

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 7.30 percent, the all-others rate established in the LTFV investigation. See *Antidumping Duty Order: Brass Sheet and Strip from the Federal Republic of Germany*, 52 FR 6997 (March 6, 1987), amended at 52 FR 35750 (September 23, 1987). 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: April 7, 2010.

**Ronald K. Lorentzen,**

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010-8419 Filed 4-12-10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-475-819]

#### Certain Pasta From Italy: Preliminary Results of the 13th (2008) 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, 2008, through December 31, 2008. We preliminarily find that Pastificio Lucio Garofalo S.p.A. ("Garofalo") received countervailable subsidies and that F.lli De Cecco di Filippo Fara San Martino

S.p.A. ("De Cecco Pastificio")/Molino e Pastificio De Cecco S.p.A. ("De Cecco Pescara"), members of the De Cecco group of companies, received *de minimis* countervailable subsidies. See the "Preliminary Results of Review" section, below. Interested parties are invited to comment on these preliminary results. See the "Public Comment" section of this notice.

**DATES:** *Effective Date:* April 13, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Andrew McAllister or Anna Flaaten, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1174 and (202) 482-5156, 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, 2009, the Department published a notice of "Opportunity to Request Administrative Review" of this countervailing duty order for calendar year 2008, the period of review ("POR"). See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 74 FR 31406 (July 1, 2009). On July 2, 2009, we received such a request from De Cecco Pastificio. On July 31, 2009, we received additional review requests from De Matteis Agroalimentare S.p.A. ("De Matteis"); Agritalia S.r.L. ("Agritalia"); F. Divella S.p.A. ("Divella"); and Garofalo. In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of this review on August 25, 2009. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 42873 (August 25, 2009).

On October 9, 2009, the Department selected De Cecco Pastificio and Garofalo as mandatory respondents. See Memorandum to Susan H. Kuhbach, Senior Office Director, "Certain Pasta from Italy: Thirteenth Countervailing Duty Administrative Review—Respondent Selection," dated October 9, 2009 which is on file in the Department's Central Records Unit ("CRU") in Room 1117 of the main Department building.

On November 10, 2009, we issued countervailing duty questionnaires to

the Commission of the European Union ("EU"), the Government of Italy ("GOI"), De Cecco Pastificio and Garofalo. We received responses to our questionnaires in December 2009. We issued supplemental questionnaires to De Cecco Pastificio, Garofalo, and the GOI in January and March 2010, and we received responses to our supplemental questionnaires in February, March, and April 2010.

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for the preliminary results of this review is now June 7, 2010. See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

#### Period of Review

The POR for which we are measuring subsidies is January 1, 2008, through December 31, 2008.

#### Scope of the Order

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

Excluded from the scope of the order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, 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 Istituto 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 Istituto 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.

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).

#### 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 certain companies to the combined sales of those companies.

In the instant review, De Cecco Pastificio has responded on behalf of itself and three other members of the De Cecco group of companies: 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 Pastificio's December 24, 2009 questionnaire response ("De Cecco Pastificio's QR") at 5.

De Cecco Pastificio manufactures pasta for sale in Italy, to third-country markets, and to the United States. *Id.* at 6. De Cecco Pescara manufactures pasta for sale to De Cecco Pastificio and to unaffiliated third parties in Italy. *Id.*; see

also De Cecco Pastificio's February 25, 2010 supplemental questionnaire response ("SQR") at 1. De Cecco Pastificio and De Cecco Pescara are majority owned by members of the De Cecco family, either directly or indirectly and hence, cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi). See De Cecco Pastificio's March 26, 2010 SQR; see also Business Proprietary Memorandum, "Information Concerning Respondents' Attribution," dated April 7, 2010 ("Respondents' Attribution Memo"). Therefore, in accordance with 19 CFR 351.525(b)(6)(ii), we are attributing subsidies received by De Cecco Pastificio 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 Pastificio responded in the fourth administrative review, was merged with De Cecco Pastificio 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), 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 Pastificio.

Finally, De Cecco Pastificio 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 Pastificio's March 26, 2010 SQR. C.E.I.D. is a consortium consisting of Centrale and De Cecco Pastificio. However, neither Centrale nor C.E.I.D. received any subsidies during the POR or AUL period. See De Cecco Pastificio's QR at 5. Therefore, we do not need to 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 Pastificio under 19 CFR 351.525(b)(6).

Garofalo has reported and we confirm that Garofalo has no affiliates for which cross-ownership exists. See Garofalo's December 17, 2009 questionnaire response at 2-3; see also Respondents' Attribution Memo. Thus, we are attributing any subsidies received by Garofalo to Garofalo's sales only.

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

Because no comparable commercial loans were taken out by the respondents in the years in which the GOI agreed to provide the subsidies, we used a national average interest rate for comparable commercial loans, pursuant to 19 CFR 351.505(a)(3)(ii). Consistent with past practice in this proceeding, for years prior to 1995, we used the Bank of Italy reference rate adjusted upward to reflect the mark-up an Italian commercial bank would charge a corporate customer. See, e.g., *Certain Pasta From Italy: Preliminary Results and Partial Rescission of the Eighth Countervailing Duty Administrative Review*, 70 FR 17971 (April 8, 2005), unchanged in final results, *Certain Pasta from Italy: Final Results of the Eighth Countervailing Duty Administrative Review*, 70 FR 37084 (June 28, 2005). For benefits received in 1995–2004, we used the Italian Bankers' Association ("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 final results, *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 2005–2008, 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 December 21, 2009, questionnaire response at Exhibits 3–6. *Id.* We

increased this rate by the mark-up and bank charges described above.

For discount rates, no company for which we need such rates took out any loans in the years in which the GOI agreed to provide the subsidies in question. Therefore, pursuant to 19 CFR 351.524(d)(3)(i)(B), we used the national average cost of long-term, fixed-rate loans to allocate non-recurring benefits over time.

### **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 Pastificio/De Cecco Pescara and Garofalo received grants under Law 64/86 that conferred a benefit during the POR.

In the *Pasta Investigation*,<sup>1</sup> 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*,<sup>2</sup> "it is well-established that where the Department has determined that a program is \* \* \* countervailable, it is the Department's policy not to re-

<sup>1</sup> *Final Affirmative Countervailing Duty Determination: Certain Pasta ("Pasta") From Italy*, 61 FR 30288 (June 14, 1996) ("*Pasta Investigation*").

<sup>2</sup> *Live Swine from Canada: Final Results of Countervailing Duty Administrative Reviews*, 61 FR 52408, 52420 (October 7, 1996) ("*Live Swine from Canada*").

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."<sup>3</sup>

In this review, neither the GOI nor 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 determine that grants received by De Cecco Pastificio/De Cecco Pescara and Garofalo under Law 64/86 exceeded 0.5 percent of their 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 those grants. We divided the benefit of De Cecco Pastificio/De Cecco Pescara in the POR by their combined total sales in the POR and divided the benefit of Garofalo in the POR by its total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 64/86 industrial development grants to be 0.25 percent *ad valorem* for De Cecco Pastificio/De Cecco Pescara and 0.25 percent *ad valorem* for Garofalo. See Memorandum to the File, "2008 Preliminary Results Calculation Memorandum for F.lli De Cecco di Filippo Fara San Martino S.p.A./Molino e Pastificio De Cecco S.p.A.," dated April 7, 2010 ("De Cecco Pastificio/De Cecco Pescara Preliminary Calc Memo"); Memorandum to the File,

<sup>3</sup> See Department's November 10, 2009, letter to the Embassy of Italy, at enclosure.

“2008 Preliminary Results Calculation Memorandum for Pastificio Lucio Garofalo S.p.A.,” dated April 7, 2010 (“Garofalo 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 sectors (manufacturing, mining, and certain business services) may apply for industrial development grants.

Law 488/92 grants are made only after a preliminary examination by a bank authorized by the Ministry of Industry. On the basis of the findings of this preliminary examination, the Ministry of Industry ranks the companies applying for grants. The ranking is based on indicators such as the amount of capital the company will contribute from its own funds, the number of jobs created, regional priorities, *etc.* Grants are then made based on this ranking. De Cecco Pastificio/De Cecco Pescara and Garofalo received grants under Law 488/92 that conferred a benefit during the POR.

In the *Second Administrative Review*,<sup>4</sup> 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. 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) 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 expensed in the year of receipt. We determine that grants received by De Cecco Pastificio/De Cecco Pescara and Garofalo under Law 488/92 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 benefits over time. We divided the benefit received by De Cecco Pastificio/De Cecco Pescara in the POR by their combined total sales in the POR and divided the benefit received by Garofalo in the POR by its total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 488/92 industrial development grants to be 0.18 percent *ad valorem* for De Cecco Pastificio/De Cecco Pescara and 0.37 percent *ad valorem* for Garofalo. *See* De Cecco Pastificio/De Cecco Pescara Preliminary Calc Memo and Garofalo 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 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* GOI’s March 11, 2010 second supplemental questionnaire response. 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 were 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.* The modification to Law 488/92 provides for maximum and minimum investment limits based upon the economic sector (*i.e.*, industry, tourism, and trade). *Id.*

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 Pastificio/De Cecco Pescara on their Law 488/92 loan and the amount of interest De Cecco Pastificio/De Cecco Pescara would have paid at the benchmark interest rate. We divided the benefit received by De Cecco Pastificio/De Cecco Pescara in the POR by their combined sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 488/92 interest contributions to be 0.01 percent *ad valorem* for De Cecco Pastificio/De Cecco Pescara. *See* De Cecco Pastificio/De Cecco Pescara Preliminary Calc Memo.

## II. Programs Preliminarily Determined To Be Countervailable for Which There Is No Measurable Benefit

### A. 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,

<sup>4</sup> *See Certain Pasta From Italy: Preliminary Results of Countervailing Duty Administrative Review*, 64 FR 17618, 17620 (April 12, 1999) (“*Second Administrative Review*”), unchanged in final results, *Certain Pasta From Italy: Final Results of the Second Countervailing Duty Administrative Review*, 64 FR 44489 (August 16, 1999).

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., Laws 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.

(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 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. To calculate the countervailable subsidy for Garofalo, 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 Garofalo's total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from Law 407/90 to be 0.00 percent *ad valorem* for Garofalo. See Garofalo Preliminary Calc Memo.

III. Programs Preliminarily Determined To Not Be Used

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

A. Industrial Development Loans under Law 64/86.

B. 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. Law 317/91 Benefits for Innovative Investments.

K. Brescia Chamber of Commerce Training Grants.

L. Ministerial Decree 87/02.

M. Law 10/91 Grants to Fund Energy Conservation.

N. Export Restitution Payments.

O. Export Credits under Law 227/77.

P. Capital Grants under Law 675/77.

Q. Retraining Grants under Law 675/77.

R. Interest Contributions on Bank Loans under Law 675/77.

S. Preferential Financing for Export Promotion under Law 394/81.

T. Urban Redevelopment under Law 181.

U. Industrial Development Grants under Law 183/76.

V. Interest Subsidies under Law 598/94.

W. Duty-Free Import Rights.

X. European Social Fund Grants.

Y. Law 113/86 Training Grants.

Z. European Agricultural Guidance and Guarantee Fund.

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

BB. Interest Grants Financed by IRI Bonds.

CC. Article 44 of Law 448/01.

DD. Law 289/02.

(1) Article 62—Investments in Disadvantaged Areas.

(2) Article 63—Increase in Employment.

EE. Law 662/96—Patti Territoriali.

FF. Law 662/96—Contratto di Programma.

IV. Preliminarily Terminated Programs

A. Social Security Reductions and Exemptions—*Sgravi*

(1) Law 196/97

Law 196/97 provides exemptions, for an additional 12-month period, for employers in the Mezzogiorno that hire employees under "skilling" contracts on a long-term (or permanent) basis. See *12th (2007) Administrative Review Preliminary Results*, 74 FR at 25492. Skilling contracts, as provided for under Law 863/84, occur when a company hires a worker under a non-renewable contract with a term of 24 months or less and the contract includes an educational or training component. *Id.* In the preliminary results of the 2007 administrative review, we determined that the last possible date to request exemptions under Law 196/97 was October 31, 2006. *Id.* at 25493. Moreover, because the exemption granted under Law 196/97 only lasts for 12 months, benefits were set to expire by October 31, 2007. *Id.* Because benefits expired during the 2007 POR, we preliminarily determined in the 2007 administrative review that Law 196/97 was terminated during that POR

and there would be no subsidy benefits from this program after the 2007 POR. *Id.* Further, there was no indication of any substitute or replacement program. *Id.*

There are no facts on the record in the instant review that warrant reconsideration of our prior finding from the preliminary results of the 2007 administrative review that any benefits previously available under Law 196/97 terminated as of October 31, 2007. Thus, we preliminarily determine that Law 196/97 has been terminated.

#### V. Previously Terminated Programs

A. Regional Tax Exemptions under IRAP.

B. VAT Reductions under Laws 64/86 and 675/55.

C. Corporate Income Tax (“IRPEG”).

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.

#### Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated individual subsidy rates for the mandatory respondents, De Cecco Pastificio/De Cecco Pescara and Garofalo.

For the non-selected respondents, we have followed the Department’s policy for antidumping duty and countervailing duty investigations, and antidumping duty administrative reviews which is to base the margin on an average of the margins calculated for those companies selected for individual review, excluding *de minimis* rates or rates based entirely on adverse facts available (“AFA”). See *Notice of Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from Mexico*, 73 FR 35649, 35651 (June 24, 2008); see also *Certain Frozen Warmwater Shrimp From India: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 40492, 40495–98 (July 15, 2008), and *Lightweight Thermal Paper From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323, 57325–26 (October 2, 2008). Therefore, we preliminarily determine to assign to the non-selected respondents in this review the rate calculated for Garofalo, which is the only rate in this review that is

neither *de minimis* nor based entirely on AFA.

For the period January 1, 2008, through December 31, 2008, we preliminarily find the net subsidy rate for the producers/exporters under review to be that specified in the chart below:

Producer/Exporter	Net subsidy rate (percent)
F.lli De Cecco di Filippo Fara San Martino S.p.A./Molino e Pastificio De Cecco S.p.A.	0.44 (de minimis)
Pastificio Lucio Garofalo S.p.A.	0.62
De Matteis Agroalimentare S.p.A.	0.62
Agritalia S.r.l.	0.62
F. Divella S.p.A.	0.62
All-Others Rate	3.85

#### Assessment Rates

If these preliminary results are adopted in our final results of this review, because the countervailing duty rate for De Cecco Pastificio/De Cecco Pescara is less than 0.5 percent and, thus, *de minimis*, the Department will instruct U.S. Customs and Border Protection (“CBP”) to liquidate shipments of certain pasta by De Cecco Pastificio/De Cecco Pescara from January 1, 2008, through December 31, 2008, without regard to countervailing duties. For all entries by Garofalo, De Matteis, Agritalia, and Divella, 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, 2008, and December 31, 2008, 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 Pastificio/De Cecco Pescara. For De Cecco Pastificio/De Cecco Pescara, 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.

#### 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). Any hearing, if requested, will be held 42 days after the publication of this notice, or the first workday thereafter.

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: April 7, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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