at Section II, page 2.

⁴² See GOI PQR at 20-1, 32-33.

⁴³ See GOI Supplemental Questionnaire, dated October 2, 2015.

⁴⁴ See GOI SQR1 and GOI SQR2.

⁴⁵ Id.

our requests. Therefore, as AFA, we preliminarily find that the users of these programs are limited in number, and therefore these programs are *de facto* specific pursuant to 771(5A)(D)(iii) of the Act.

c. Industrial Development Grants Under Law 488/92

In Pasta 2008 Prelim, the Department described the 488/92 program:

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 as Objective 1 (underdeveloped regions), Objective 2 (declining industrial regions), or Objective 5(b) (declining agricultural regions) areas by the EU. The new policy was given legislative form in Law 488/92 under which Italian companies in the eligible sectors (manufacturing, mining, and certain business services) may apply for industrial development grants.

Law 488/92 grants are made only after a preliminary examination by a bank authorized by the Ministry of Industry. On the basis of the findings of this preliminary examination, the Ministry of Industry ranks the companies applying for grants. The ranking is based on indicators such as the amount of capital the company will contribute from its own funds, the number of jobs created, regional priorities, *etc.* Grants are then made based on this ranking.⁴⁶

In the recently completed administrative review of Pasta from Italy, the Department determined that Law 488/92 grants confer a countervailable subsidy within the meaning of section 771(5) of the Act.⁴⁷ Specifically, in that case, the Department determined that they are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant.⁴⁸ Also, in that case, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act.⁴⁹ In this investigation, the Department requested the GOI answer all questions in the Standard Questions Appendix and other appendices (as applicable).⁵⁰ In its PQR, the GOI provided a narrative description of this program but provided no supporting documentation.⁵¹ In a supplemental questionnaire, we requested the GOI provide all laws pertaining to this program and copies of applications for these programs.⁵² In its responses to the Department, the GOI did not provide this information.⁵³ Such information is essential for the Department to conduct its

⁴⁶ See Certain Pasta from Italy: Preliminary Results of the 13th (2008) Countervailing Duty Administrative Review, 75 FR 18806, 18809 (April 13, 2010) ("Pasta 2008 Prelim").

⁴⁷ See Pasta 2012 and accompanying IDM at Comment VI.A.4.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ See Initial Questionnaire, dated July 23, 2015, at Section II, page 2.

⁵¹ See GOI PQR at 10-17.

⁵² See GOI Supplemental Questionnaire, dated October 2, 2015, at 5-6.

⁵³ See GOI SQR1 and GOI SQR2.

required analyses of specificity under section 771(5A) of the Act. Marcegaglia reported receiving disbursements from the GOI under this program during the AUL.⁵⁴

We find that necessary information to make a determination with respect to whether this program is specific is not on the record of this investigation. The GOI withheld the law and blank or completed application for assistance under this program, as requested by the Department in its questionnaires and did not provide this information by the deadlines for submission of the information. Specifically, the GOI did not provide translated copies of the laws and regulations governing Law 488/92, which would have provided the Department with information as to the users of the subsidy, or applications for this program. 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 determining whether this program is specific. 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.

However, in applying AFA, our determination is limited to the GOI's failure to provide adequate responses to certain requests for information regarding the specificity of the program within the meaning of section 771(5A) of the Act. Specifically, as partial AFA, consistent with our determination in the most recently completed administrative review of Pasta 2012⁵⁵, we preliminarily determine that this program is regionally specific, pursuant to 771(5A)(D)(iv) of the Act.

B. Ilva

As noted above, Ilva was initially selected as a mandatory respondent but refused to participate in this investigation and did not respond to the Department's initial questionnaire and, therefore, withheld information that has been requested by the Department.⁵⁶ We have relied on facts available, in accordance with section 776(a) of the Act, because Ilva withheld necessary information requested by the Department, and refused to participate as a mandatory respondent -- therefore, significantly impeding the investigation. Thus, we must rely on facts otherwise available in accordance with sections 776(a)(1) and 776(2)(A), (B) and (C) of the Act.

In selecting from among the facts available, the Department determined that an adverse inference is warranted, pursuant to section 776(b) of the Act. Ilva refused to submit a response to the Department's initial CVD questionnaire. Furthermore, Ilva withdrew from participating in this investigation. For these reasons, we find that Ilva failed to cooperate by not acting to the best of its ability to comply with the Department's request for information in this investigation, and as such, this preliminary determination with respect to Ilva is based on total AFA.

⁵⁴ See Marcegaglia's PQR at Exhibit 17.

⁵⁵ See Pasta 2012 at Comment VI.B.1.

⁵⁶ See Ilva Letter.

Selection of the AFA Rate

It is the Department's practice in CVD proceedings to compute a total AFA rate for non-cooperating companies using the highest calculated program-specific rates determined for a cooperating respondent in the same investigation, or, if not available, rates calculated in prior CVD cases involving the same country.⁵⁷ Specifically, the Department applies the highest calculated rate for the identical subsidy program in the investigation if a responding company used the identical program, and the rate is not zero. If there is no identical program match within the investigation, or if the rate is zero, the Department uses the highest non-de minimis rate calculated for the identical program in a CVD proceeding involving the same country. If no such rate is available, the Department will use the highest non-de minimis rate for a similar program (based on treatment of the benefit) in another CVD proceeding involving the same country. Absent an above-de minimis subsidy rate calculated for a similar program, the Department applies the highest calculated subsidy rate for any program otherwise identified in a CVD case involving the same country that could conceivably be used by the non-cooperating companies.⁵⁸

In applying AFA to Ilva, we are guided by the Department's methodology detailed above. Because Ilva failed to act to the best of its ability in this investigation, as discussed above, we made an adverse inference that it benefitted from the programs appearing below.

To calculate the program rate for the alleged income tax program pertaining to either the reduction of income tax paid or the payment of no income tax, we applied an adverse inference that Ilva paid no income tax during the POI. The standard income tax rate for corporations in Italy in effect during the POI was 27.50 percent.⁵⁹ Thus, the highest possible benefit for the income tax program is 27.50 percent.⁶⁰ Accordingly, we are applying the 27.50 percent AFA rate.⁶¹ Consistent with past practice, the 27.50 percent AFA rate does not apply to income tax credit and rebate, accelerated depreciation, or import tariff and value add tax exemption programs because such programs may not affect the tax rate.⁶²

⁵⁷ See, e.g., Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination, 73 FR 70971, 70975 (November 24, 2008) (unchanged in Certain Tow-Behind Lawn Groomers and Certain Parts Thereof From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 74 FR 29180 (June 19, 2009), and accompanying IDM at "Application of Facts Available, Including the Application of Adverse Inferences"); see also Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 76 FR 18521 (April 4, 2011) ("Aluminum Extrusions from the PRC"), and accompanying IDM at "Application of Adverse Inferences: Non-Cooperative Companies."

⁵⁸ Id.; see also Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination, 73 FR 57323 (October 2, 2008) ("Thermal Paper from the PRC"), and accompanying IDM at "Selection of the Adverse Facts Available Rate."

⁵⁹ See Doing Business 2015: Italy at 60 in Attachment 2 of Arvedi's Preliminary Calculation Memo.

⁶⁰ We note Doing Business 2015: Italy is new information. We are providing parties five days to submit information to rebut, clarify, or correct this information pursuant to 19 CFR 351.302(c)(4).

⁶¹ Applying a separate AFA rate to each of these income tax programs would otherwise amount to a combined rate exceeding the standard corporate income tax rate in Italy in effect during the POI.

⁶² See, e.g., Aluminum Extrusions Investigation at "Application of Adverse Inferences: Non-Cooperative Companies."

Further, we are applying the above-zero rates calculated for either of the other two mandatory respondents in this investigation for the following identical programs:

- **Technological Innovation Grants Under Law 46/82**
- **Technological Innovation Loans Under Law 46/82**
- **Certain Social Security Reductions and Exemptions (“Sgravi” Benefits)**
- **Income Tax Deferral Under Article 42 of Law 78/2010**

For programs for which we did not calculate an above-zero rate for another mandatory respondent in this proceeding, we are applying the highest subsidy rate calculated for the same or, if lacking such rate, for a similar program in a CVD investigation or administrative review involving Italy. We are able to match based on program name, descriptions, and treatment of the benefit, the following program to the same program from other Italian CVD proceedings:

- **Industrial Development Grants Under Law 488/92⁶³**
- ***Patti Territoriali* Grants Under Law 662/96⁶⁴**
- **Tax Credits Under Article 1 of Law 296/06⁶⁵**
- **Tax Credits Under Article 62 of Law 289/02⁶⁶**
- **Export Credit Subsidies⁶⁷**

For this preliminary determination, we are able to match based on program type and treatment of the benefit, the following programs to the highest rates for similar programs from other Italy CVD proceedings:

- **Industrial Area Revival Grants Under Law 181/89⁶⁸**
- **Industrial Area Revival Loans Under Law 181/89⁶⁹**

⁶³ See Certain Pasta From Italy: Final Results of the 2009 Countervailing Duty Administrative Review, 77 FR 7129 (February 10, 2012) (“Pasta 2009 Final”) and accompanying IDM at Section I.B., where we determined the highest countervailable subsidy from the Law 488/92 industrial development grants to be 3.34 percent ad valorem for respondent Tomasello.

⁶⁴ See Pasta 2005 and accompanying IDM at Section I.F., where we determined the countervailable subsidy from the *Patti Territoriali* grant to be 0.57 percent ad valorem for respondent De Matteis.

⁶⁵ See Pasta 2012 and accompanying IDM at Sections IV.B., and VI.A.3., where we found respondent DeMatteis received a countervailable subsidy rate of 0.75 percent ad valorem under program Article 1 of Law 296/06.

⁶⁶ See Pasta 2005 and accompanying IDM at Section I.E.1., where we determined the countervailable subsidy from Law 289/02 Article 62 to be 1.04 percent ad valorem for respondent Pallante.

⁶⁷ The Export Credit Subsidies, as initiated, pertain to export credits created under Article 2 of Law 227/77 and administered by the GOI. For the highest countervailable subsidy rate found for Law 227/77 in any Italy CVD proceeding, see Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod From Italy, 63 FR 40474 (July 29, 1998) and accompanying IDM at Section I.E., where we determined the countervailable subsidy to be 0.15 percent ad valorem for respondent Valbruna/Bolzano.

⁶⁸ See Pasta 2009 Final, at Section I.B. Thus, we preliminarily determine to apply the net subsidy calculated in Pasta 2009 Final for grant program “Industrial Development Grants Under Law 488/92” of 3.34 percent ad valorem to the initiated program “Industrial Area Revival Grants Under Law 181/89.”

- **Preferential Financing Under Law 266/97**⁷⁰

Accordingly, we determine the AFA countervailable subsidy rate for Ilva to be 38.41 percent ad valorem.

Corroboration of AFA Rate

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 gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”⁷¹ The SAA provides that to “corroborate” secondary information, the Department will satisfy itself that the secondary information to be used has probative value.⁷² The Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information.⁷³

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. Additionally, as stated above, we are applying subsidy rates which were calculated in in this investigation or previous Italy CVD investigations or administrative reviews. Additionally, no information has been presented which calls into question the reliability of these previously calculated subsidy rates that we are applying as AFA. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. The Department will not use information where circumstances indicate that the information is not appropriate as AFA.⁷⁴

In the absence of record evidence from Ilva concerning the alleged programs due to its decision not to participate in the investigation, the Department reviewed the information concerning Italian subsidy programs in this and other cases. Where we have a program-type match, we find

⁶⁹ See Certain Pasta From Italy: Final Results of the Second Countervailing Duty Administrative Review, 64 FR 44489 (August 16, 1999) (“Pasta 1997”) and accompanying IDM at Section I.B., where we determined the net subsidy for loan program “Industrial Development Loans Under Law 64/86” of 0.65 percent ad valorem for respondent Delverde/Tamma.

⁷⁰ Id. We preliminarily determine to apply the net subsidy calculated in Pasta 1997 for loan program “Industrial Development Loans Under Law 64/86” of 0.65 percent ad valorem to the initiated program “Preferential Financing Under Law 266/97.”

⁷¹ See SAA, at 870.

⁷² Id.

⁷³ Id., at 869-870.

⁷⁴ See, e.g., Fresh Cut Flowers From Mexico: Final Results of Antidumping Duty Administrative Review, 61 FR 6812 (February 22, 1996).

that, because these are the same or similar programs, they are relevant to the programs in this case. Additionally, the relevance of these rates is that they are actual calculated CVD rates for Italian programs, from which the non-cooperative respondent could actually receive a benefit. Due to the lack of participation by Ilva and the resulting lack of record information for Ilva concerning these programs, the Department has corroborated the rates it selected to use as AFA to the extent practicable for this preliminary determination.

VIII. SUBSIDIES VALUATION

Program	AFA Rate- Ilva	Export Subsidy
Technological Innovation Grants Under Law 46/82	0.29 percent	No
Technological Innovation Loans Under Law 46/82	0.09 percent	No
Certain Social Security Reductions and Exemptions (“Sgravi” Benefits)	0.04 percent	No
Income Tax Deferral Under Article 42 of Law 78/2010	27.50 percent	No
Industrial Development Grants Under Law 488/92	3.34 percent	No
<i>Patti Territoriali</i> Grants Under Law 662/96	0.57 percent	No
Tax Credits Under Article 1 of Law 296/06	0.75 percent	No
Tax Credits Under Article 62 of Law 289/02	1.04 percent	No
Export Credit Subsidies	0.15 percent	Yes
Industrial Area Revival Grants Under Law 181/89	3.34 percent	No
Industrial Area Revival Loans Under Law 181/89	0.65 percent	No
Preferential Financing Under Law 266/97	0.65 percent	No

A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (“AUL”) of renewable physical assets used in the production of subject merchandise. The Department finds the AUL in this proceeding to be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System.⁷⁵ The Department notified the respondents of the AUL in the initial questionnaire and requested data accordingly.⁷⁶ No party in this proceeding disputed this allocation period.

Furthermore, for non-recurring subsidies, we applied the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (e.g., total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL.

⁷⁵ See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

⁷⁶ Although the POI is a recent period, we are investigating alleged subsidies received over a time period corresponding to the AUL. See Final Results of Countervailing Duty Administrative Reviews: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom, 70 FR 40000 (July 12, 2005) and accompanying IDM at Comment 4.

B. Attribution of Subsidies

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

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 another corporation in essentially the same ways it can use its own assets. This standard will normally be met where there is a majority voting interest between two corporations, or through common ownership of two (or more) corporations.⁷⁷ In certain circumstances, a large minority voting interest (for example, 40 percent) may also result in cross-ownership.⁷⁸ The 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 ways it could use its own subsidy benefits.⁷⁹

Summary of Attribution of Subsidies to Acciaieria Arvedi S.p.A.

Arvedi responded to the Department's original and supplemental questionnaires on behalf of itself, its parent and holding company, Finarvedi S.p.A. ("Finarvedi"), and three affiliated input suppliers: Arvedi Tubi Acciaio S.p.A. ("Tubi"); Euro-Trade S.p.A. ("Euro-Trade"), and; Siderurgica Triestina Srl. ("Siderurgica") (collectively, the "Arvedi Group").⁸⁰ These companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) through Finarvedi's 100% ownership of Arvedi, Tubi, and Siderurgica and common-ownership between Finarvedi and Euro-Trade.⁸¹ Arvedi is the producer of the merchandise under consideration during the POI. Therefore, we attributed subsidies that Arvedi received to its sales, in accordance with the relevant provisions of 19 CFR 351.525(b). Tubi and Euro-Trade supplied Arvedi with scrap metal used in the production of the merchandise under consideration while Siderurgica supplied Arvedi with pig iron during the POI. These companies were cross-owned during the POI within the meaning of 19 CFR 351.525(b)(6)(vi). Because Tubi, Euro-Trade and Siderurgica are input producers that supplied inputs to Arvedi that are primarily dedicated to the production of the downstream product pursuant to 19 CFR 341.525(b)(6)(iv), we are attributing all subsidies

⁷⁷ See, e.g., Countervailing Duties, 63 FR 65348, 65401 (November 25, 1998).

⁷⁸ Id.

⁷⁹ See Fabrique de Fer de Charleroi v. United States, 166 F. Supp. 2d 593, 600-04 (CIT 2001).

⁸⁰ See Arvedi's Affiliation Response, dated August 11, 2015 at Exhibit 1; see also, Arvedi's PQR and Arvedi's Supplemental Questionnaire Response, dated October 9, 2015, ("SQR") at Exhibit 39.

⁸¹ Id.

received by Tubi, Euro-Trade and Siderurgica to the combined sales of the input producers and Arvedi (net of intercompany sales).⁸²

Summary of Attribution of Subsidies to Marcegaglia S.p.A.

Marcegaglia is the producer of the merchandise under consideration during the POI. Marcegaglia responded to the Department's original and supplemental questionnaires on behalf of itself, and its affiliated holding company, Marfin S.p.A. ("Marfin").⁸³ Based on Marcegaglia's responses, Marcegaglia and Marfin are cross-owned companies within the meaning of 19 CFR 351.525(b)(6)(iii), through Marfin's status as a holding company.⁸⁴ To the extent that any subsidies were provided to Marfin, we are attributing the subsidy to the consolidated sales of the holding company and its subsidiaries in accordance with 19 CFR 351.525(b)(6)(iii).

C. Denominators

When selecting an appropriate denominator for use in calculating the ad valorem subsidy rate, the Department considers the basis for the respondents' receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator (or the total combined sales of the cross-owned affiliates, as described above). For a further discussion of the denominators used, see the preliminary calculation memoranda.⁸⁵ Similarly, where the program has been found to be countervailable as an export subsidy, we used the recipient's total export sales as the denominator (or the total export sales of the cross-owned affiliates, as described above).⁸⁶

IX. 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,

⁸² For the denominators used in the preliminary calculations, see Memorandum to the File, through Catherine Bertrand, Program Manager, from Bob Palmer, Senior International Trade Compliance Analyst, re: "Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Italy: Acciaieria Arvedi S.p.A. ("Arvedi") Preliminary Calculation Memorandum," dated concurrently with this memorandum ("Arvedi Preliminary Calculation Memo").

⁸³ See Marcegaglia's Questionnaire Response dated August 18, 2015, at Exhibit 1 and Supplemental Questionnaire Response dated October 13, 2015, at pages 1-16. See also Marcegaglia's PQR dated September 14, 2015, at Exhibit 16.

⁸⁴ For proprietary details regarding the relationship and nature of affiliation and cross-ownership between Marcegaglia and Marfin, see Memorandum to the File, through Catherine Bertrand, Program Manager, from Irene Gorelik, Senior International Trade Compliance Analyst, re: "Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Italy: Marcegaglia S.p.A. ("Marcegaglia") Preliminary Calculation Memorandum," ("Marcegaglia Preliminary Calculation Memo") dated concurrently with this memorandum.

⁸⁵ See Arvedi Preliminary Calculation Memo and Marcegaglia Preliminary Calculation Memo, dated concurrently with this memorandum (collectively, "Preliminary Calculation Memoranda").

⁸⁶ See 19 CFR 351.525(b)(2).

the Department uses comparable commercial loans reported by the company as a benchmark. 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient could actually obtain on the market, the Department will normally rely on actual short-term and long-term loans obtained by the firm. 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.” In addition, 19 CFR 351.505(a)(2)(ii) states that the Department will not consider a loan provided by a government-owned special purpose bank for purposes of calculating benchmark rates.⁸⁷ Also, in the absence of reported long-term loan interest rates, we use 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).⁸⁸

A. Long-Term Euro Denominated Loans

Based on the Arvedi Group’s responses, we preliminary determine that the Arvedi Group obtained comparable Euro-denominated long-term loans from commercial banks in the years for which we must calculate benchmark and discount rates.⁸⁹ Because these long-term commercial loans originated in the same year the subsidy was provided and have similar maturity periods, we will use these commercial loans pursuant to 19 CFR 351.505(a)(2) to calculate the benefit from long-terms loans.

B. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the government provided non-recurring subsidies. The interest rate benchmarks and discount rates used in our preliminary calculations are provided in Arvedi’s Preliminary Calculation Memo.

X. ANALYSIS OF PROGRAMS

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

A. Programs Preliminarily Determined to Be Countervailable

1. Industrial Development Grants Under Law 488/92

Law 488/92 offers incentives for the implementation of a new productive unit, for the expansion, modernization, restructuring, conversion or re-activation of an existing unit or for its transfer.

⁸⁷ See, e.g., Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination, 78 FR 50385 (August 19, 2013) (“Shrimp from India”), and accompanying IDM, at “Benchmark and Discount Rates” section.

⁸⁸ See Pasta 2012 and accompanying IDM at C. “Loan Benchmarks and Discount Rates.”

⁸⁹ See Arvedi’s PQR at Exhibits 21 and 23.

Initiatives must be part of an operational program for each productive unit that is by itself sufficiently structured to pursue production, financial and employment goals. The areas eligible for regional subsidies were classified as Objective 1, Objective 2, and Objective 5(b) areas by the European Union. The new policy was given legislative form in Law 488/92 under which Italian companies in the eligible sectors (manufacturing, mining, and business services) may apply for industrial development grants.⁹⁰ Law 488/92 grants are made only after a preliminary examination by a bank authorized by the Ministry of Economic Development (“MiSE”). On the basis of the findings of this preliminary examination, the MiSE 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.⁹¹ Marcegaglia received a grant from the GOI under this program in 2003.⁹² The Arvedi Group stated that it did not use this program.

We preliminarily determine that this grant provided by the GOI constitutes a financial contribution under section 771(5)(D)(i) of the Act. We further preliminarily determine that this grant confers a benefit equal to the amount of the grant provided in accordance with 19 CFR 351.504. As discussed above, we relied on partial AFA 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 necessary information concerning this program. Therefore, due to the GOI’s non-cooperation with respect to certain necessary information concerning this 488/92 program, we are relying on AFA in finding that this grant conferred under Law 488/92 is regionally specific within the meaning of section 771(5A)(iv) of the Act. The benefit is the amount of the grant pursuant to section 771(5)(E)(i) of the Act and 19 CFR 351.504(a) of the Department’s regulations.

Because Marcegaglia did not receive this assistance on an on-going basis, we are treating this subsidy as a non-recurring grant pursuant to 19 CFR 351.524(c)(2). Therefore, we conducted the “0.5 percent test” pursuant to 19 CFR 351.524(b)(2) with respect to the one-time benefit Marcegaglia received under Law 488/92 in 2003. We found that the amount of assistance was less than 0.5 percent of Marcegaglia’s sales in the year of approval. Thus, we expensed the benefit to the applicable year, consistent with 19 CFR 351.524(b)(2).⁹³

2. *Technological Innovation Grants Under Law 46/82*

Law 46/82 authorizes the creation of a revolving fund for technology innovation—the Technological Innovation Fund, also known as the “FIT Program.” The directives for loan granting were established from the Ministry of Industry, Commerce and Handcraft (now known as Minister of Economic Development) and subsequently adjusted to the new European guidelines on state aid for research, development and innovation, by decree of 10 July 2008 of the Ministry of Economic Development.⁹⁴ Through the fund, the Italian Ministry of Economic

⁹⁰ See GOI PQR at 10.

⁹¹ *Id.*

⁹² See Marcegaglia’s PQR at Exhibit 17.

⁹³ See Marcegaglia’s Preliminary Calculation Memo.

⁹⁴ See GOI PQR at 20.

Development (“MiSE”) provides aid for experimental and industrial research projects in the form of soft loans, grants against interest and capital grants.⁹⁵ A company must apply to a bank approved for the program and the proposed project is evaluated by experts on its technical merits. Funds are distributed based on the highest scores from the evaluations until all budgeted funds are exhausted.⁹⁶

We preliminarily determine that this grant provided by the GOI constitutes a financial contribution under section 771(5)(D)(i) of the Act. We further determine preliminarily that this grant confers a benefit equal to the amount of the grant provided in accordance with 19 CFR 351.504. We relied on partial AFA 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 information pertaining to this program. As summarized above, due to the GOI's non-cooperation with respect to certain information concerning this 46/82 program, we are relying on AFA in finding that this grant conferred under Law 46/82 is *de facto* specific within the meaning of section 771(5A)(D)(iii) of the Act. The direct transfer of funds under this program from the GOI bestows a benefit in the amount of the grant pursuant to section 771(5)(E)(i) of the Act and 19 CFR 351.504(a) of the Department’s regulations.

To calculate the benefit for the grant that Arvedi received during the POI, we divided the amount of the grant received by Arvedi by the appropriate sales denominator, as described above under the “Subsidies Valuation Information” section. On this basis, we preliminarily determine that the Arvedi received a countervailable subsidy rate of 0.29 percent *ad valorem*.⁹⁷

3. *Technological Innovation Loans Under Law 46/82*

This program is part of the FIT Program described above. Arvedi and its cross-owned affiliate Tubi, reported that it had a loan under this program that was outstanding during the POI.⁹⁸

We preliminarily determine that this loan provided by the GOI constitutes a financial contribution under section 771(5)(D)(i) of the Act. We further determine preliminarily that this loan confers a benefit 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. We relied on partial AFA 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 information pertaining to this program. As summarized above, due to the GOI's non-cooperation with respect to certain necessary information concerning this 46/82 program, we are relying on AFA in finding that this grant conferred under Law 46/82 is *de facto* specific within the meaning of section 771(5A)(D)(iii) of the Act.

In accordance with 19 CFR 351.505(c)(2), we calculated the benefit Arvedi received from the loan outstanding under this program in the POI by computing the difference between the interest

⁹⁵ Id.

⁹⁶ See Arvedi PQR at Exhibit 20.

⁹⁷ See Marcegaglia’s Preliminary Calculation Memo.

⁹⁸ See Arvedi PQR at Exhibit 20.

payments Arvedi and Tubi made on the loan during the POI and the interest payments they would have made on a comparable commercial loan. As our benchmark, we used the long-term interest rate discussed above in the “Benchmarks and Discount Rates” section. To calculate the net countervailable subsidy rate for Arvedi, we divided the benefit by the appropriate sales denominator for Arvedi (less intercompany sales), as described in the “Subsidies Valuation” section, above. On this basis, we preliminarily determine the net countervailable subsidy rate from Law 46/82 loan to be 0.09 percent ad valorem for Arvedi.⁹⁹

4. *Certain Social Security Reductions and Exemptions (“Sgravi” Benefits)*

Italian law allows companies 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, and other such programs.¹⁰⁰ Arvedi reports that Law 223/91 is designed to increase employment by providing benefits to companies that hire unemployed workers on special mobility lists.¹⁰¹ The mobility list comprises recently fired workers in certain sectors of the economy, but companies in any sector may hire workers from the mobility list.¹⁰² Law 53/2000 encourages the hiring of individuals with children to participate in training and acquiring new skills.¹⁰³ Marcegaglia reports that Law 167/2011 is designed to make the labor market more flexible by providing incentives to companies hiring workers under apprenticeship contracts that combine work and training programs.¹⁰⁴

As noted above, we preliminarily determine that because necessary information is not on the record and the GOI withheld certain necessary 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 53/02000, 223/91, and 167/2011 of the Sgravi program during the POI 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 these programs are regionally and de facto specific within the meaning of 771(5A) of the Act.

In accordance with 19 CFR 351.524(c), we treat social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy for Arvedi and Marcegaglia, we first summed the company’s monthly contributions under each law. Next, we multiplied the total contributions in the POI by the percentage refunded by the GOI to arrive at a POI benefit. We then divided the total benefit by the appropriate sales denominator during the POI, as discussed

⁹⁹ See Arvedi Preliminary Calculation Memo.

¹⁰⁰ See Final Affirmative Countervailing Duty Determination: Certain Pasta (“Pasta”) From Italy, 61 FR 30288 (June 14, 1996).

¹⁰¹ See Arvedi PQR at Exhibit 24.

¹⁰² Id.

¹⁰³ Id.

¹⁰⁴ See Marcegaglia PQR at Exhibit 19.

in the “Subsidies Valuation Section”, above.¹⁰⁵ On this basis, we preliminarily determine the net countervailable subsidy rate from the *Sgravi* laws identified above to be 0.00 percent ad valorem for Arvedi and 0.04 ad valorem for Marcegaglia.¹⁰⁶

B. Programs for Which More Information is Required

1. Grant For the Purchase of Ferriera di Servola

In their September 23, 2015, NSA submission, Petitioners alleged that Arvedi received provisions from the GOI which enabled it to purchase Ferriera di Servola.¹⁰⁷ We initiated an investigation of the NSA on October 9, 2015.¹⁰⁸ On October 9, 2015, we issued a questionnaire to Arvedi and the GOI requesting additional information regarding the allegation. The GOI and Arvedi submitted the questionnaires on October 23 and October 26, 2015, respectively. We intend to issue a post-preliminary memorandum with respect to the alleged program if time permits.

2. Energy Programs

In the course of this investigation, the Department identified information in Arvedi’s and Marcegaglia’s response that suggests that they may have received assistance from certain energy programs. Specifically, Arvedi reports it recognized receivables from Cassa Conguaglio Settore Elettico¹⁰⁹ and benefited from economic incentives related to energy savings under programs overseen by the Regulatory Authority for Energy and Gas.¹¹⁰ Information related to the potential energy programs identified by Marcegaglia is business proprietary information. For the names of these programs, see Marcegaglia’s Preliminary Calculation Memo. We intend to seek further information regarding these programs and will issue a determination with respect to these alleged programs after the preliminary determination. We intend to issue a post-preliminary memorandum with respect to these alleged programs if time permits.

C. Programs Preliminarily Determined Not to Be Used

With regard to the following programs, we preliminarily determine that the following programs were not used by Arvedi or Marcegaglia or their cross-owned affiliates during the POI:

1. *Industrial Area Revival Grants Under Law 181/89*
2. *Industrial Area Revival Loans Under Law 181/89*
3. *Patti Territoriali Grants Under Law 662/96*
4. *Income Tax Deferral Under Article 42 of Law 78/2010*
5. *Tax Credits Under Article 1 of Law 296/06*

¹⁰⁵ See the Preliminary Calculation Memoranda.

¹⁰⁶ Id.

¹⁰⁷ See NSA Submission.

¹⁰⁸ See NSA Initiation.

¹⁰⁹ See Arvedi’s SQR at Exhibit 36.

¹¹⁰ See Arvedi’s SQR at Exhibit 39.

6. *Tax Credits Under Article 62 of Law 289/02*
7. *Export Credit Subsidies*

XI. CALCULATION OF ALL OTHERS RATE

Sections 703(d) and 705(c)(5)(A) of the Act state that for companies not investigated, in general, we will determine an all-others rate by using the weighted average countervailable subsidy rates established for each of the companies individually investigated, excluding zero and de minimis rates or any rates based solely on the facts available. However, where the countervailable subsidy rates for all of the individually investigated respondents are zero or de minimis or are based on AFA, the SAA states that “where the countervailable subsidy rates for all exporters and producers examined are zero or de minimis, or are determined entirely on the basis of the facts available, section 705(c)(5)(A)(iii) authorizes Commerce to use any reasonable method to establish an all-others rate.”¹¹¹

As “any other reasonable method,” the Department’s practice, pursuant to 705(c)(5)(A)(ii), is to calculate the all others rate based on a simple average of the zero or de minimis margins and the margins based on AFA.¹¹² Accordingly, we have preliminarily determined the all others rate using that methodology (e.g. ((0.38 percent + 0.04 percent + 38.41 percent) / 3)).

XII. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose calculations performed for this preliminary determination to the parties within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹¹³ A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department’s electronic records system, ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.¹¹⁴ Requests should contain the party’s name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC

¹¹¹ See SAA at 942.

¹¹² See Non-Oriented Electrical Steel From Taiwan: Final Affirmative Countervailing Duty Determination, 79 FR 61602 (October 14, 2014) and accompanying IDM at VIII, “Calculation of the All Others Rate.”

¹¹³ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

XIII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

✓
Agree Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

2 NOVEMBER 2015
Date

¹¹⁴ See 19 CFR 351.310(c).