

## MEMORANDUM

TO: David M. Spooner  
Assistant Secretary  
for Import Administration

FROM: Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Final Results of the  
Tenth (2005) Administrative Review of the Countervailing Duty  
Order on Certain Pasta from Italy

---

### Background

On August 6, 2007, the U.S. Department of Commerce (“the Department”) published in the Federal Register its preliminary results of the administrative review of the countervailing duty order on certain pasta from Italy for the period January 1, 2005, through December 31, 2005. See Certain Pasta from Italy: Preliminary Results of the Tenth Countervailing Duty Administrative Review, 72 FR 43616 (August 6, 2007) (“Preliminary Results”). The “Analysis of Programs” and “Subsidies Valuation Information” sections, below, describe the subsidy programs and the methodologies used to calculate the benefits from these programs. We have analyzed the case and rebuttal briefs of interested parties in the tenth administrative review of the countervailing duty on certain pasta from Italy. As a result of our analysis, we have made changes to the preliminary results. We recommend that you approve the positions described in the “Discussion of Issues” section of this memorandum. Below is a complete list of the issues in this review for which we received comments and rebuttals from interested parties:

- Comment 1: De Matteis Received Additional Subsidies Under Law 662/96 and Law 488/92.
- Comment 2: The Department Should Countervail Subsidies Received by Agritalia’s Cross-Owned Companies.
- Comment 3: The Benefits Under Law 488/92 Received by De Matteis Should be Allocated Over Total Sales.

## **Subsidies Valuation Information**

### *Allocation Period*

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

### *Attribution of Subsidies*

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

Pastificio Antonio Pallante S.r.L. (“Pallante”): Pallante has reported that it is affiliated with Vitelli Foods LLC (“Vitelli”), which is a U.S. importer of subject merchandise and other products from Italy and other countries. See Pallante’s October 31, 2006, questionnaire response at pages 1-2. Pallante also explained that until April 2003 it was affiliated with Industrie Alimentare Molisane (“IAM”), another Italian pasta producer, but that the affiliation has ended and they were not affiliated during the POR. See Pallante’s October 31, 2006, questionnaire response at pages 2-4. Because IAM is no longer crossed-owned with Pallante, and because Vitelli is located in the United States, we are attributing Pallante’s subsidies to the sales of Pallante only.

De Matteis Agroalimentare S.p.A. (“De Matteis”): De Matteis has reported that it is affiliated with De Matteis Construzioni S.r.L. (“Construzioni”) by virtue of being 100 percent owned by Construzioni. See De Matteis’ October 31, 2006, questionnaire response at pages 2-3. In the Fourth Administrative Review<sup>1</sup> De Matteis had another affiliate, Demaservice S.r.l. De Matteis reported that Demaservice S.r.l. is no longer in existence as of December 21, 2001. See De

---

<sup>1</sup> See Certain Pasta from Italy: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review, 66 FR 40987 (August 6, 2001) (“Fourth Administrative Review”) (decision unchanged in the final results, Certain Pasta From Italy: Final Results of the Fourth Countervailing Duty Administrative Review, 66 FR 64214 (December 12, 2001)).

Matteis' January 16, 2007, first supplemental questionnaire response at pages 16-17. De Matteis has reported that Construzioni did not receive any subsidies during the POR or AUL period. See De Matteis' Second Supplemental Response at 1 (April 13, 2007). Therefore, we are attributing De Matteis' subsidies to its sales only.

Atar S.r.l. ("Atar"): Atar has reported that it has no affiliates or cross-ownership. Thus, we are attributing any subsidies received to Atar's sales only.

### *Discount Rates*

Pursuant to 19 CFR 351.524(d)(3)(i)(B), we used the national average cost of long-term, fixed-rate loans as a discount rate for allocating non-recurring benefits over time because no company for which we need such discount rates took out any loans in the years in which the government agreed to provide the subsidies in question. Consistent with past practice in this proceeding, for years prior to 1995, we used the Bank of Italy reference rate adjusted upward to reflect the mark-up an Italian commercial bank would charge a corporate customer. See, e.g., Certain Pasta from Italy: Preliminary Results and Partial Recision of the Eighth Countervailing Duty Administrative Review, 70 FR 17971 (April 8, 2005) (decision unchanged in the final results, Certain Pasta from Italy: Final Results of the Eighth Countervailing Duty Administrative Review, 70 FR 37084 (June 28, 2005)). For benefits received in 1995-2004, we used the Italian Bankers' Association prime interest rate (as reported by the Bank of Italy), increased by the average spread charged by banks on loans to commercial customers plus an amount for bank charges. The Bank of Italy ceased reporting this rate in 2004. Because the ABI prime rate was no longer reported after 2004, for 2005 we have used the "Bank Interest Rates on Euro Loans: Outstanding Amounts, Non-Financial Corporations, Loans With Original Maturity More Than Five Years" published by the Bank of Italy and provided by the Government of Italy ("GOI") in their October 24, 2006, questionnaire response at Exhibit 9. To this rate we made the adjustments described above. See Memorandum to the File, "Calculations for the Preliminary Results for De Matteis Agroalimentare S.p.A." (July 31, 2007) ("De Matteis Prelim Calc Memo").

## **Analysis of Programs**

### *I. Programs Determined to Confer Subsidies During the POR*

#### **A. Industrial Development Grants Under Law 64/86**

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

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

In the Pasta Investigation, the Department determined that these grants confer a countervailable subsidy within the meaning of section 771(5) of the Tariff Act of 1930, as amended (“the Act”). See Final Affirmative Countervailing Duty Determination: Certain Pasta (“Pasta”) from Italy, 61 FR 30288 (June 14, 1996) (“Pasta Investigation”). They are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. Also, these grants were found to be regionally specific within the meaning of section 771(5A) of the Act. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.

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

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

On this basis, we determine the countervailable subsidy from the Law 64/86 industrial development grants to be 0.07 percent *ad valorem* for De Matteis, and 0.28 percent *ad valorem* for Pallante. See De Matteis Prelim Calc Memo; Memorandum to the File, “Calculations for the Preliminary Results for Pastificio Antonio Pallante S.r.L.” (July 31, 2007) (“Pallante Calc Memo”).

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

In 1986, the European Union (“EU”) initiated an investigation of the GOI’s regional subsidy practices. As a result of this investigation, the GOI changed the regions eligible for regional subsidies to include depressed areas in central and northern Italy in addition to the *Mezzogiorno*. After this change, the areas eligible for regional subsidies are the same as those classified as Objective 1 (underdeveloped regions), Objective 2 (declining industrial regions), or Objective 5(b) (declining agricultural regions) areas by the EU. The new policy was given legislative form

in Law 488/92 under which Italian companies in the eligible sectors (manufacturing, mining, and certain business services) may apply for industrial development grants.

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

De Matteis and Pallante received grants under Law 488/92 which conferred a benefit during the POR.

Industrial development grants under Law 488/92 were found countervailable in the Second Administrative Review<sup>2</sup>. The grants are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. Also, these grants were found to be regionally specific within the meaning of section 771(5A) of the Act. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.

In the Second Administrative Review, the Department treated industrial development grants under Law 488/92 as non-recurring. No new information has been placed on the record of this review that would cause us to depart from this treatment. In the Fourth Administrative Review in accordance with 19 CFR 351.524(b)(2), we determined that the grants received by De Matteis and Pallante under Law 488/92 exceeded 0.5 percent of their sales in the year in which the grants were approved.

We used the grant methodology as described in section 351.524(d) to calculate the subsidy for those grants that were allocated over time. We divided the benefits received by Pallante in the POR by its total sales in the POR, and the benefits received by De Matteis in the POR by its total sales in the POR.

On this basis, we determine the countervailable subsidy from the Law 488/92 industrial development grants to be 0.67 percent *ad valorem* for De Matteis and 0.61 percent *ad valorem* for Pallante. See Memorandum to the File, “Calculations for the Final Results for De Matteis Agroalimentare S.p.A.” (January 31, 2008) (“De Matteis Final Calc Memo”) and Pallante Calc Memo.

---

<sup>2</sup> See Certain Pasta From Italy: Preliminary Results of Countervailing Duty Administrative Review, 64 FR 17618 (April 12, 1999) (“Second Administrative Review”) (decision unchanged in the final results, Certain Pasta From Italy: Final Results of Second Countervailing Duty Administrative Review, 64 FR 44489 (August 16, 1999)).

C. European Regional Development Fund (“ERDF”) *Programma Operativo Plurifondo* (“P.O.P.”) Grant

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

De Matteis received a P.O.P. grant from the Regione Campania in 1998. See Fourth Administrative Review. The P.O.P. grants were funded by the EU, the GOI, and the Regione Campania.

In the Pasta Investigation, the Department determined that P.O.P. grants confer a countervailable subsidy within the meaning of section 771(5) of the Act. They are a direct transfer of funds bestowing a benefit in the amount of the grant. Also, these grants were found to be regionally specific within the meaning of section 771(5A) of the Act. In this review, neither the EU, the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that P.O.P. grants are countervailable subsidies.

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

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

On this basis, we determine the countervailable subsidy from the P.O.P. grant to be 0.06 percent *ad valorem* for De Matteis. See De Matteis Prelim Calc Memo.

D. Social Security Reductions and Exemptions - *Sgravi*

Italian law allows companies, particularly those located in the *Mezzogiorno* (southern Italy), to use a variety of exemptions from and reductions (*sgravi*) of payroll contributions that employers make to the Italian social security system for health care benefits, pensions, etc. The *sgravi* benefits are regulated by a complex set of laws and regulations, and are sometimes linked to conditions such as creating more jobs. We have found in past segments of this proceeding that the benefits under some of these laws (e.g., Laws 183/76 and 449/97) are available only to companies located in the *Mezzogiorno* and other disadvantaged regions. Other laws (e.g., Laws 407/90 and 863/84) provide benefits to companies all over Italy, but the level of benefits is higher for companies in the south than for companies in other parts of the country.

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

In the instant review, no party challenged our past determinations in the Pasta Investigation and subsequent reviews that *sgravi* benefits were countervailable for companies located within the *Mezzogiorno*. Additionally, no new information or evidence of changed circumstances was received that would warrant reconsideration of these past determinations.

The laws identified as having provided countervailable *sgravi* benefits during the POR are the following: Law 407/90 (De Matteis and Pallante), 196/97 (De Matteis), 223/91 Article 8 Paragraph 2 (Pallante), and Law 223/91 Article 25 Paragraph 9 (Pallante). All of these companies are located in the *Mezzogiorno* and, therefore, the programs provide countervailable subsidies to these companies.

\_\_\_\_\_ 1.     Law 407/90

Law 407/90 grants a two-year exemption from social security taxes when a company hires a worker who has been previously unemployed for a period of two years. A 100 percent exemption is allowed for companies in southern Italy. However, companies located in northern Italy receive only a 50 percent exemption.

In accordance with 19 CFR 351.524(c) and consistent with our methodology in the Pasta Investigation and in subsequent reviews, we have treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy, we divided De Matteis's and Pallante's savings in social security contributions during the POR by their total sales in the POR. On this basis, we determine the countervailable subsidy from the *sgravi* program to be 0.04 percent *ad valorem* for De Matteis and 0.03 percent *ad valorem* for Pallante. See De Matteis Prelim Calc Memo and Pallante Calc Memo.

2.     Law 196/97

Law 196/97 allows for a reduction or exemption from social security contributions for workers between the ages of 16 and 32 hired under labor or training contracts. Reductions range from 25 percent to 100 percent depending on the location. The newly hired worker(s) must increase the company's total work force or the worker must be 29 years old or younger. For newly hired workers under a temporary contract, employers are exempt from paying a social security contribution for up to 2 years. If workers are then switched to a permanent contract, the exemption may apply for another 12 months. These benefits will only apply if the worker who is

switched from a temporary to a permanent contract increases the number of employees in the enterprise.

In accordance with 19 CFR 351.524(c) and consistent with our methodology in the Pasta Investigation and in subsequent reviews, we have treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy, we divided De Matteis's savings in social security contributions during the POR by its total sales in the POR. On this basis, we determine the countervailable subsidy from the *sgravi* program to be 0.04 percent *ad valorem* for De Matteis. See De Matteis Prelim Calc Memo.

### 3. Law 223/91 Article 8, Paragraph 2

Law 223/91, Article 8, Paragraph 2 is intended to encourage the hiring of laid off workers or mobility-listed people. Companies who hire unemployed people are allowed to pay lower social security taxes for up to a maximum of 18 months for employees hired under a long-term contract with no expiration date. If an employee is hired for a short-term contract, then the benefit will last as long as the contract. If the short-term contract is renewed, the benefit can be used for an additional 12 months. In the preliminary results of the seventh administrative review, we stated that record information for Law 223/91 shows that this law is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because the higher levels of benefits were limited to companies in the *Mezzogiorno* and to handicraft enterprises. See Certain Pasta from Italy: Preliminary Results and Partial Rescission of the Seventh Countervailing Duty Administrative Review, 69 FR 45676, 45683 (July 30, 2004); (unchanged in Final Results) Certain Pasta from Italy: Final Results of the Seventh Countervailing Duty Administrative Review, 69 FR 70657 (December 7, 2004) ("Seventh Administrative Review").

In accordance with 19 CFR 351.524(c) and consistent with our methodology in the Pasta Investigation and in subsequent reviews, we have treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy, we divided each company's savings in social security contributions during the POR by its total sales in the POR. On this basis, we determine the countervailable subsidy from the *sgravi* program to be 0.05 percent *ad valorem* for Pallante. See Pallante Calc Memo.

### 4. Law 223/91 Article 8, Paragraph 4

Law 223/91, Article 8, Paragraph 4 is intended to encourage the hiring of mobility-listed people. Companies who hire unemployed people on a permanent and full time contract are granted a credit of 50 percent of what the employee would have received in unemployment benefits.

In the seventh administrative review results, we stated that record information for Law 223/91 shows that this law is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because the higher levels of benefits were limited to companies in the *Mezzogiorno* and to handicraft enterprises. See Seventh Administrative Review.



In accordance with 19 CFR 351.524(c) and consistent with our methodology in the Pasta Investigation and in subsequent reviews, we have treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy, we divided Pallante's savings in social security contributions during the POR by its total sales in the POR. On this basis, we determine the countervailable subsidy from the *sgravi* program to be 0.01 percent *ad valorem* for Pallante. See Pallante Calc Memo.

E. Law 289/02

1. Article 62 - Investments in Disadvantaged Areas

We find that Article 62 of Law 289/02 is a credit towards taxes payable. The law was established to promote investment in disadvantaged areas by providing a tax credit to companies that make investments such as the purchase of new equipment for existing structures, or the building of new structures. See the GOI's Second Supplemental Response at 3-4 and Annex 1, 2, 5, and 6 (April 13, 2007).

We determine that Article 62 of Law 289/02 confers a countervailable subsidy in the form of a financial contribution within the meaning of section 771(5)(D)(ii) of the Act because it represents revenue foregone by the GOI. A benefit is conferred in the amount of the tax savings received by the companies per section 771(5)(E)(iv) of the Act. Also, the program is specific within the meaning of 751(5A)(D)(iv) of the Act because it is limited to certain geographical regions in Italy, specifically, the regions of Calabria, Campania, Basilicata, Puglia, Sicilia, and Sardegna, and certain municipalities in the Abruzzo and Molise region, and certain municipalities in central and northern Italy. See GOI Third Supplemental Response at 3 and Annex 1 and 2, (May 25, 2007).

De Matteis is located in Campania, therefore, it could take advantage of this program. De Matteis explained that it received the benefit for the construction of a new semolina milling facility, including wheat silos, by-product storage silos, semolina silos, and milling equipment. See De Matteis' Second Supplemental Response at 2 (April 13, 2007). The Department is treating this program as a credit towards taxes payable per 19 CFR 351.509. Normally, the Department will allocate the benefit of a tax exemption to the year in which the benefit is considered to have been received per 19 CFR 351.509(c), treating the benefit as recurring per 19 CFR 351.524(c). However, the Department may find a benefit to be non-recurring by considering the criteria in 19 CFR 351.524(c)(2)(i)-(iii). In this case, the tax program is exceptional because it was only available for a limited period of time, and was dependent upon companies making specific investments. Further, the subsidy required the GOI's express authorization, and the subsidy was tied to capital assets of the firm.

In accordance with 19 CFR 351.524(b)(2), we determined that the tax credit received by De Matteis exceeded 0.5 percent of its sales in the year in which the tax credit was approved. We used the non-recurring benefit calculation described in 19 CFR 351.524(d) to calculate the countervailable benefit. We divided the benefit received by De Matteis in the POR by its total

sales in the POR. On this basis, we determine the countervailable subsidy from Law 289/02 Article 62 to be 0.35 percent *ad valorem* for De Matteis. See De Matteis Prelim Calc Memo.

Pallante is located in Campania and, therefore, it could also take advantage of this program. In accordance with 19 CFR 351.524(b)(2), we determined that the tax credit received by Pallante exceeded 0.5 percent of its sales in the year in which the tax credit was approved. We used the non-recurring benefit calculation described in 19 CFR 351.524(d) to calculate the countervailable benefit. We divided the benefit received by Pallante in the POR by its total sales in the POR. On this basis, we determine the countervailable subsidy from Law 289/02 Article 62 to be 1.04 percent *ad valorem* for Pallante. See Pallante Calc Memo.

## 2. Article 63 - Increase in Employment

We find that Article 63 of Law 289/02 is a credit towards taxes payable. The law was established to promote employment by providing a tax credit to companies that hire new employees. The tax credit is 100 euros for a new hire for any company in Italy. If the employee is over 45 the amount increases to 150 euros. An additional 300 euros will be granted if the company is located in certain regions of Italy. See GOI Second Supplemental Response at 3-4 and Annex 3, 4, 7, and 8 (April 13, 2007).

We determine that Article 63 of Law 289/02 confers a countervailable subsidy in the form of a financial contribution within the meaning of section 771(5)(D)(ii) of the Act because it represents revenue foregone by the GOI. A benefit is conferred in the amount of the tax savings received by the companies per section 771(5)(E)(iv) of the Act. The program is specific within the meaning of 751(5A)(D)(iv) of the Act because the greater benefit amount is limited to certain geographical regions in Italy, specifically, Campania, Basilicata, Puglia, Calabria, Sicilia, Sardegna, Abruzzo, Molise, and the municipalities of Tivoli, Formia, Sora, Cassino, Frosnone, Viterbo, and Massa. See GOI Third Supplemental Response at 3-4 (May 25, 2007). However, if a company is located outside the higher subsidy area, then the program is not countervailable because it is not specific.

De Matteis is located in Campania and, therefore, it could take advantage of the higher subsidy rate. The Department is treating this program as a credit towards taxes payable per 19 CFR 351.509. Normally, the Department will allocate the benefit of a credit towards taxes payable to the year in which the benefit is considered to have been received per 19 CFR 351.509. “The Secretary normally will consider the benefit as having been received on the date on which the recipient firm would otherwise have had to pay the taxes associated with the exemption or remission. Normally, this date will be the date on which the firm filed its tax return.” See 19 CFR 351.509(b). In expensing the complete benefit in one year, the Department is considering this program as recurring per 19 CFR 351.524(c) which states that “{t}he Secretary normally will treat the following types of subsidies as providing recurring benefits: Direct tax exemptions and deductions;...” To calculate the countervailable subsidy, we divided De Matteis’ tax credit used on the tax return filed during the POR by its total sales in the POR. On this basis, we determine

the countervailable subsidy from Law 289/02 Article 63 to be 0.03 percent *ad valorem* for De Matteis. See De Matteis Prelim Calc Memo.

F. Law 662/96

The GOI describes the Patti Territoriali grant (Law 662/96 Article 2, Paragraph 203, Letter d) as provided to companies for entrepreneurial initiatives such as new plants, additions, modernization, restructuring, conversion, reactivation, or transfer. Companies that can apply for the grants must be involved in mining, manufacturing, production of thermal or electric power from biomasses, service companies, tourist companies, agricultural, maritime and salt-water fishing businesses, aquaculture enterprises, or their associations. The Patti Territoriali provides grants to companies located within regions which meet the criteria of Objective 1 or Objective 2 under the Structural Funds or article 87.3.c of the Treaty of Rome. See the GOI's Second Supplemental Response at 4-5 and Annex 9-13 (April 13, 2007).

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

The Department determines that the Patti Territoriali grant confers a countervailable subsidy within the meaning of section 771(5)(D)(i) of the Act because it is a direct transfer of funds. A benefit is conferred in the full amount of the grant. Further, 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.

We normally treat grants as non-recurring. In accordance with 19 CFR 351.524(b)(2), we determined that the Patti Territoriali grant received by De Matteis exceeded 0.5 percent of its sales in the year in which the grant was approved and, therefore, we will allocate the grant over the 12 year AUL.

We used the grant methodology described in 19 CFR 351.524(d) to calculate the countervailable benefit. We divided the benefit received by De Matteis in the POR by its total sales in the POR. On this basis, we determine the countervailable subsidy from the Patti Territoriali grant to be 0.57 percent *ad valorem* for De Matteis. See De Matteis Prelim Calc Memo.

II. *Program Determined to Be Not Countervailable*

A. Social Security Reductions and Exemptions - *Sgravi* (Article 120 of Law 388/00)

Atar has reported receiving benefits from Article 120 of Law 388/00. Unlike many other *sgravi* programs, Article 120 of Law 388/00 (*fiscalizzazione* program) is a nationwide *sgravi* program that provides an equivalent level of deductions throughout Italy and is not specific to the *Mezzogiorno* region or to the pasta industry pursuant to section 771(5A) of the Act. Article 120 of Law 388/00 provides a deduction of certain social security payments related to health care or

insurance. The government takes over a minimal amount of the payments for social contributions which are owed to the Istituto Nazionale Previdenza Sociale (“INPS”). In the ninth administrative review, we found this program to be non-countervailable. See Certain Pasta from Italy: Preliminary Results of the Ninth Countervailing Duty Administrative Review and Notice of Intent to Revoke Order, in Part, 71 FR 17440 (April 6, 2006); and Certain Pasta from Italy: Final Results of the Ninth Countervailing Duty Administrative Review and Notice of Revocation of Order, in Part, 71 FR 36318 (June 26, 2006) (“Ninth Administrative Review”). Therefore, we continue to find that Article 120 of Law 388/00 is not a countervailable subsidy because the subsidy is not specific. Accordingly, we determine that Atar did not receive countervailable subsidies under this program.

### *III. Programs Determined Not To Have Been Used During the POR*

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

- A. Industrial Development Loans Under Law 64/86
- B. Law 236/93 Training Grants
- C. Law 1329/65 Interest Contributions (Sabatini Law) (Formerly Lump-Sum Interest Payment Under the Sabatini Law for Companies in Southern Italy)
- D. Development Grants Under Law 30 of 1984
- E. Law 908/55 Fondo di Rotazione Iniziative Economiche (Revolving Fund for Economic Initiatives) Loans
- F. Law 317/91 Benefits for Innovative Investments
- G. Brescia Chamber of Commerce Training Grants
- H. Ministerial Decree 87/02
- I. Law 10/91 Grants to Fund Energy Conservation
- J. Export Restitution Payments
- K. Export Credits Under Law 227/77
- L. Capital Grants Under Law 675/77
- M. Retraining Grants Under Law 675/77
- N. Interest Contributions on Bank Loans Under Law 675/77
- O. Preferential Financing for Export Promotion Under Law 394/81
- P. Urban Redevelopment Under Law 181
- Q. Industrial Development Grants under Law 183/76
- R. Interest Subsidies Under Law 598/94
- S. Duty-Free Import Rights
- T. European Social Fund Grants
- U. Law 113/86 Training Grants
- V. European Agricultural Guidance and Guarantee Fund
- W. Law 341/95 Interest Contributions on Debt Consolidation Loans (Formerly Debt Consolidation Law 341/95)
- X. Interest Grants Financed by IRI Bonds

- Y. Grant Received Pursuant to the Community Initiative Concerning the Preparation of Enterprises for the Single Market (PRISMA)
- Z. Article 44 of Law 448/01

#### *IV. Programs Determined To Have Been Terminated*

We examined the following programs at verification during the ninth administrative review and determine in this review that they have been terminated prior to the current POR and that there will be no remaining subsidy benefits from these programs after this POR. See “Verification of the Questionnaire Responses of the GOI in the 9<sup>th</sup> Administrative Review” (March 31, 2006) which was placed on the record of this proceeding on July 31, 2007.

- A. Social Security Reductions and Exemptions - *Sgravi* Article 44 of Law 448/01
- B. Social Security Reductions and Exemptions - *Sgravi* Law 337/90

#### **Analysis of Comments**

*Comment 1: De Matteis Received Additional Subsidies Under Law 662/96 and Law 488/92.*

Petitioners’ Argument: Petitioners contend that, after the preliminary results, De Matteis acknowledged some new subsidies received in 2003 pursuant to Article 2 of Law 662/96 and Law 488/92. Petitioners argue that the Department has found both of these programs to provide countervailable subsidies, and, as such, should countervail both of these grants in the final results.

De Matteis’ Rebuttal: De Matteis did not comment on this issue.

Department’s Position: We disagree with petitioners that De Matteis received new subsidies in 2003. After the Preliminary Results, the Department sent out a supplemental questionnaire requesting further information about the programs listed above and the amounts found on De Matteis’ financial statement covering the year 2005 (“2006 UNICO”). In its September 10, 2007, supplemental response, De Matteis explained that the amount reported for the year 2003 in its 2006 UNICO is related to the amount of benefits reported by the company in its 2003 income statement for Law 488/92 and Law 662/96. De Matteis explained that it was the amount realized in 2003 under the programs and was a percentage of the total investment granted. De Matteis stated that it spread the amount of the GOI grants over the years that the projects were ongoing, and recognized portions of the grants in its income statement as parts of the projects were completed.

The Department requested additional clarification on De Matteis’ September 10, supplemental response. In De Matteis’ November 5, 2007, supplemental response, it confirmed that no additional disbursements were received during 2003. Also, it stated that the final disbursement under Law 662/96 was received after the POR. The Department will countervail this disbursement in a subsequent review, if requested.

De Matteis' explanations are supported by the fact that the amount disbursed under Law 662/96 is nearly equal to the amount authorized and the amount disbursed under Law 488/92 for projects 19062/97 and 19063/97, and is equal to the amount authorized. Therefore, petitioners' allegation that new subsidies were received under Law 662/96 and Law 488/92 is not supported by information on the record as there is no demonstrated increase in the amounts authorized by the GOI under these laws.

Therefore, the Department finds that this is not a new grant or a new amount of money provided by the GOI, but an accounting method that De Matteis used to record the grants in its books and records. The Department has already accounted for all the subsidies associated with Law 488/92 and Law 662/96 received by De Matteis in the preliminary results calculations and no further adjustment is needed.

*Comment 2: The Department Should Countervail Subsidies Received by Agritalia's Cross-Owned Companies.*

Petitioners' Argument: Petitioners argue that the Department must calculate a rate for Agritalia S.r.L. ("Agritalia") which include subsidies received by Agritalia's producers and subsidies received by Agritalia's non-producing subsidiaries.

Petitioners cite to 19 CFR 351.525(c) arguing that the Department's practice is to cumulate benefits from subsidies provided to trading companies with benefits from subsidies provided to the producer of subject merchandise. Petitioners note that, in the fourth administrative review, the Department attributed the benefit from subsidies received by producers to Agritalia's sales of pasta produced by other Italian firms.

Petitioners then cite to 19 CFR 351.525(b)(6)(iii) stating that the Department attributes the benefit from subsidies received by certain affiliated companies to a corporate group's consolidated sales if certain conditions are met. Again, petitioners cite to the fourth administrative review where the Department applied this rule to De Matteis. Petitioners argue that subsidies received by Agrigest S.r.l. ("Agrigest") and Meridiana S.r.l. ("Meridiana") are properly attributed to all members of their highly-integrated group of companies. Petitioners argue that the companies meet the cross-ownership requirement by all being owned by the same two people. Petitioners continue by arguing that Agrigest and Meridiana are non-producing subsidiaries which satisfy the requirement for attribution. Petitioners note that, even if the Department finds Agrigest and Meridiana to be producing subsidiaries, they still meet the requirement for attribution because they are dedicated to serving the needs of other members in their group by performing various services for the other group members. Petitioners provide further information about the services that Agrigest and Meridiana provide to Agritalia and the approximate percentages of their sales revenue which is attributable to Agritalia.

Therefore, petitioners argue that Agritalia benefitted from countervailable subsidies received by cross-owned members of its highly-integrated group and the Department should attribute a

portion of the subsidies received by Agrigest and Meridiana to Agritalia and to the sales of subject merchandise made through Agritalia to the United States.

De Matteis' Rebuttal: De Matteis argues that the Department should not countervail benefits received by Agrigest or Meridiana because they did not benefit Agritalia's export activities, nor did they benefit the exports of Agritalia's suppliers. De Matteis claims that in previous cases involving Agritalia the Department did not consider the company intertwined with its affiliates, nor should it do so in the present case. De Matteis argues that each of the group companies operates independently, and it is only Agritalia that is involved in the pasta business. De Matteis cites to the preamble to the CVD rules<sup>3</sup> and argues that Agritalia's situation does not fit the regulations because none of the companies is a producer, and Agritalia is not a holding company. De Matteis further argues that Agritalia does not have any of the characteristics of a company for which the Department invoked cross-ownership for attribution of a subsidy.

De Matteis rebuts the petitioners' assumption that Agrigest and Meridiana are non-producing subsidiaries whose subsidies should be attributed among the group. De Matteis argues that the companies are not subsidiaries, they are under common ownership. Further, they are not "subsidiaries" of a producing company as the regulations discuss.

De Matteis continues by arguing that the only benefit of a material magnitude was a benefit received by Agrigest on its purchase of a yacht and automobiles for its tourism business. De Matteis argues that Agritalia and Villa Massa S.r.l. made negligible use of the yacht chartering service and there were no financial transactions among the companies such that the benefit could have been transferred.

Therefore, De Matteis argues that the Department was correct in its preliminary finding that Agritalia did not receive any subsidies which affected any suppliers' rates.

Department's Position: The Department continues to find that Agritalia is not a respondent in this review because a review was not requested for Agritalia. See 19 CFR 351.213(b) and 19 CFR 351.221(b). Therefore, we have not calculated a new rate for Agritalia. (Agritalia has been reviewed previously and has its own exporter specific rate of 2.92 percent.) However, we have confirmed that no subsidies received by Agritalia benefitted other companies subject to this review in any way. For example, in the fourth administrative review, we found that Agritalia had received Duty-Free Import Rights which it then sold to other companies. Therefore, in that review, we ensured that no producers/exporters of subject merchandise purchased the Duty-Free Import Rights.<sup>4</sup> In the instant review, Agritalia and the GOI have reported that Agritalia did not receive any Duty-Free Import Rights. Therefore, the facts of the instant review are distinct from

---

<sup>3</sup> See Countervailing Duties: Final Rule, 63 FR 65348, 65401 (November 25, 1998).

<sup>4</sup> See Fourth Administrative Review and accompanying Issues and Decision Memorandum at II.A.13. and Comment 1.

the fourth administrative review and no subsidies received by Agritalia benefitted any companies that are respondents in this review. Because we are not calculating a rate for Agritalia in this review, the petitioners' collapsing/affiliation arguments are moot.

*Comment 3: The Benefits Under Law 488/92 Received by De Matteis Should be Allocated Over Total Sales.*

De Matteis' Argument: De Matteis argues that the benefits under Law 488/92 should be allocated over total sales instead of sales of subject merchandise because the funds benefitted all production. De Matteis contends that it produces and packages subject and non-subject merchandise in the same facility. De Matteis notes that, in the seventh administrative review with respect to Russo/Di Nola and in the sixth administrative review with respect to De Cecco, the Department used total sales as the denominator for the benefit calculation for Law 488/92. De Matteis further cites to 19 CFR 351.525(b)(3) which states that the "Secretary will attribute a domestic subsidy to all products sold by a firm, including products that are exported." De Matteis further argues that the benefit from Law 488/92 was not tied to a particular product and should be allocated over all products sold.

Petitioners' Rebuttal: Petitioners did not comment on this argument.

Department's Position: We agree with De Matteis that the proper denominator for Law 488/92 is De Matteis' total sales. As background, De Matteis was a respondent in the investigation but Law 488/92 was not included in the Department's analysis of subsidies received by De Matteis. De Matteis was next a respondent in the fourth administrative review. In that review, the Department included Law 488/92 in the analysis and found that De Matteis had benefitted from subsidies provided by Law 488/92. In the fourth administrative review, the Department used subject merchandise sales as the denominator in the benefit calculation and De Matteis did not argue that decision in either a letter or case brief.<sup>5</sup> In the instant review, the same projects under Law 488/92 continue to provide benefits during the 12 year AUL. However, we reviewed the facts on the record of the instant review and the fourth administrative review and find that total sales is the appropriate denominator.

The Department's attribution decision may take into account the purpose of the grants provided.<sup>6</sup> There is little information on the record of the instant review concerning the purpose of the projects De Matteis carried out under Law 488/92. In De Matteis' response to the questionnaire, De Matteis states that the purpose of one of the projects was "to increase De Matteis' production

---

<sup>5</sup>See Memorandum to File, "Preliminary Results Calculations for De Cecco Group," dated July 31, 2001, on the record of the fourth administrative review.

<sup>6</sup> See 19 CFR 351.525(a) and (b).



capacity by installation of new equipment.”<sup>7</sup> In its first supplemental response, De Matteis explained that one project under Law 488/92 was for pasta specific equipment.<sup>8</sup>

In the fourth administrative review, De Matteis had a more detailed write-up of the allocation of the grant monies including projects for pasta production and packing areas, pasta building expansion, packing machines, and dies.<sup>9</sup> De Matteis also stated that the “projects benefitted De Matteis’ production of pasta in general, both domestic and export, and that the benefits extended also to production of pasta in sizes not subject to investigation (i.e., both subject and non-subject merchandise),”<sup>10</sup> which is the argument De Matteis advances here. The Department agrees with De Matteis that these funds are not tied to subject merchandise because non-subject forms of pasta are made on the same pasta-making machines which received the benefit of Law 488/92.<sup>11</sup> Accordingly, the Department is using total sales as the denominator in the benefit calculation for Law 488/92. See De Matteis Final Calc Memo.

The Department does not find De Matteis’ argument above concerning other companies’ use of Law 488/92 to be valid or persuasive because the Department’s allocation decision is entirely based on the actual projects of each company. The actual projects can vary depending on what each company requests, and therefore, cannot be used for comparison purposes here. Regardless, the Department has determined to use De Matteis’ total sales as the denominator in the benefit calculation for Law 488/92.

---

<sup>7</sup> See “De Matteis’ October 31, 2006, questionnaire response at 12.

<sup>8</sup> See De Matteis’ January 16, 2007, supplemental questionnaire response at 9.

<sup>9</sup> See De Matteis’ second supplemental response, (June 22, 2001) at 1-3 from the fourth administrative review placed on the record of this review on October 23, 2007.

<sup>10</sup> Id. at 3.

<sup>11</sup> We note that De Matteis also has a mill that produces sub-products and semolina for sale. The projects under Law 488/92 may or may not have benefitted these sales of non-subject merchandise, however, De Matteis was not required to report Free on Board sales amounts in sufficient detail to remove these revenues.

## Recommendation

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

---

Agree

---

Disagree

---

David M. Spooner  
Assistant Secretary  
for Import Administration

---

Date