

publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for companies subject to this review will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, no cash deposit will be required; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results for a review in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (“LTFV”) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 15.45 percent, the all-others rate established in the LTFV investigation. *See Implementation of the Findings of the WTO Panel in US—Zeroing (EC): Notice of Determination Under Section 129 of the Uruguay Round Agreements Act and Revocations and Partial Revocations of Certain Antidumping Duty Orders*, 72 FR 25261 (May 4, 2007). These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping duties occurred and increase the subsequent assessment of the antidumping duties by the amount of antidumping duties reimbursed.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: August 1, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–20067 Filed 8–5–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Southern Illinois University, et al.; Notice of Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230.

Comments: None received. *Decision:* Approved. *Reasons:* We know of no instruments of equivalent or comparable scientific value to the foreign instruments described below, for the intended purposes, that were being manufactured in the United States at the time of their order.

Docket Number: 11–032. *Applicant:* Southern Illinois University, Integrated Microscopy and Graphic Expertise (IMAGE) Center, 750 Communications Drive—Mailcode 4402, Carbondale, IL 62901. *Instrument:* Quanta 450 scanning electron microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* See application notice at 76 FR 39070, July 5, 2011.

Docket Number: 11–037. *Applicant:* Tulane University, 6823 St. Charles Avenue, New Orleans, LA 70118. *Instrument:* Field-emission transmission electron microscope. *Manufacturer:* FEI Company, the Netherlands. *Intended Use:* See application notice at 76 FR 39070, July 5, 2011.

Docket Number: 11–038. *Applicant:* Battelle Memorial Institute, Pacific Northwest National Laboratory, 3335 Q Avenue, Richland, WA 99354. *Instrument:* Scanning transmission electron microscope. *Manufacturer:* FEI Company, the Netherlands. *Intended Use:* See application notice at 76 FR 39070, July 5, 2011.

Dated: July 28, 2011.

Supriya Kumar,

Acting Director, Subsidies Enforcement Office, Office of Policy, Import Administration.

[FR Doc. 2011–19932 Filed 8–5–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–819]

Certain Pasta From Italy: Preliminary Results of the 14th (2009) Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (“Department”) is conducting an administrative review of the countervailing duty order on certain pasta from Italy for the period January 1, 2009, through December 31, 2009. We preliminarily find that Molino e Pastificio Tomasello S.p.A. (“Tomasello”) and Pastificio Antonio Pallante S.r.l. (“Pallante”) received countervailable subsidies and that F.lli De Cecco di Filippo Fara San Martino S.p.A. (“De Cecco”) received *de minimis* countervailable subsidies. We also find that Pastificio Fabianelli S.p.A. (“Fabianelli”) received countervailable subsidies that were expensed prior to 2009 and did not confer any benefit to Fabianelli during the period of review (“POR”). See the “Preliminary Results of Review” section of this notice below. Interested parties are invited to comment on these preliminary results. See the “Disclosure and Public Comment” section of this notice below. **DATES:** *Effective Date:* August 8, 2011.

FOR FURTHER INFORMATION CONTACT: Mahnaz Khan or Christopher Siepmann, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–0914 and (202) 482–7958, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, the Department published a countervailing duty order on certain pasta (“pasta” or “subject merchandise”) from Italy. *See Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta From Italy*, 61 FR 38544 (July 24, 1996). On July 1, 2010, the Department published a notice of “Opportunity to Request Administrative Review” of this countervailing duty order for the POR corresponding to calendar year 2009. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 75 FR 38074 (July 1, 2010). On July 29,

2010, we received such a request from De Cecco. On July 31, 2010, we received a request from New World Pasta Company, American Italian Pasta Company, and Dakota Growers Pasta Company (“the petitioners”). In their request letter, the petitioners requested that the Department initiate a review on Pallante, Fabianelli, and Tomasello. In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of this review on August 31, 2010. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Initiation of Administrative Review*, 75 FR 53274 (August 31, 2010).

On September 20, 2010, we issued countervailing duty questionnaires to the Commission of the European Union (“EU”), the Government of Italy (“GOI”), De Cecco, Fabianelli, Tomasello, and Pallante. We received responses to our questionnaires in November 2010. We issued supplemental questionnaires to De Cecco on February 10, and June 27, 2011, and we received responses to our supplemental questionnaires on February 18, April 5, and June 30, 2011. We issued supplemental questionnaires to Fabianelli on March 1, April 15, and May 17, 2011, and received responses to our supplemental questionnaires on March 30, May 16, and May 19, 2011. On March 1, and May 25, 2011, the Department issued supplemental questionnaires to Tomasello, and we received responses to our supplemental questionnaire on April 13, and June 24, 2011. We issued supplemental questionnaires to Pallante on March 3, June 27, and June 28, 2011, and received responses to our supplemental questionnaires on March 31, and June 30, 2011. We issued supplemental questionnaires to the GOI on March 16, May 12, June 17, June 28, and July 11, 2011, and received responses on April 15, June 13, July 1, and July 25, 2011.

Period of Review

The POR for which we are measuring subsidies is January 1, 2009, through December 31, 2009.

Scope of the Order

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

cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of the order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Instituto Mediterraneo Di Certificazione, Bioagricoop S.r.l., QC&I International Services, Ecocert Italila, Consorzio per il Controllo dei Prodotti Biologici, Associazione Italiana per l'Agricoltura Biologica, or Codex S.r.l. In addition, based on publicly available information, the Department has determined that, as of August 4, 2004, imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by Bioagricert S.r.l. are also excluded from the order. *See Memorandum from Eric B. Greynolds to Melissa G. Skinner*, dated August 4, 2004, which is on file in the Department's CRU. In addition, based on publicly available information, the Department has determined that, as of March 13, 2003, imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by Instituto per la Certificazione Etica e Ambientale are also excluded from the order. *See Memorandum from Audrey Twyman to Susan Kuhbach*, dated February 28, 2006, entitled “Recognition of Instituto per la Certificazione Etica e Ambientale (ICEA) as a Public Authority for Certifying Organic Pasta from Italy,” which is on file in the Department's CRU. Pursuant to the Department's May 12, 2011 changed circumstances review, effective January 1, 2009, gluten-free pasta is also excluded from the scope of the CVD order. *See Certain Pasta From Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part*, 76 FR 27634 (May 12, 2011).

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

Scope Rulings

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling finding that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with

cork or paraffin and bound with raffia, is excluded from the scope of the antidumping and countervailing duty orders. *See Memorandum from Edward Easton to Richard Moreland*, dated August 25, 1997, which is on file in the CRU.

(2) On July 30, 1998, the Department issued a scope ruling finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the antidumping and countervailing duty orders. *See Letter from Susan H. Kuhbach to Barbara P. Sidari*, dated July 30, 1998, which is on file in the CRU.

(3) On May 24, 1999, the Department issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the antidumping and countervailing duty orders. *See Memorandum from John Brinkmann to Richard Moreland*, dated May 24, 1999, which is on file in the CRU.

(4) On April 27, 2000, the Department self-initiated an anti-circumvention inquiry to determine whether Pastificio Fratelli Pagani S.p.A.'s importation of pasta in bulk and subsequent repackaging in the United States into packages of five pounds or less constitutes circumvention with respect to the antidumping and countervailing duty orders on pasta from Italy pursuant to section 781(a) of the Tariff Act of 1930, as amended (“the Act”), and 19 CFR 351.225(b). *See Certain Pasta From Italy: Notice of Initiation of Anti-Circumvention Inquiry on the Antidumping and Countervailing Duty Orders*, 65 FR 26179 (May 5, 2000). On September 19, 2003, we published an affirmative finding of the anti-circumvention inquiry. *See Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003).

Use of Facts Otherwise Available and Adverse Inferences

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

proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act. Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the result is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1, at 870 (1994).

GOI—Previously Uninvestigated Programs

On April 13, 2011, Tomasello informed the Department that it received subsidies from the GOI under seven programs that were not reported in Tomasello's November 3, 2010 questionnaire response. Except for Law 46/1982,¹ it appeared that the Department had not previously investigated the countervailability of these programs in the *Pasta Investigation* or in subsequent reviews; therefore, on May 12, 2011, we asked the GOI to respond to the full questionnaire for all seven programs. We received its response on June 13, 2011, and discovered that it contained numerous deficiencies. The GOI failed to respond to most of our questions for all but one program. It also failed to provide the related law for four of the

programs and did not translate one of the laws it did provide, despite our request to provide translated laws for each program. See 19 CFR 351.303(e). In addition, the GOI failed to identify the industries or enterprises that received benefits under these programs and the corresponding amounts given to them ("usage data"). Because the GOI's response did not provide us with enough information to determine whether any of these seven programs are countervailable, we requested this information a second time. This second attempt consisted of two questionnaires issued on June 17, and June 28, 2011, respectively. The GOI filed a timely response to the June 17, questionnaire, but failed to respond to many of the questions in the questionnaire, including questions concerning usage for three programs. The GOI then failed to provide usage data for the remaining four programs in its July 25, 2011 questionnaire response, although it did confirm that two programs (Measure 3.14 and Regional Law 15/1993) are regionally specific.

The statute identifies specificity as one of three necessary elements of a countervailable subsidy. See sections 771(5)(A) and 771(5A) of the Act. We normally rely on information from the government to determine whether a program is specific. See, e.g., *Certain Magnesia Carbon Bricks From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 45472 (August 2, 2010) and accompanying Issues and Decision Memorandum at Comment 6. Although it was given multiple opportunities, the GOI's responses left us without the necessary information to determine whether many of the programs reported by Tomasello on April 13, 2011, are countervailable.

We preliminarily determine that the GOI has withheld necessary information that was requested of it for five of the seven programs. The GOI also failed to provide information requested by the Department by the deadline for the submission of the information. Because the record is incomplete for these programs, the Department must rely on "facts available." See sections 776(a)(1), 776(a)(2)(A) and 776(a)(2)(B) of the Act. Moreover, the GOI has failed to cooperate by not acting to the best of its ability to comply with our request for information, so we are applying an adverse inference in our use of facts available. See section 776(b) of the Act. Due to the GOI's failure either to provide information necessary for our determination about these programs, or to provide this information in a timely manner, we are finding as adverse facts

available that benefits from five of these seven programs are specific.² See section 771(5A) of the Act. An analysis of these programs is found in the "Analysis of Programs" section below.

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 of the Act concerning the subject merchandise."

The facts available decisions described above do not rely on secondary information. Our determinations regarding the specificity of these programs are based on the unwillingness of the GOI to provide necessary information pertaining to the access to, or the distribution of, the subsidies. The corroboration requirement of section 776(c) of the Act is, therefore, not applicable to the use of facts available in this review.

Subsidies Valuation Information

Allocation Period

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

Attribution of Subsidies

Pursuant to 19 CFR 351.525(b)(6), the Department will attribute subsidies received by companies with cross-ownership to the combined sales of those companies.

¹ The Department determined not to investigate this program in the countervailing duty investigation of certain pasta from Italy because it was previously found not countervailable. See *Notice of Initiation of Countervailing Duty Investigations: Certain Pasta ("Pasta") From Italy and Turkey*, 60 FR 30280, 30281-82 (June 8, 1995) ("Pasta Investigation Initiation"). See also *Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") From Italy*, 61 FR 30288 (June 14, 1996) ("Pasta Investigation") and accompanying Issues and Decision Memorandum at Comment 28 (summarizing the Department's determination not to investigate this program). Our rationale for revisiting this determination can be found in the Law 46/1982 program description, below.

² For two of the programs, i.e. Measure 3.14 and Regional Law 15/1993, the GOI provided information indicating that the programs are regionally specific. See discussion, *supra*. Accordingly, the Department has made specificity determinations for these two programs without resorting to facts available.

De Cecco: In the instant review, De Cecco has responded on behalf of itself and three other members of the De Cecco group of companies: Molino e Pastificio De Cecco S.p.A. ("De Cecco Pescara"), Centrale Elettrica F.lli De Cecco S.r.L. ("Centrale"), and Consorzio Elettrico Imprese De Cecco ("C.E.I.D."). See De Cecco questionnaire response dated November 3, 2010 at 5.

De Cecco manufactures pasta for sale in Italy, to third-country markets, and to the United States. *Id.* at 7. De Cecco Pescara manufactures pasta for sale to De Cecco and to unaffiliated third parties in Italy. *Id.* For the reasons explained in the Business Proprietary Memorandum from Mahnaz Khan to Susan Kuhbach, "Information Concerning Respondents' Attribution," dated August 1, 2011 ("Respondents' Attribution Memo"), we find that cross ownership exists between De Cecco Pescara and De Cecco within the meaning of 19 CFR 351.525(b)(6)(vi). *Id.* at 2. Therefore, in accordance with 19 CFR 351.525(b)(6)(ii), we are attributing subsidies received by De Cecco and De Cecco Pescara to the combined sales of both, excluding inter-company sales.

Effective January 1, 1999, Molino F.lli De Cecco di Filippo S.p.A. ("De Cecco Molino"), another member of the De Cecco group on whose behalf De Cecco responded in the fourth administrative review, was merged with De Cecco and ceased to be a separate entity. See *Certain Pasta From Italy: Final Results of the Fourth Countervailing Duty Administrative Review*, 66 FR 64214 (December 12, 2001) ("Fourth Administrative Review Final") and accompanying Issues and Decision Memorandum. The Department will continue to consider countervailable any benefits received by De Cecco Molino in past administrative review periods and allocated over a period that extends into or beyond the current POR as benefits attributable to De Cecco. See Memorandum to the File, "2009 Preliminary Results Calculation Memorandum for F.lli De Cecco di Filippo Fara San Martino S.p.A.," dated August 1, 2011 ("De Cecco Preliminary Calc Memo").

Finally, De Cecco has reported it purchased electricity from C.E.I.D. that was produced by Centrale. Centrale is majority owned by members of the De Cecco family. See De Cecco questionnaire response dated November 3, 2010 at 6. C.E.I.D. is a consortium consisting of Centrale and De Cecco. Neither Centrale nor C.E.I.D. received any subsidies during the POR or AUL period. *Id.* Therefore, we do not reach the issue of whether cross-ownership exists or whether subsidies to Centrale

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

Fabianelli: FABFIN S.p.A. ("FABFIN") is a company that actively produced and sold subject pasta between 2001 and 2006. Although it stopped all production in 2006, it still exists as a legal entity. Fabianelli stated in its response that it owned 95 percent of the shares of FABFIN at the beginning of 2009. On June 19, 2009, Fabianelli purchased the remaining five percent of FABFIN's shares, making FABFIN a wholly-owned subsidiary of Fabianelli. See Fabianelli questionnaire response dated November 3, 2010 at 3. Therefore, we determine that cross ownership exists between FABFIN and Fabianelli as defined by 19 CFR 351.525(b)(6)(vi).

Based on their questionnaire responses, we preliminarily determine that Pallante and Tomasello have no affiliates for which cross-ownership exists. See Pallante questionnaire response dated November 3, 2010 at 3 and Tomasello questionnaire response dated November 3, 2010 at 3; see also Respondents' Attribution Memo. Thus, we are attributing any subsidies received by Pallante and Tomasello to their respective sales only.

Changes in Ownership

Fabianelli reported that on March 1, 2001, its subsidiary FABFIN acquired the assets of Pastificio Maltagliati ("Maltagliati") in a bankruptcy trustee sale. See Fabianelli questionnaire response dated March 30, 2011 at 1. We find that prior to entering bankruptcy, Maltagliati was granted reductions to its social security payments under Law 863/84 and received export restitution payments within the AUL period. We consider both of these programs to confer recurring benefits, in accordance with 19 CFR 351.524(c) and consistent with our treatment of these programs in the investigation and previous reviews. See, e.g., *Pasta Investigation*, 61 FR at 30294-95. Therefore, subsidies given to Maltagliati did not confer countervailable benefits upon Fabianelli because the subsidies received by Maltagliati were expensed in the years that they were received.

Benchmarks for Long-Term Loans and Discount Rates

Pursuant to 19 CFR 351.505(a), the Department will use the actual cost of comparable borrowing by a company as a loan benchmark, when available. According to 19 CFR 351.505(a)(2), a comparable commercial loan is defined as one that, when compared to the government-provided loan in question, has similarities in the structure of the

loan (e.g., fixed interest rate versus variable interest rate), the maturity of the loan (e.g., short-term versus long-term), and the currency in which the loan is denominated.

On June 24, 2011, Tomasello informed us that it received several commercial loans within the AUL period. We issued questionnaires to both Tomasello and the GOI to determine, based on the criteria found at 19 CFR 351.505(a)(2), whether these loans could be compared to the loans Tomasello received under programs covered in this review. We received responses from Tomasello on July 20, 2011, and from the GOI on July 25, 2011.

One of the loans Tomasello submitted to us was provided by the Regional Institute for the Financing of Industries in Sicily ("IRFIS"). Based on information on the record, we preliminarily determine that IRFIS is a government-owned special purpose bank within the meaning of 19 CFR 351.505(a)(2)(ii). See Business Proprietary Memorandum to the File from Christopher Siepmann, "2009 Preliminary Results Calculation Memorandum for Molino e Pastificio Tomasello, S.p.A.," (August 1, 2011) ("Tomasello Preliminary Calc Memo"). See also Memorandum to File from Christopher Siepmann, "Placement of Certain Information Related to IRFIS On the Record" (July 22, 2011), and GOI fifth supplemental questionnaire response dated July 25, 2011 at 1. Therefore, we have not used this loan to calculate a benchmark.

The remainder of the information we have used in our evaluation of these loans is business proprietary. See Tomasello Preliminary Calc Memo. Based on this information, we preliminarily determine that none of the loans submitted by Tomasello can serve as a loan benchmark pursuant to 19 CFR 351.505(a)(2) for the loans Tomasello received under programs covered by this review.

Because Fabianelli, De Cecco, and Pallante did not report the receipt of any comparable commercial loans in the years in which the GOI agreed to provide loans under the programs covered in this review, and because we have not found comparable loans among those submitted by Tomasello, we used as our benchmark a national average interest rate for comparable commercial loans, pursuant to 19 CFR 351.505(a)(3)(ii). Consistent with our past practice in this proceeding, for years prior to 1995, we used the Bank of Italy reference rate adjusted upward to reflect the mark-up an Italian commercial bank would charge a

corporate customer. *See, e.g., Certain Pasta From Italy: Preliminary Results and Partial Rescission of the Eighth Countervailing Duty Administrative Review*, 70 FR 17971 (April 8, 2005), unchanged in *Certain Pasta from Italy: Final Results of the Eighth Countervailing Duty Administrative Review*, 70 FR 37084 (June 28, 2005). For benefits received in 1995–2004, we used the Italian Bankers' Association ("ABI") prime interest rate (as reported by the Bank of Italy), increased by the average spread charged by banks on loans to commercial customers plus an amount for bank charges. *See Certain Pasta from Italy: Preliminary Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 25489, 25491 (May 28, 2009) ("12th (2007) Administrative Review Preliminary Results"), unchanged in *Certain Pasta from Italy: Final Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 47204 (September 15, 2009). The Bank of Italy ceased reporting this rate in 2004. *See 12th (2007) Administrative Review Preliminary Results*, 74 FR at 25491. Because the ABI prime rate was no longer reported after 2004, for 2005–2009, we have used the "Bank Interest Rates on Euro Loans: Outstanding Amounts, Non-Financial Corporations, Loans With Original Maturity More Than Five Years" published by the Bank of Italy and provided by the GOI in its November 1, 2010, questionnaire response at Exhibits 3, 4, 5 and 6. *Id.* We increased this rate by the mark-up and bank charges described above.

Also, none of the companies reported loan interest rates that could be used as discount rates (*see* 19 CFR 351.524(d)(3)(A)). Therefore, in order to allocate non-recurring benefits over time, we calculated discount rates for these companies by using the national average cost of long-term, fixed-rate loans pursuant to 19 CFR 351.524(d)(3)(B).

Analysis of Programs

I. Programs Preliminarily Determined To Be Countervailable

A. Industrial Development Grants Under Law 64/86

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

a private credit institution chosen by the applicant made a positive assessment of the project.

In 1992, the Italian Parliament abrogated Law 64/86 and replaced it with Law 488/92 (*see* section I.B., 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 Cecco and Pallante received grants under Law 64/86 that conferred a benefit during the POR. *See* De Cecco's questionnaire response dated November 3, 2010 at Exhibit 9, and Pallante's questionnaire response dated November 3, 2010 at Exhibit 5.

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

As stated in *Live Swine from Canada*,³ "it is well-established that where the Department has determined that a program is (or is not) countervailable, it is the Department's policy not to re-examine the issue of that program's countervailability in subsequent reviews unless new information or evidence of changed circumstances is submitted which warrants reconsideration." Also, this policy is reflected in the Department's standard questionnaire used in countervailing duty administrative reviews which states that "absent new information or evidence of changed circumstances, we do not intend to reexamine the countervailability of programs previously found to be countervailable."⁴

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

In the *Pasta Investigation*, the Department treated the industrial development grants as non-recurring. No new information has been placed on the record of this review that would cause us to depart from this treatment. Therefore, we have followed the

methodology described in 19 CFR 351.524(b), 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 Cecco and Pallante under Law 64/86 exceeded 0.5 percent of their sales in the years in which the grants were approved.

Consequently, we used the grant methodology described in 19 CFR 351.524(d) to allocate the benefit from those grants. We divided the amounts allocated to the POR by the respective total sales of De Cecco and Pallante.

On this basis, we preliminarily determine the countervailable subsidy from the Law 64/86 industrial development grants to be 0.19 percent *ad valorem* for De Cecco and 0.01 percent *ad valorem* for Pallante. *See* De Cecco Preliminary Calc Memo, and Memorandum to the File, "2009 Preliminary Results Calculation Memorandum for Pastificio Antonio Pallante S.r.l.," dated August 1, 2011 ("Pallante Preliminary Calc Memo").

B. Industrial Development Grants Under Law 488/92

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 regions and sectors (manufacturing, mining, and certain business services) could 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 Cecco, Tomasello and Pallante received

³ *See Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews*, 61 FR 52408, 52420 (October 7, 1996) ("*Live Swine from Canada*").

⁴ *See* Department's November 10, 2009 letter to the Embassy of Italy, at enclosure.

grants under Law 488/92 that conferred a benefit during the POR.

In the *Second Administrative Review*,⁵ the Department determined that Law 488/92 grants confer a countervailable subsidy within the meaning of section 771(5) of the Act. They are a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. See section 771(5)(D)(i) of the Act; see also 19 CFR 351.504(a). Also, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. In the instant review, neither the GOI nor the respondent companies have provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies. See *Live Swine from Canada*, 61 FR at 52420.

In the *Second Administrative Review*, the Department treated the industrial development grants as non-recurring. No new information has been placed on the record of this review that would cause us to depart from this treatment. Therefore, we have followed the methodology described in 19 CFR 351.524(b) and because the grants received by De Cecco, Tomasello and Pallante under Law 488/92 exceeded 0.5 percent of their sales in the year in which the grants were approved, we allocated the benefits over time using the grant methodology described in 19 CFR 351.524(d). We divided the amounts allocated to the POR by the respective total sales of De Cecco, Pallante and Tomasello in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 488/92 industrial development grants to be 0.15 percent *ad valorem* for De Cecco, 0.31 percent *ad valorem* for Pallante, and 3.34 percent *ad valorem* for Tomasello. See De Cecco Preliminary Calc Memo, Pallante Preliminary Calc Memo, and Tomasello Preliminary Calc Memo.

C. Interest Contributions Under Law 488/92

In the second administrative review of this order, the Department found that “loans are not provided under Law 488/92.” *Second Administrative Review*, 64 FR at 17620. However, the GOI later provided documentation that a May 14, 2005 Law at Article 80 and implementing decree changed this practice to permit companies to obtain

loans, in addition to grants, for initiatives in the areas eligible for such assistance under Law 488/92. See *Certain Pasta From Italy: Preliminary Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 18806 (April 13, 2010), unchanged in *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386 (June 29, 2010). The preliminary examination of companies’ loan applications by an authorized bank, the ranking by the Ministry of Economic Development, and the award of loans based on the ranking are similar to the process described for Law 488/92 grants (see section I.B., above). *Id.* In addition, the bank is responsible for assessing the company’s credit. *Id.*

Under this modification to Law 488/92, the loans must have a duration not exceeding 15 years and not less than six years. *Id.* The fixed-interest rates on these long-term loans are set at a rate of 0.50 percent with the GOI covering the difference in interest amount between that rate and the market rate. *Id.* De Cecco received interest contributions under Law 488/92 during the POR. See De Cecco’s November 3, 2010 questionnaire response at 14, 23–37.

We preliminarily determine that these interest contributions are countervailable subsidies within the meaning of section 771(5) of the Act. They are a direct transfer of funds from the GOI providing a benefit in the amount of the difference between the benchmark interest rate and the interest rate paid by the companies. See section 751(5)(E)(ii) of the Act. Also, these interest contributions are regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because they are limited to companies located within regions which meet the criteria of Objective 1, Objective 2, and Objective 5(b) areas determined by the EU.

In accordance with 19 CFR 351.505(c)(2) and 351.508(c)(2), we calculated the benefit for the POR by computing the difference between the amount of interest paid during the POR by De Cecco on its Law 488/92 loan and the amount of interest De Cecco would have paid at the benchmark interest rate. We divided the benefit received by De Cecco in the POR by its sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 488/92 interest contributions to be 0.05 percent *ad valorem* for De Cecco. See De Cecco Preliminary Calc Memo.

D. Measure 3.14 of the POR Sicilia 2000/2006

The POR Sicilia 2000/2006 is a regional development program designed to encourage stable economic growth in southern Italy. See GOI fifth questionnaire response dated July 25, 2011 at 1. Measure 3.14 of the POR Sicilia 2000/2006 provides assistance in the form of grants to companies that undertake approved industrial research projects. Companies may apply for funding under two provisions. The first provides support to companies for developing best practices in a number of fields. Most grants are given under the second provision, which funds industrial research projects, particularly those that are undertaken in partnership with other companies or with research institutions such as universities. See Tomasello questionnaire response dated April 13, 2011 at Exhibit 3. Tomasello stated that it received grants under Measure 3.14 in 2008 and 2009. See Tomasello questionnaire response dated April 13, 2011 at 3; see also Tomasello questionnaire response dated June 24, 2011 at 4. The GOI also reported that Tomasello received grants under this program, but the amounts reported by the two parties differ. See GOI questionnaire response dated July 25, 2011 at 4. We intend to seek clarification of this discrepancy for the final results. For purposes of these preliminary results, we have used the amount reported by Tomasello.

Tomasello has argued that subsidies received under Measure 3.14 should not be considered countervailable because the grants are for precompetitive research and development activities. Section 771(5B) of the Act describes research and development subsidies as being non-countervailable; however, in accordance with section 771(5B)(G)(i), this provision regarding noncountervailability expired in 2000. Therefore, we do not consider benefits received under Measure 3.14 to be entitled to treatment as so-called “green-light,” or noncountervailable, subsidies.

We preliminarily determine that grants under Measure 3.14 confer a countervailable subsidy within the meaning of section 771(5) of the Act. They provide a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. They are also specific within the meaning of section 771(5A)(D)(iv) of the Act because the GOI limits benefits under this program to companies in certain regions. See GOI fourth questionnaire response dated July 25, 2011 at 3.

We also preliminarily determine that Measure 3.14 grants are non-recurring

⁵ See *Certain Pasta from Italy: Preliminary Results of Countervailing Duty Administrative Review*, 64 FR 17618, 17620 (April 12, 1999) (“*Second Administrative Review*”), unchanged in *Certain Pasta From Italy: Final Results of the Second Countervailing Duty Administrative Review*, 64 FR 44489 (August 16, 1999).

because they are exceptional events. Recipients must file a separate application for each project they seek funding for and cannot expect funding on an ongoing basis. *See* Tomasello questionnaire response dated April 13, 2011 at 4. Therefore, we have followed the methodology described in 19 CFR 351.524(b) and because the grants received by Tomasello under Measure 3.14 exceeded 0.5 percent of its sales in the year in which the grants were approved, we used the grant methodology described in 19 CFR 351.524(d) to allocate the benefit from these grants. We divided the amount allocated to the POR by Tomasello's total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Measure 3.14 research grants to be 0.12 percent *ad valorem* for Tomasello. *See* Tomasello Preliminary Calc Memo.

E. European Social Fund

The European Social Fund ("ESF"), one of the Structural Funds operated by the EU, was established to improve workers' opportunities through training and to raise workers' standards of living throughout the European Community by increasing their employability. There are six different objectives identified by the Structural Funds: Objective 1 covers projects located in underdeveloped regions, Objective 2 addresses areas in industrial decline, Objective 3 relates to the employment of persons under 25 years of age, Objective 4 funds training for employees in companies undergoing restructuring, Objective 5 pertains to agricultural areas, and Objective 6 pertains to regions with very low population (*i.e.*, the far north). Tomasello received ESF grants in 2008 and 2009 under Objective 1 (through Measure 3.09 of the POR Sicilia 2000/2006) for the purpose of training its workers in improved quality control techniques. *See* Tomasello questionnaire response dated April 13, 2011 at 5 and Exhibit 4; *see also* GOI fifth questionnaire response dated July 25, 2011 at Exhibit 2.

In the *Pasta Investigation*, the Department determined that ESF grants confer a countervailable subsidy within the meaning of section 771(5) of the Act. *See Pasta Investigation*, 61 FR at 30294. We consider worker training programs to provide a countervailable benefit to a company when the company is relieved of an obligation it would have otherwise incurred. *Id.* Since companies normally incur the costs of training to enhance the job related skills of their own employees, we determine that this ESF grant relieves Tomasello of obligations it

would have otherwise incurred. Consequently, the ESF grant is a financial contribution as described in section 771(5)(D)(i) of the Act which provides a benefit to the recipient in the amount of the grant.

The ESF grant received by Tomasello provided funding from three sources: the EU, the GOI, and the Region of Sicily. Consistent with prior cases, we have examined the specificity of the ESF funding under Objective 1 separately from any funding under other objectives. *See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod From Italy*, 63 FR 40474, 40487 (July 29, 1998) ("*Wire Rod from Italy*"). Moreover, since funding for this Objective 1 grant was provided through the regional operational program from three sources, we have examined the specificity of the funding for each source of funds, consistent with our treatment of the ESF in the *Second Administrative Review*. *See Second Administrative Review*, 64 FR at 44492.

In the *Pasta Investigation*, the Department determined that the ESF funds for Objective 1 provided by the EU and the GOI are limited to underdeveloped regions and, hence, regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. Regarding funding from the regional government, we requested usage information from the GOI on two occasions: first, on May 12, 2011; and second, on June 17, 2011. The GOI did not provide this information either time.

As explained above under "Use of Facts Otherwise Available and Adverse Inferences," in cases where there is not enough information on the record for us to determine whether a program is specific (*see* section 776(a)(1) of the Act), and in cases where an interested party fails to provide information that has been requested by the Department by the deadline for the submission of that information (*see* section 776(a)(2)(B) of the Act), we use facts otherwise available. We further explained that an adverse inference is warranted where a party fails to cooperate by not acting to the best of its ability to comply with a request for information from the Department. Therefore, we preliminarily determine as adverse facts available that the regional component of Tomasello's ESF grant is also specific.

The Department normally considers the benefits from worker training programs to be recurring. *See* CFR 351.524(c)(1). However, consistent with the Department's determination in *Wire Rod From Italy* that these grants relate to specific, individual projects, and

based on information on the record of this review, we have treated these grants as non-recurring because each required separate government approval. *See Wire Rod From Italy*, 63 FR at 40487.

Accordingly, we have followed the methodology described in 19 CFR 351.524(b) and because the grants received by Tomasello under this program exceeded 0.5 percent of its sales in the year in which the grants were approved, we used the grant methodology described in 19 CFR 351.524(d) to allocate the benefit from these grants. We divided the amount allocated to the POR by Tomasello's total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the ESF grants to be 0.10 percent *ad valorem* for Tomasello. *See* Tomasello Preliminary Calc Memo.

F. Tax Credits Under Article 280 of Law 296/2006

Article 280 of Law 296/2006 authorizes a tax credit to companies of up to ten percent of the costs associated with eligible research activities, or a tax credit of up to fifteen percent for research expenses associated with contracts between companies and research institutions. *See* Tomasello questionnaire response dated April 13, 2011 at Exhibit 6; *see also* GOI questionnaire response dated June 13, 2011 at Exhibit 4, and GOI fourth questionnaire response dated July 25, 2011 at 6. Tomasello reported receiving a tax credit under this provision in 2009. It identified the benefits as having been received under Legislative Decree 76/2008, which contains regulations for the implementation of the credit. *See* Tomasello questionnaire response dated April 13, 2011 at 11; *see also* GOI fourth questionnaire response dated July 25, 2011 at 6.

We preliminarily determine that tax credits under Article 280 of Law 296/2006 confer a countervailable subsidy within the meaning of section 771(5) of the Act. The credits are a financial contribution in the form of revenue forgone (*see* section 771(D)(ii) of the Act) and they confer a financial contribution within the meaning of section 771(5)(D)(ii) of the Act in the amount of the difference between the taxes that Tomasello paid in 2009, and the taxes that Tomasello would have been required to pay if it had not taken advantage of the credit.

In its July 1, and July 25, 2011 submissions, the GOI stated that this tax credit is available throughout Italy and is not limited by region or industrial sector. However, the GOI did not respond to either of our requests for

program usage information, which we issued on May 12, and June 28, 2011.

As explained above under “Use of Facts Otherwise Available and Adverse Inferences,” in cases where there is not enough information on the record for us to determine whether a program is specific (*see* section 776(a)(1) of the Act), and in cases where an interested party fails to provide information that has been requested by the Department by the deadline for the submission of that information (*see* section 776(a)(2)(B) of the Act), we use facts otherwise available. We further explained that an adverse inference is warranted where a party fails to cooperate by not acting to the best of its ability to comply with a request for information from the Department. Therefore, we preliminarily determine as adverse facts available that the tax credits granted under Article 280 of Law 296/2006 are specific.

In accordance with 19 CFR 351.524(c), we generally consider tax credits to confer recurring benefits. In order to calculate the countervailable subsidy that Tomasello received, we divided the amount of the tax credit applied by Tomasello on its 2009 tax return by Tomasello's total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from Article 280 of Law 296/2006 to be 0.68 percent *ad valorem* for Tomasello. *See* Tomasello Preliminary Calc Memo.

G. Article 14 of Law 46/1982 (Fondo Innovazione Tecnologica)

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 all the resources appropriated for the program have been exhausted. *See* GOI questionnaire response dated June 13, 2011 at 3; *see also* GOI fourth questionnaire response dated July 25,

2011 at 5. Tomasello reported receiving both a grant and a loan under Article 14 of Law 46/1982. *See* Tomasello questionnaire response dated April 13, 2011 at 7. The GOI also reported that Tomasello received a grant and a loan under this program, but the grant amounts reported by the two parties differ. *See* GOI fourth questionnaire response dated July 25, 2011 at Exhibit 7. We intend to seek clarification of this discrepancy for the final results. Because the amounts reported by the GOI are more consistent with the underlying decree, we have used them for these preliminary results.

In the *Pasta Investigation*, the petitioners asked us to investigate this program as a possible countervailable subsidy. We declined because we had found Law 46/1982 to be noncountervailable in a previous investigation. *See Pasta Investigation Initiation*, 60 FR at 30281–82. As previously explained, we generally will not re-examine the countervailability of a program that has been found to be non-countervailable. *See, e.g., Live Swine from Canada*, 61 FR at 52420. However, information Tomasello submitted in its questionnaire response suggested that although funds are available across Italy, additional funds are available to companies in specific regions. *See* Tomasello questionnaire response dated April 13, 2011, at Exhibit 5. Therefore, we included Law 46/1982 among the programs for which we asked the GOI to provide information on May 12, and June 17, 2011.

The GOI failed to provide a timely response to our request for information. In its July 25, 2011 supplemental questionnaire response, the GOI provided limited information about this program, but because the deadline for submission of this information was July 1, 2011, we are rejecting this information as untimely in accordance with 19 CFR 351.302(d) and 19 CFR 351.104(a)(2)(ii)(A).

As explained above under “Use of Facts Otherwise Available and Adverse Inferences,” in cases where there is not enough information on the record for us to determine whether a program is specific (*see* section 776(a)(1) of the Act), and in cases where an interested party fails to provide information that has been requested by the Department by the deadline for the submission of that information (*see* section 776(a)(2)(B) of the Act), we use facts otherwise available. We further explained that an adverse inference is warranted where a party fails to cooperate by not acting to the best of its ability to comply with a request for

information from the Department. Therefore, we preliminarily determine as adverse facts available that the assistance received by Tomasello under Article 14 of Law 46/1982 is specific.

We further determine preliminarily that the grants and loans provided under Article 14 of Law 46/1982 are financial contributions because they are a direct transfer of funds from the GOI. *See* section 771(5)(D)(i) of the Act.

In accordance with 19 CFR 351.504(a), the benefit provided by the grant is the amount of the grant.

Moreover, because companies must file a separate application and receive the government's express authorization for each grant, we preliminarily determine that these subsidies are non-recurring. Accordingly, we have followed the methodology described in 19 CFR 351.524(b) and because the grants received by Tomasello under this program exceeded 0.5 percent of its sales in the year in which the grants were approved, we used the grant methodology described in 19 CFR 351.524(d) to allocate the benefit from these grants. We divided the amount allocated to the POR by Tomasello's total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 46/1982 research grant to be 0.17 percent *ad valorem* for Tomasello. *See* Tomasello Preliminary Calc Memo.

We also preliminarily determine that loans under Article 14 of Law 46/1982 convey a countervailable subsidy within the meaning of section 771(5) of the Act because they provide a benefit from the GOI in the amount of the difference between the interest a company paid on the loan and the interest the company would have paid on a comparable commercial loan. In accordance with 19 CFR 351.505(c)(2), we calculated the countervailable benefit Tomasello received from this loan in the POR by computing the difference between the payments Tomasello made on the loan during the POR and the payments Tomasello would have made on a benchmark loan. *See* the “Benchmarks for Long-Term Loans and Discount Rates” section of this notice above. We divided the benefit received by Tomasello by its total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from Law 46/1982 research loans to be 0.12 percent *ad valorem* for Tomasello. *See* Tomasello Preliminary Calc Memo.

H. Regional Law 15/1993, as Amended by Regional Law 66/1995

Regional Law 15/1993 authorizes interest contributions for companies

that agree to consolidate their short-term debt. These contributions are equal to 40 percent of the reference interest rate in effect on the date that the consolidated loan is opened. Participating companies may receive interest contributions for up to ten years, following a grace period of one year. *See* Tomasello questionnaire response dated April 13, 2011 at Exhibit 9. According to the GOI, benefits under this program are limited to enterprises or industries within certain regions. *See* GOI fourth questionnaire response dated July 25, 2011 at 13.

Tomasello has reported conflicting information about the interest contributions it received under Regional Law 15/1993. *See* Tomasello questionnaire response dated April 13, 2011 at 16; *see also* Tomasello questionnaire response dated July 20, 2011 at Exhibit 5. In light of this, and because we received this information just before our statutory deadline to publish the preliminary results, we have used the information in Tomasello's earlier (April 13, 2011) questionnaire response to calculate the benefit it received under Regional Law 15/1993. We will seek clarification of this discrepancy for the final results.

Based on information provided by the GOI, we preliminarily determine that interest contributions under Regional Law 15/1993 are regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. *See* GOI fourth questionnaire response dated July 25, 2011 at 13. Moreover, we preliminarily determine that these interest contributions are a financial contribution in the form of a direct transfer of funds (*see* section 771(D)(i) of the Act) and they confer a benefit within the meaning of section 771(5)(E) of the Act in the amount of the contribution. To calculate the benefit, we divided the amount Tomasello received in the POR by its total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from interest contributions under Regional Law 15/1993 to be 0.06 percent *ad valorem* for Tomasello. *See* Tomasello Preliminary Calc Memo.

I. Regional Law 34/1988

Under Regional Law 34/1988, the Regional Department of Industry in Sicily may provide interest contributions to companies that belong to "Consorti di Garanzia Fidi," which are consortia made up of a number of companies. The GOI's contributions are made against interest paid by consortium members on lines of credit taken out through the consortium. *See* Tomasello questionnaire response dated

April 13, 2011 at 18; *see also* GOI questionnaire response dated June 13, 2011 at 2.

Tomasello has reported conflicting information about the interest contributions it received under Regional Law 34/1988. *See* Tomasello questionnaire response dated April 13, 2011 at 18; *see also* Tomasello questionnaire response dated July 20, 2011 at Exhibit 6. In light of this, and because we received this information just before our statutory deadline to publish the preliminary results, we have used the information in Tomasello's earlier (April 13, 2011) questionnaire response to calculate the benefit it received under Regional Law 34/1998. We intend to seek clarification of this discrepancy for the final results.

On May 12, 2011, we asked the GOI to provide a full response to the appropriate questionnaire appendices for this program. In particular, we asked it to describe whether benefits under this program are limited to companies in specific sectors or regions, and to provide us with information regarding how benefits under this program are distributed across Sicily. Although the GOI provided some information, it did not answer our questions or provide enough information for us to determine whether the program is specific. We asked the GOI to answer these questions a second time on June 28, 2011. Apart from providing a translation of part of a related law, the GOI did not respond to the questionnaire appendices altogether in its July 25, 2011 response, nor did it provide program usage information.

As explained above under "Use of Facts Otherwise Available and Adverse Inferences," in cases where there is not enough information on the record for us to determine whether a program is specific (*see* section 776(a)(1) of the Act), and in cases where an interested party fails to provide information that has been requested by the Department by the deadline for the submission of that information (*see* section 776(a)(2)(B) of the Act), we use facts otherwise available. We further explained that an adverse inference is warranted where a party fails to cooperate by not acting to the best of its ability to comply with a request for information from the Department. Therefore, we preliminarily determine as adverse facts available that the interest contributions received by Tomasello under Law 34/1988 are specific.

On this basis, we preliminarily determine that interest contributions under Regional Law 34/1988 confer a countervailable subsidy within the

meaning of section 771(5) of the Act. They are a financial contribution in the form of a direct transfer of funds (*see* section 771(5)(D)(i) of the Act) and they confer a benefit within the meaning of section 771(5)(E) of the Act in the amount of the contribution. To calculate the benefit, we divided the amount Tomasello received in the POR by its total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from interest contributions under Regional Law 34/1988 to be 0.10 percent *ad valorem* for Tomasello. *See* Tomasello Preliminary Calc Memo.

J. Article 23 of Legislative Decree 38/2000

Article 23 of Legislative Decree 38/2000 ("LD 38/2000") helps certain companies comply with the workplace safety regulations contained in Legislative Decree 626/94 by providing assistance to those companies. The program is administered by the National Institute for Insurance Against Injuries in the Workplace, or INAIL, which is an agency of the Italian government. In order to be eligible for assistance, firms must be operating in the agricultural or artisanal sectors and qualify as small- to medium-sized companies (*i.e.*, they must have fewer than 250 employees, and their total annual turnover must be less than 40 million Euros, or they must have total assets of less than 27 million Euros). *See* GOI questionnaire response dated June 13, 2011, at 10.

INAIL is authorized to award funds in the form of grants or loans. It pays all interest and fees on the loans directly to the issuing bank, effectively making the loans interest-free to the recipient. *See* GOI questionnaire response dated June 13, 2011, at 10 and Exhibit 5; *see also* Tomasello questionnaire response dated April 13, 2011, at Exhibit 13, and Tomasello questionnaire response dated June 24, 2011 at Exhibit 5. Tomasello and Fabianelli both reported receiving assistance during the POR under LD 38/2000. Tomasello received a loan at zero percent interest for facility improvements, and Fabianelli received grants for expenses related to worker training. *See* Tomasello questionnaire response dated April 13, 2011 at 21; and Tomasello questionnaire response dated June 24, 2011 at Exhibit 5; *see also* Fabianelli questionnaire response dated November 3, 2010 at 19.

The GOI reported that benefits under LD 38/2000 are limited to companies in the agricultural and artisanal industries, but did not provide us with enough information to determine how the companies in this review can be classified. *See* GOI questionnaire

response dated June 13, 2011 at 10. It also did not address our questions regarding whether benefits are limited by region, nor did it submit information pertaining to how benefits were distributed across Italy. We requested this information twice, in supplemental questionnaires dated May 12, and June 28, 2011. Pursuant to 19 CFR 351.502(d), we do not regard a subsidy as being specific under section 771(5A)(D) of the Act solely because the subsidy is limited to the agricultural sector. However, because the GOI failed to provide us with enough information to determine how benefits are limited by region, and did not provide us with usage information, we are unable to determine whether benefits under this program are otherwise specific.

As explained above under “Use of Facts Otherwise Available and Adverse Inferences,” in cases where there is not enough information on the record for us to determine whether a program is specific (see section 776(a)(1) of the Act), and in cases where an interested party fails to provide information that has been requested by the Department by the deadline for the submission of that information (see section 776(a)(2)(B) of the Act), we use facts otherwise available. We further explained that an adverse inference is warranted where a party fails to cooperate by not acting to the best of its ability to comply with a request for information from the Department. Therefore, we preliminarily determine as adverse facts available that benefits received by Tomasello and Fabianelli under LD 38/2000 are specific.

We further determine preliminarily that the grants and loans provided under LD 38/2000 are financial contributions because they are a direct transfer of funds from the GOI. See section 771(5)(D)(i) of the Act.

In accordance with 19 CFR 351.504(a), the benefit provided by the grant is the amount of the grant. Pursuant to 19 CFR 351.524(b)(2), the Department will normally expense nonrecurring benefits provided under a particular subsidy program to the year in which benefits are received if the total amount approved under the program is less than 0.5 percent of relevant sales during the year in which the subsidy was approved. Because the GOI approved Fabianelli for amounts equaling less than 0.5 percent of Fabianelli's sales in the year in which the grant was approved, we have treated this grant as having been expensed prior to the POR in accordance with 19 CFR 351.524(b)(2). Thus, no countervailable benefit was provided to Fabianelli during the POR as a result of this

program. See Business Proprietary Memorandum to the File, “2009 Preliminary Results Calculation Memorandum for Pastificio Fabianelli S.p.A.” (August 1, 2011).

We also preliminarily determine that loans under LD 38/2000 provide a countervailable subsidy within the meaning of section 771(5) of the Act because they provide a benefit from the GOI in the amount of the difference between the interest a company paid on the loan and the interest the company would have paid on a comparable commercial loan. In accordance with 19 CFR 351.505(c)(2), we calculated the countervailable benefit Tomasello received in the POR by computing the difference between the payments Tomasello made on the loan during the POR and the payments Tomasello would have made on a benchmark loan. See the “Benchmarks for Long-Term Loans and Discount Rates” section of this notice above. We divided the benefit received by Tomasello by its total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from loans under Article 23 of Legislative Decree 38/2000 to be 0.10 percent *ad valorem* for Tomasello. See Tomasello Preliminary Calc Memo.

K. Law 289/02, Article 62, Investments in Disadvantaged Areas

Article 62 of Law 289/02 provides a credit towards taxes payable. The law was established to promote investment in disadvantaged areas by providing assistance to companies making investments such as the purchase of new equipment for existing structures or building new structures. Pallante reported receiving benefits under this program. See Pallante questionnaire response dated November 3, 2010 at 10 and Exhibit 5; see also Pallante questionnaire response dated March 31, 2011 at 3.

We have previously determined that Article 62 of Law 289/02 confers a countervailable subsidy. See *Certain Pasta from Italy: Preliminary Results of the Tenth Countervailing Duty Administrative Review*, 72 FR 43616 (August 6, 2007), unchanged in *Certain Pasta From Italy: Final Results of the Tenth Countervailing Duty Administrative Review*, 73 FR 7251 (February 7, 2008). The credit against taxes is a financial contribution within the meaning of section 771(5)(D)(ii) of the Act because it represents revenue foregone by the GOI and 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. *Id.*

In the instant review, neither the GOI nor the respondent companies have provided new information which would warrant reconsideration of our determination that this program confers countervailable subsidies. See *Live Swine from Canada*, 61 FR at 52420.

In accordance with 19 CFR 351.524(c), we generally consider tax credits to confer recurring benefits. However, pursuant to 19 CFR 351.524(c)(2)(iii), when a subsidy is tied to the capital structure or capital assets of the firm, the Department treats the subsidy as non-recurring. Thus, 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 credit was approved. Therefore, we used the methodology described in 19 CFR 351.524(d) to allocate the benefit over time, and we divided the amount allocated to the POR by Pallante's total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from Law 289/02 Article 62 to be 0.68 percent *ad valorem* for Pallante. See Pallante Preliminary Calc Memo.

L. Social Security Reductions and Exemptions—Sgravi

Italian law allows companies, particularly those located in the Mezzogiorno, to use a variety of exemptions from and reductions of payroll contributions that employers make to the Italian social security system for health care benefits, pensions, etc. These social security reductions and exemptions, also known as sgravi benefits, are regulated by a complex set of laws and regulations, and are sometimes linked to conditions such as creating more jobs. We have found in past segments of this proceeding that benefits under some of these laws (e.g., Law 1089) are available only to companies located in the Mezzogiorno and other disadvantaged regions. See *Pasta Investigation*, 61 FR at 30293. Certain other laws (e.g., Law 407/90) provide benefits to companies all over Italy, but the level of benefits is higher for companies in the Mezzogiorno and other disadvantaged regions than for companies in other parts of the country. *Id.* at 30294. Still

other laws provide benefits that are not linked to any region.

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

In the instant review, no party in this proceeding challenged our past determinations in the *Pasta Investigation* and subsequent reviews that sgravi benefits, generally, were countervailable for companies located within the Mezzogiorno. See *Live Swine from Canada*, 61 FR at 52420. Sgravi benefits were provided during the POR under Law 407/90 to Tomasello. See Tomasello questionnaire response dated November 3, 2011 at 16.

(1) Law 407/90

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

In the *Pasta Investigation*, we determined that Law 407/90 confers a countervailable subsidy within the meaning of section 771(5) of the Act. See *Pasta Investigation*, 61 FR at 30294. The reduction or exemption of taxes is revenue foregone that is otherwise due and is, therefore, a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. The benefit is the difference in the amount of the tax savings between companies located in the Mezzogiorno and companies located in the rest of Italy, in accordance with 19 CFR 351.509(a). Additionally, the program is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because higher levels of benefits are limited to companies in the Mezzogiorno.

In accordance with 19 CFR 351.524(c), and consistent with our methodology in the *Pasta Investigation* and in subsequent administrative reviews, we have treated social security

reductions and exemptions as recurring benefits. See, e.g., *Pasta Investigation*, 61 FR at 30294. To calculate the countervailable subsidy for Tomasello, we divided the difference during the POR between the savings for the respondent company located in the Mezzogiorno and the savings a company located in the rest of Italy would have received. This amount was divided by Tomasello's total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from Law 407/90 to be 0.01 percent *ad valorem* for Tomasello. See Tomasello Preliminary Calc Memo.

II. Programs Preliminarily Determined To Not Confer any Benefit During the POR

A. Law 317/91 Benefits for Innovative Investments

In the *Seventh Administrative Review*, the Department found that Law 317/91 allows for a capital contribution or a tax credit up to a maximum amount of Euro 232,405.60 to small- and medium-sized industrial, commercial, and service companies for innovative investments. However, no respondents in that review received benefits during the POR and the program was not analyzed further. See *Seventh Administrative Review*, 69 FR at 45684. Fabianelli reported that its subsidiary FABFIN received a grant under Law 317/91 in 2002. See Fabianelli questionnaire response dated November 3, 2010 at 19.

Pursuant to 19 CFR 351.524(b)(2), the Department will normally expense nonrecurring benefits provided under a particular subsidy program to the year in which benefits are received if the total amount approved under the program is less than 0.5 percent of relevant sales during the year in which the subsidy was approved. Because the GOI approved Fabianelli for an amount equaling less than 0.5 percent of Fabianelli's sales in the year in which the grant was approved,⁶ we have treated this grant as having been expensed prior to the POR in accordance with 19 CFR 351.524(b)(2). Thus, no countervailable benefit was provided to Fabianelli during the POR under this program.

In situations where any benefit to the subject merchandise would be so small

⁶ Generally, when two companies are cross-owned, the Department uses the combined sales of both companies to calculate the countervailable subsidy. In this case, benefits received by both Fabianelli and FABFIN were so small that they were *de minimis* based on the total sales of the recipient company alone. Therefore, we consider it unnecessary to use the combined sales of both companies because doing so would have no impact on Fabianelli's subsidy rate.

that there would be no impact on the overall subsidy rate, regardless of a determination of countervailability, it may not be necessary to determine whether benefits conferred under these programs to the subject merchandise are countervailable. See, e.g., *Final Negative Countervailing Duty Determination; Live Cattle From Canada*, 64 FR 57040, 57055 (October 22, 1999) ("*Cattle From Canada Final Determination*"). In this instance, since any benefit conferred upon Fabianelli was expensed prior to the POR, a determination of countervailability would have no impact on the overall subsidy rate. Thus, consistent with our past practice, we do not consider it necessary to determine whether benefits conferred under this provision of Law 341/95 to the subject merchandise are countervailable.

B. Industrial Development Grants Under Law 341/95

Fabianelli informed the Department that it received a grant in 2004 under Law 341/95 for the purchase of a computerized management system. See Fabianelli questionnaire response dated November 3, 2011 at 20. It noted that these funds were received under a different provision than the one examined by the Department in the fourth administrative review. See *Certain Pasta From Italy: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 66 FR 40987, 40991 (August 6, 2001), unchanged in *Fourth Administrative Review Final*.

Pursuant to 19 CFR 351.524(b)(2), the Department will normally expense nonrecurring benefits provided under a particular subsidy program to the year in which benefits are received if the total amount approved under the program is less than 0.5 percent of relevant sales during the year in which the subsidy was approved. Because the GOI approved Fabianelli for an amount equaling less than 0.5 percent of Fabianelli's sales in the year in which the grant was approved, we have treated this grant as having been expensed prior to the POR in accordance with 19 CFR 351.524(b)(2).

In situations where any benefit to the subject merchandise would be so small that there would be no impact on the overall subsidy rate, regardless of a determination of countervailability, it may not be necessary to determine whether benefits conferred under these programs to the subject merchandise are countervailable. See, e.g., *Cattle From Canada Final Determination*, 64 FR at 57055. In this instance, since any benefit conferred upon Fabianelli was

expensed prior to the POR, a determination of countervailability would have no impact on the overall subsidy rate. Thus, consistent with our past practice, we do not consider it necessary to determine whether benefits conferred under this provision of Law 341/95 to the subject merchandise are countervailable.

III. Programs Preliminarily Determined To Not Be Used

We examined the following programs and preliminarily determined 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. *Grant Received Pursuant to the Community Initiative Concerning the Preparation of Enterprises for the Single Market ("PRISMA")*
- C. *European Regional Development Fund ("ERDF") Programma Operativo Plurifondo ("P.O.P.") Grant*
- D. *European Regional Development Fund ("ERDF") Programma Operativo Multiregionale ("P.O.M.") Grant*
- E. *Certain Social Security Reductions and Exemptions—Sgravi (including Law 223/91, Article 8, Paragraph 4 and Article 25, Paragraph 9; and Law 196/97)*
- F. *Law 236/93 Training Grants*
- G. *Law 1329/65 Interest Contributions ("Sabatini Law") (Formerly Lump-Sum Interest Payment Under the Sabatini Law for Companies in Southern Italy)*
- H. *Development Grants Under Law 30 of 1984*
- I. *Law 908/55 Fondo di Rotazione Iniziative Economiche (Revolving Fund for Economic Initiatives) Loans*
- J. *Brescia Chamber of Commerce Training Grants*
- K. *Ministerial Decree 87/02*
- L. *Law 10/91 Grants to Fund Energy Conservation*
- M. *Export Restitution Payments*
- N. *Export Credits Under Law 227/77*
- O. *Capital Grants Under Law 675/77*
- P. *Retraining Grants Under Law 675/77*
- Q. *Interest Contributions on Bank Loans Under Law 675/77*
- R. *Preferential Financing for Export Promotion Under Law 394/81*
- S. *Urban Redevelopment Under Law 181*
- T. *Industrial Development Grants Under Law 183/76*
- U. *Interest Subsidies Under Law 598/94*
- V. *Duty-Free Import Rights*
- W. *Law 113/86 Training Grants*

X. *European Agricultural Guidance and Guarantee Fund*

Y. *Law 341/95 Interest Contributions on Debt Consolidation Loans (Formerly Debt Consolidation Law 341/95)*

Z. *Interest Grants Financed by IRI Bonds*

AA. *Article 44 of Law 448/01*

BB. *Law 289/02*

(1) *Article 63—Increase in Employment*

CC. *Law 662/96—Patti Territoriali*

DD. *Law 662/96—Contratto di Programma*

IV. Previously Terminated Programs

A. *Regional Tax Exemptions Under IRAP*

B. *VAT Reductions Under Laws 64/86 and 675/55*

C. *Corporate Income Tax ("IRPEG") Exemptions*

D. *Remission of Taxes on Export Credit Insurance Under Article 33 of Law 227/77*

E. *Export Marketing Grants Under Law 304/90*

F. *Tremonti Law 383/01*

G. *Social Security Reductions and Exemptions—Sgravi*

(1) *Article 44 of Law 448/01*

(2) *Law 337/90*

(3) *Law 863/84*

(4) *Law 196/97*

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated individual subsidy rates for the respondents, De Cecco, Fabianelli, Pallante and Tomasello.

For the period January 1, 2009, through December 31, 2009, we preliminarily find the net subsidy rates for the producers/exporters under review to be as follows:

| Producer/exporter | Net subsidy rate (percent) |
|--|----------------------------|
| F.lli De Cecco di Filippo Fara San Martino S.p.A | 10.39 |
| Pastificio Fabianelli S.p.A | 0.00 |
| Molino e Pastificio Tomasello S.p.A | 4.79 |
| Pastificio Antonio Pallante, S.r.L | 1.00 |

¹ (de minimis)

Assessment Rates

If these preliminary results are adopted in our final results of this review, because the countervailing duty rates for De Cecco and Fabianelli are less than 0.5 percent and are, thus, *de minimis*, the Department will instruct U.S. Customs and Border Protection ("CBP") to liquidate shipments of certain pasta by De Cecco and Fabianelli from January 1, 2009, through December

31, 2009, without regard to countervailing duties. For all entries by Tomasello and Pallante, we will instruct CBP to assess countervailing duties on all shipments at the net subsidy rates listed above.

For all other companies that were not reviewed (except Barilla G. e R. F.lli S.p.A. and Gruppo Agricoltura Sana S.r.l., which are excluded from the order, and Pasta Lensi S.r.l., which was revoked from the order), the Department has directed CBP to assess countervailing duties on all entries between January 1, 2009, and December 31, 2009, at the rates in effect at the time of entry.

The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review.

Cash Deposit Instructions

The Department also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown above with the exception of De Cecco and Fabianelli. For De Cecco and Fabianelli, no cash deposits of estimated duties will be required because their rate is *de minimis*. For all non-reviewed firms (except Barilla G. e R. F.lli S.p.A. and Gruppo Agricoltura Sana S.r.l., which are excluded from the order, and Pasta Lensi S.r.l., which was revoked from the order), we will instruct CBP to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice.

Pursuant to 19 CFR 351.309(c)(ii), interested parties may submit written arguments in case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the date of filing the case briefs, in accordance with 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue, and (2) a brief summary of the

argument with an electronic version included. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Interested parties may request a hearing within 30 days after the date of publication of this notice, pursuant to 19 CFR 351.310(c).

The Department will publish a notice of the final results of this administrative review within 120 days from the publication of these preliminary results, in accordance with section 751(a)(3) of the Act.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: August 1, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011-20070 Filed 8-5-11; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-934]

1-Hydroxyethylidene-1, 1-Diphosphonic Acid From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On April 7, 2011, the Department of Commerce (the "Department") published in the *Federal Register* its preliminary results of the administrative review of the antidumping duty order on 1-hydroxyethylidene-1, 1-diphosphonic acid ("HEDP") from the People's Republic of China ("PRC"), covering the period April 23, 2009 through March 31, 2010.¹ The Department gave interested parties an opportunity to comment on the *Preliminary Results*. After reviewing the interested parties' comments, the Department has not made changes to the margin for the final results. The final dumping margin for this review is listed in the "Final Results of Review" section below.

DATES: *Effective Date:* August 8, 2011.

¹ See *1-Hydroxyethylidene-1, 1-Diphosphonic Acid From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Review in Part*, 76 FR 19325 (April 7, 2011) ("*Preliminary Results*").

FOR FURTHER INFORMATION CONTACT:

Shawn Higgins, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0679.

SUPPLEMENTARY INFORMATION:

Background

Compass Chemical LLC ("Petitioner") and Jiangsu Jianghai Chemical Group Co., Ltd. ("Jiangsu Jianghai") submitted case briefs on May 9, 2011² and rebuttal briefs on May 16, 2011.³ On July 1, 2011, the Department placed additional information on the record.⁴ Jiangsu Jianghai submitted comments on this information on July 15, 2011.

Analysis of Comments Received

All issues raised by parties in their case and rebuttal briefs are addressed in the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China" (August 2, 2011) ("Issues and Decision Memorandum"), which is hereby adopted by this notice. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit, Main Commerce Building, Room 7046, and is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

² See Letter from Petitioner to the Secretary of Commerce, "1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China" (May 9, 2011); Letter from Jiangsu Jianghai to the Secretary of Commerce, "1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China; A-570-934" (May 9, 2011).

³ See Letter from Petitioner to the Secretary of Commerce, "1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China" (May 16, 2011); Letter from Jiangsu Jianghai to the Secretary of Commerce, "1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China; A-570-934" (May 16, 2011).

⁴ See Memorandum from Shawn Higgins, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to Interested Parties, "Administrative Review of the Antidumping Duty Order on 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Placing Additional Information on Record" (July 1, 2011).

Changes Since the Preliminary Results

Based on an analysis of the comments received and other information on record of this review, the Department has modified its corroboration analysis since the *Preliminary Results*. Specifically, the Department has supplemented its corroboration analysis from the *Preliminary Results* by using a surrogate value for phosphorus trichloride on the record of this review to corroborate both the surrogate value for phosphorus trichloride used in the petition and the petition's normal value.⁵

Scope of the Order

The merchandise subject to the order includes all grades of aqueous, acidic (non-neutralized) concentrations of 1-hydroxyethylidene-1, 1-diphosphonic acid,⁶ also referred to as hydroxyethylidenediphosphonic acid, hydroxyethanediphosphonic acid, acetodiphosphonic acid, and etidronic acid. The CAS (Chemical Abstract Service) registry number for HEDP is 2809-21-4. The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 2931.00.9043. It may also enter under HTSUS subheading 2811.19.6090. While HTSUS subheadings are provided for convenience and customs purposes only, the written description of the scope of the order is dispositive.

Final Partial Rescission of the Administrative Review

In the *Preliminary Results*, the Department stated that it intended to rescind this administrative review with respect to Changzhou Wujin Fine Chemical Factory Co., Ltd. ("Wujin Fine") in accordance with 19 CFR 351.213(d)(3). No parties commented on the Department's intent to rescind. Because there is no information or argument on the record of this review that warrants reconsideration of the Department's intent to rescind, the Department is rescinding this administrative review with respect to Wujin Fine.

Separate Rates

In the *Preliminary Results*, the Department determined that Jiangsu Jianghai does not qualify for a separate rate in this review and should be treated as part of the PRC-wide entity because it has failed to demonstrate an absence of *de jure* and *de facto* government control and did not fully participate in

⁵ See *infra* Corroboration section; Issues and Decision Memorandum at Issue 4.

⁶ C₂H₅O₇P₂ or C(CH₃)(OH)(PO₃H₂)₂.