

entered, or withdrawn, from warehouse for consumption during the period of review (February 1, 2003, through July 31, 2003). The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of this notice of rescission of antidumping duty new shipper review.

Notification to Importers

This notice also serves as a reminder to importers of their responsibility under section 351.402(f) of the Department's regulations 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 the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: July 22, 2004.

Holly A. Kuga,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-475-819]

Certain Pasta from Italy: Preliminary Results and Partial Rescission of the Seventh Countervailing Duty Administrative Review

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

ACTION: Notice of preliminary results and partial rescission of countervailing duty administrative review.

SUMMARY: The Department of Commerce is conducting an administrative review of the countervailing duty order on certain pasta from Italy for the period of January 1, 2002 through December 31, 2002. We preliminarily find that certain producers/exporters under review received countervailable subsidies during the period of review. If the final results remain the same as these preliminary results, we will instruct U.S. Customs and Border Protection to assess countervailing duties as detailed in the "Preliminary Results of Review" section of this notice.

We are also rescinding the review for Pastificio Antonio Pallante S.r.l. in accordance with 19 CFR 351.213(d)(3).

Interested parties are invited to comment on these preliminary results (see the "Public Comment" section of this notice).

DATES: *Effective Date:* August 30, 2004.

FOR FURTHER INFORMATION CONTACT:

Melani Miller, Andrew Smith, or Nathan Halat, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0116, (202) 482-1276, and (202) 482-5256, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On July 24, 1996, the Department of Commerce ("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 2, 2003, the Department published a notice of "Opportunity to Request Administrative Review" of this countervailing duty order for calendar year 2002. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 68 FR 39511 (July 2, 2003). On July 31, 2003, we received requests for review from the following six producers/exporters of Italian pasta: Pastificio Fratelli Pagani S.p.A. ("Pagani"), Pastificio Antonio Pallante S.r.l. ("Pallante"), Pastificio Corticella S.p.A. ("Corticella")/Pastificio Combattenti S.p.A. ("Combattenti") (collectively, "Corticella/Combattenti"), Pasta Zara S.p.A. ("Pasta Zara")/Pasta Zara 2 S.p.A. ("Pasta Zara 2")¹ (collectively "Pasta

¹ During the first part of the period of review (calendar year 2002) ("POR"), Pasta Zara 2 was

Zara/Pasta Zara2"), Pasta Lensi S.r.l. ("Lensi"),² and Pastificio Carmine Russo S.p.A. ("Russo")/Pastificio Di Nola S.p.A. ("Di Nola") (collectively, "Russo/Di Nola"). In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of the review on August 22, 2003. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 68 FR 50750 (August 22, 2003).

On October 21, 2003 and December 1, 2003, we issued countervailing duty questionnaires to the Commission of the European Union ("EC"), the Government of Italy ("GOI"), Pagani, Pallante, Corticella/Combattenti, Pasta Zara/Pasta Zara 2, Lensi, and Russo/Di Nola. We received responses to our questionnaires in November and December 2003 and January 2004. We issued supplemental questionnaires to the respondents in January, February, March, May, and June 2004, and received responses to our supplemental questionnaires in February, March, May, and June 2004.

On October 23, 2003, Pallante withdrew its request for review. As discussed in the "Partial Rescission" section, below, we are rescinding this administrative review for Pallante.

On March 17, 2004, we published a notice extending the time limit for the preliminary results until July 30, 2004. See *Certain Pasta from Italy: Notice of Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review*, 69 FR 12642 (March 17, 2004).

Partial Rescission

The Department's regulations at 19 CFR 351.213(d)(1) provide that the Department will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Pallante withdrew its request for an administrative review on October 23, 2003, which is within the 90-day deadline. No other party requested a review of Pallante's sales. Therefore, because this withdrawal request was timely filed, we are rescinding this review with respect to Pallante in accordance with 19 CFR 351.213(d)(1). We will instruct U.S. Customs and

named Societa per Azioni Pasta Giulia S.p.A.; on September 9, 2002, the company changed its name to Pasta Zara 2.

² Lensi is the successor in interest to IAPC Italia S.r.l. See *Notice of Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews: Certain Pasta from Italy*, 68 FR 41553 (July 14, 2003).

Border Protection ("Customs") to liquidate any entries from Pallante during the POR and to assess countervailing duties at the rate that was applied at the time of entry.

Scope of the Review

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bats of varying dimensions.

Excluded from the scope of this review 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 Italia, Consorzio per il Controllo dei Prodotti Biologici, Associazione Italiana per l'Agricoltura Biologica, or Codex S.r.l.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is 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 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 Department's Central Records Unit ("CRU") in Room B-099 of the main Department building.

(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. Kuebach to Barbara P. Sidari*, dated July 30, 1998, which is available in the CRU.

(3) On October 23, 1997, the petitioners filed an application requesting that the Department initiate an anti-circumvention investigation of Barilla S.r.L. ("Barilla"), an Italian producer and exporter of pasta. The Department initiated the investigation on December 8, 1997. See *Initiation of Anti-Circumvention Inquiry on Antidumping Duty Order on Certain Pasta From Italy*, 62 FR 65673 (December 15, 1997). On October 5, 1998, the Department issued its final determination that, pursuant to section 781(a) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act ("URAA") effective January 1, 1995 ("the Act"), circumvention of the antidumping order on pasta from Italy was occurring by reason of exports of bulk pasta from Italy produced by Barilla which subsequently were repackaged in the United States into packages of five pounds or less for sale in the United States. See *Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 63 FR 54672 (October 13, 1998).

(4) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances is within the scope of the antidumping and countervailing duty orders. On May 24, 1999, we 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 available in the CRU.

(5) On April 27, 2000, the Department self-initiated an anti-circumvention inquiry to determine whether Pagani'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 Act and 19 CFR 351.225(b). See *Certain Pasta from Italy: Notice of Initiation of Anti-circumvention Inquiry of 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).

Period of Review

The period for which we are measuring subsidies is January 1, 2002 through December 31, 2002.

Changes in Ownership

Effective June 30, 2003, the Department adopted a new methodology for analyzing privatizations in the countervailing duty context. See *Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act*, 68 FR 37125 (June 23, 2003) ("*Modification Notice*").³ The Department's new methodology is based on a rebuttable "baseline" presumption that non-recurring, allocable subsidies continue to benefit the subsidy recipient throughout the allocation period (which normally corresponds to the average useful life ("AUL") of the recipient's assets). However, an interested party may rebut this baseline presumption by demonstrating that, during the allocation period, a change in ownership occurred in which the former owner sold all or substantially all of a company or its assets, retaining no control of the company or its assets, and that the sale was an arm's-length transaction for fair market value.

In considering whether the evidence presented demonstrates that the transaction was conducted at arm's length, we will be guided by the definition of an arm's-length transaction included in the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103-316 (1994), which defines an arm's-length transaction as a transaction negotiated between unrelated parties, each acting in its own interest, or between related parties such that the terms of the

³ The *Modification Notice* explicitly addresses full privatizations, but notes that the Department would not make a decision at that time as to whether the new methodology would also be applied to other types of ownership changes and factual scenarios, such as partial privatizations or private-to-private sales. See 68 FR at 37136. We have now determined to apply the new methodology to full, private-to-private sales of a company (or its assets) as well. Among other reasons, we note that our prior "same person" methodology used for analyzing changes in ownership such as private-to-private sales has been found unlawful by the Court of Appeals for the Federal Circuit in *Allegheny Ludlum Corp. v. United States*, 367 F.3d 1339 (Fed. Cir. 2004).

transaction are those that would exist if the transaction had been negotiated between unrelated parties. *Id.* at 928.

In analyzing whether the transaction was for fair market value, the basic question is whether the full amount that the company or its assets (including the value of any subsidy benefits) were actually worth under the prevailing market conditions was paid, and paid through monetary or equivalent compensation. In making this determination, the Department will normally examine whether the seller acted in a manner consistent with the normal sales practices of private, commercial sellers in that country. Where an arm's-length sale occurs between purely private parties, we would normally expect the private seller to act in a manner consistent with the normal sales practices of private, commercial sellers in that country. With regard to a government-to-private transaction, however, where we cannot make that same assumption, a primary consideration in this regard normally will be whether the government failed to maximize its return on what it sold, indicating that the purchaser paid less for the company or assets than it otherwise would have had the government acted in a manner consistent with the normal sales practices of private, commercial sellers in that country.

If we determine that the evidence presented does not demonstrate that the change in ownership was at arm's length for fair market value, the baseline presumption will not be rebutted and we will find that the unamortized amount of any pre-sale subsidy benefit continues to be countervailable. Otherwise, if it is demonstrated that the change in ownership was at arm's length for fair market value, any pre-sale subsidies will be presumed to be extinguished in their entirety and, therefore, non-countervailable.

A party can, however, obviate this presumption of extinguishment by demonstrating that, at the time of the change in ownership, the broader market conditions necessary for the transaction price to reflect fairly and accurately the subsidy benefit were not present, or were severely distorted by government action (or, where appropriate, inaction). In other words, even if we find that the sales price was at "market value," parties can demonstrate that the broader market conditions were severely distorted by the government and that the transaction price was meaningfully different from what it would otherwise have been absent the distortive government action.

Where a party demonstrates that these broader market conditions were severely distorted by government action and that the transaction price was meaningfully different from what it would otherwise have been absent the distortive government action, the baseline presumption will not be rebutted and the unamortized amount of any non-recurring pre-sale subsidy benefit will continue to be countervailable. Where a party does not make such a demonstration with regard to an arm's-length sale for fair market value, we will find all non-recurring pre-sale subsidies to be extinguished by the sale and, therefore, to be non-countervailable.

In the instant proceeding, Russo/Di Nola, Corticella/Combattenti, and Pasta Zara/Pasta Zara 2 underwent changes in ownership during the applicable period. Neither Corticella/Combattenti nor Pasta Zara/Pasta Zara 2 challenged the Department's baseline presumption that non-recurring subsidies continue to benefit the recipient over the allocation period. Thus, we preliminarily find for these respondents that any unallocated benefits from non-recurring subsidies received prior to their changes in ownership continue to be countervailable.

Regarding Russo/Di Nola, Di Nola was a family-owned and operated company until 1998, when it was purchased by another company (whose name is proprietary). In December 2001, Carmine Russo S.p.A. di Cicciano ("Cicciano"), which also had been a family-owned and -operated business, was purchased by Di Nola. At the time of the sale, Cicciano ceased to exist and the newly acquired company was legally reconstituted as Russo. In 2003, after the POR in this proceeding, the shares of Di Nola were fully absorbed into Russo and the two companies became a single corporate entity.

With regard to the Di Nola change in ownership in 1998, Russo/Di Nola reports that Di Nola did not receive any non-recurring subsidies prior to its purchase in 1998. Thus, we preliminarily find that we need not perform a change-in-ownership analysis for this transaction because Di Nola did not receive any subsidies prior to this change in ownership.

As for the Cicciano change in ownership, Russo/Di Nola reports that benefits under three programs were received by Cicciano prior to the change in ownership in 2001: Industrial Development Grants Under Law 488/92, Industrial Development Grants Under Law 64/86, and European Regional Development Fund ("ERDF") Grants. According to Russo/Di Nola, the subsidies received by Cicciano were

extinguished by the openly-negotiated, arm's-length sale of most of Cicciano's shares and all of its assets and, thus, none of these benefits are countervailable with respect to Russo/Di Nola under the Department's new change-in-ownership methodology.

As noted above, the first step in our new change-in-ownership methodology is to determine whether the former owner sold all or substantially all of a company or its assets, retaining no control of the company or its assets. Based on record information, almost all of the outstanding shares of Cicciano were sold to Di Nola, and most of the former shareholders divested themselves of all ownership and operational control of the company (the exact numbers are proprietary). As noted above, Cicciano's name was formally changed to Russo and the company was legally registered with the appropriate authorities as a new entity. Thus, based on the information on the record, we preliminarily find that the former owner sold all or substantially all of Cicciano and its assets, retaining no control of the company or its assets.

Thus, we next examined whether the sale was an arm's-length transaction for fair market value. According to record information, the transaction was negotiated between unrelated, privately-owned parties. There is no record evidence of any pre-existing relationship or affiliation between Cicciano and Di Nola or any company in Di Nola's corporate group of companies. According to the share purchase agreement, the shares were valued by external independent auditors. An internal feasibility analysis and market study, as well as an external independent asset valuation study and a due diligence analysis, were also conducted of Cicciano by the purchasing entity to determine the company's financial status, brand strength, marketability, and asset value. After negotiations, the parties agreed to an all-cash share purchase in which almost all of the shares of Cicciano were purchased by Di Nola.

Based on the above information, we preliminarily find that the sale of Cicciano was an arm's-length transaction negotiated between unrelated parties, each acting in its own interest. As noted above, where an arm's-length sale occurs between purely private parties, we would normally expect the private seller to act in a manner consistent with the normal sales practices of private, commercial sellers in that country. Because this transaction occurred between purely private parties, we also preliminarily find that this transaction was conducted for fair

market value. Consequently, we preliminarily determine that any subsidies received by Cicciano prior to its change in ownership; are presumed to be extinguished in their entirety and, therefore, non-countervailable.

Subsidies Valuation Information

Allocation Period

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

Attribution of Subsidies

The Department's regulations at 19 CFR 351.525(b)(6) direct that the Department will attribute subsidies received by certain affiliated companies to the combined sales of those companies. Based on our review of the responses, we find that "cross-ownership" exists with respect to certain companies, as described below, and we have attributed subsidies accordingly.

Lensi: Lensi has no affiliated companies located in Italy and has, therefore, responded only on its own behalf.

Russo/Di Nola: Russo has responded on behalf of itself and Di Nola, both of whom manufacture the subject merchandise in the same group of companies. We preliminarily find that cross-ownership exists between Russo and Di Nola in accordance with 19 CFR 351.525(b)(6)(i) and (ii) are, thus, attributing any subsidies received by Russo and Di Nola to the combined sales of both companies.

Corticella/Combattenti: Corticella and Combattenti are both producers of subject merchandise and are owned by the same holding company, Euricom S.p.A. ("Euricom"), and companies in the Euricom group, Euricom group companies own 100 percent of Combattenti and 70 percent of Corticella. Other Euricom group companies are also involved in the production and distribution of subject merchandise. Specifically, one group company (whose name is proprietary), receives a commission on some of

Corticella's home market sales. Also, Euricom group company Molini Certosa S.p.A. ("Certosa") mills durum and non-durum wheat, some of which is an input for subject merchandise produced by Corticella and Combattenti. Additionally, Cooperative Lomellina Cerealicoltori ("CLC") provides conversion services for both Combattenti and Corticella. CLC is not part of the Euricom group and Euricom is not a member of CLC, but a relative of Euricom's majority shareholder is a CLC cooperative member.

We preliminarily determine that cross-ownership does not exist with regard to CLC consistent with 19 CFR 351.525(b)(6)(vi). Therefore, we are not including subsidies received by CLC or CLC's sales in our subsidy calculations. With regard to the euricom group company that receives a commission on some of Corticella's home market sales, although cross-ownership may exist, the company does not meet any of the criteria stipulated in 19 CFR 351.525(b)(6)(i) through (iv). Moreover, because Corticella/Combattenti has reported that this company acts as a selling agent only on Corticella's home market sales and not on its exports, 19 CFR 351.525(c) does not apply. Thus, we are also not including subsidies received by this company or this company's sales in our subsidy calculations.

With regard to Corticella and Combattenti, we preliminarily find that they each meet the criteria stipulated in 19 CFR 351.525(b)(6)(ii). As for Certosa, Corticella/Combattenti has argued that it does not have to report on behalf of Certosa because Certosa does not meet any of the criteria listed in 19 CFR 351.525(b)(6), including 19 CFR 351.525(b)(6)(iv). Specifically, citing to the *Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India*, 67 FR 34905 (May 16, 2002) and the accompanying Issues and Decision memorandum at comment 15 ("*Pet Film from India*"), Corticella/Combattenti argues that, because Certosa's production is not "dedicated almost exclusively" to semolina (the input product for pasta) because it also mills soft wheat, 19 CFR 351.525(b)(6)(iv) does not apply. (Pagani makes an identical argument with regard to its affiliated durum and soft wheat milling operation, Molina di Rovato S.p.A. ("Rovato").)

We disagree with Corticella/Combattenti and Pagani's interpretation of *PET Film from India* and find that 19 CFR 351.525(b)(6)(iv) is applicable to both Corticella/Combattenti and Pagani

in regard to their affiliated milling operations. According to 19 CFR 351.525(b)(6)(iv), if there is cross-ownership between an input supplier and a downstream producer, and production of the input product is primarily dedicated to production of the downstream product, the Department will attribute subsidies received by the input producer to the combined sales of the input and downstream products produced by both corporations (excluding the sales between the two corporations). The issue in question is not the different types of products the input supplier produces and in what overall proportions, but whether the input supplier is producing a product that is primarily dedicated to the production of the subject merchandise. So, for example, in this instance, the issue at hand is whether the input (semolina) is being produced primarily for pasta (the subject merchandise), and not whether the supplier mill's production is divided between different products (durum and soft wheat).

For all the reasons above, we are preliminarily treating Corticella, Combattenti, Euricom, and Certosa as a single respondent. However, Combattenti/Corticella has reported that Euricom and Certosa did not receive any POR subsidies. Thus, we are attributing any subsidies received to the combined sales of Corticella and Combattenti.

Pagani: Pagani is a producer of the subject merchandise. Rovato is an affiliated durum and soft wheat milling operation that sells some of the semolina that it mills from durum wheat to Pagani for use in its production of the subject merchandise. Both companies are owned by Alimco Srl. ("Alimco"), which is a holding company. During the POR, all three companies shared a common president and board members. Also, Riccardi Srl. ("Riccardi") is an affiliated agent through whom Pagani sold pasta for sales to certain pasta customers.

With regard to Riccardi, although cross-ownership may exist, the company does not itself meet any of the criteria stipulated in 19 CFR 351.525(b)(6). Moreover, Pagani has reported that Riccardi did not receive any subsidies; thus, 19 CFR 351.525(c) is not applicable. Therefore, we are not including subsidies received by Riccardi or Riccardi's sales in our subsidy calculations.

As for Alimco and Rovato, based on record information and on 19 CFR 351.525(b)(6)(iii) and (iv), respectively (see also above discussion under "Attribution of Subsidies" for Corticella/Combattenti), we are treating Alimco, Rovato, and Pagani as a single

respondent. Pagani has reported that neither Alimco nor Rovato received any subsidy benefits during the POR. Thus, we are attributing any subsidies received to Pagani's sales only.

Pasta Zara/Pasta Zara 2: Pasta Zara and its affiliate Pasta Zara 2 are both producers of the subject merchandise. As discussed in the July 22, 2004 memorandum to Susan Kuhback entitled "Pasta Zara S.p.A.—Attribution Issues" (which is on file in the Department's CRU), we have determined that cross-ownership exits with regard to Pasta Zara and Pasta Zara 2 in accordance with 19 CFR 351.525(b)(6)(vi). Therefore, we are treating Pasta Zara, Pasta Zara 2, and Pasta Zara's parent company (whole name is proprietary) as a single entity in accordance with 19 CFR 351.525(b)(6)(ii) and (iii). Pasta Zara/Pasta Zara 2 has reported that Pasta Zara's parent company had no POR sales and received no POR subsidies. Thus, we are attributing any subsidies received to the combined sales of Pasta Zara and Pasta Zara 2.

Discount Rates and Benchmarks for Loans

Pursuant to 19 CFR 351.524(d)(3)(i)(B), we used the national average cost of long-term fixed-rate loans as discount rates for allocating non-recurring benefits over time because none of the companies for which we need such discount rates took any loans in the years in which the government agreed to provide the subsidies in question.

For benchmark rates, in accordance with 19 CFR 351.505(a), we used 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 loan being examined, 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. In instances where no applicable company-specific comparable commercial loans were available, we used a national average interest rate for comparable commercial loans as allowed under 19 CFR 351.505(a)(3)(ii).

Where we relied on national average interest rates, 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, consisted with past practice in this proceeding. For subsidies received in 1995 and later,

we used the Italian Bankers' Association interest rate, increased by the average spread charged by banks on loans to commercial customers plus an amount for bank charges.

Analysis of Programs

I. Programs Preliminarily Determined To Confer Subsidies During the POR

A. Export Marketing Grants Under Law 304/90

Under Law 304/90, the GOI provided grants to promote the sale of Italian food and agricultural products in foreign markets. The grants were given for pilot projects aimed at developing links and integrating marketing efforts between Italian food producers and foreign distributors. The emphasis was on assisting small- and medium-sized enterprises ("SMEs").

Corticella received a grant under this program in 1993 to assist it in establishing a sales office and network in the United States. No other respondent covered by this review received benefits under this program during the POR.

In the *Final Affirmative Countervailing Duty Determination: Certain Pasta from Italy*, 61 FR 30288 (June 14, 1996) ("*Pasta Investigation*"), the Department determined that these exports marketing 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. Also, these grants were found to be specific within the meaning of section 771(5A)(B) of the Act because their receipt was contingent upon exportation. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these grants confer a countervailable subsidy.

Also in *Pasta Investigation*, the Department treated export marketing 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.

Because the amount of the grant that was approved by the GOI exceeded 0.5 percent of Corticella's exports to the United States in the year of approval, we used the grant methodology described in 19 CFR 351.524(d) to allocate the benefit over time. We divided the benefit attributable to the POR by the value of the companies' total exports to the United States in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 304/90 export marketing

grants to be 0.09 percent *ad valorem* for Corticella/Combattenti.

B. Industrial Development Grants Under Law 488/92

In 1986, the European Union ("EU") initiated an investigation of the GOI's regional subsidy practices. As a result of this investigation, the GOI changed the regions eligible for regional subsidies to include depressed areas in central and northern Italy in addition to the Mezzogiorno (southern Italy). After this change, the areas eligible for regional subsidies are the same as those classified as Objective 1, Objective 2, and Objective 5(b) areas by the EU.⁴ 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. (Loans are not provided under Law 488/92.)

Law 488/92 grants are made only after a preliminary examination by a bank authorized by the Ministry of Industry. On the basis 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.

Russo/Di Nola is the only respondent in this proceeding that reported receiving grants under Law 488/92 which could potentially confer a benefit during the POR. Specifically, Russo's predecessor company, Cicciano, received three separate grants through this program. For the two grants approved in 1996, Cicciano received all of the payments under these grants prior to the change in ownership. For the one grant approved in 1997, most of the payments to Cicciano were made prior to Cicciano's purchase by Di Nola; however, part of the payment was made subsequent to the change in ownership in December 2001.

In past reviews in this proceeding, we found grants made through this program to be countervailable. See, e.g., *Certain Pasta from Italy: Final Results of the Second Countervailing Duty Administrative Review*, 64 FR 44489, 44490–91 (August 16, 1999) ("*Pasta Second Review*"). Pursuant to section 771(5) of the Act, the grants are a direct transfer of funds from the GOI bestowing a benefit in the amount of the

⁴ Objective 1 covers projects located in underdeveloped regions; Objective 2 addresses areas in industrial decline; and Objective 5 pertains to agricultural areas.

grant. Also, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these grants are countervailable subsidies.

With regard to the benefits under this program received prior to Cicciano's change in ownership, as discussed above in the "Changes In Ownership" section, we preliminarily find that any pre-sale subsidies received by Cicciano are non-countervailable during the POR.

As for the benefits provided subsequent to the change in ownership, in the *Pasta Second Review*, the Department treated industrial development grants under Law 488/92 as non-recurring. No new information has been placed on the record of this review that would cause us to depart from this treatment.

Because the amount of the grant that was approved by the GOI exceeded 0.5 percent of the reported total sales in the year of approval, we used the grant methodology described in 19 CFR 351.524(d) to allocate the post-change-in-ownership benefit over time. We divided the benefit attributable to the POR by the value of Russo/Di Nola's total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 488/92 industrial development grants to be 0.04 percent *ad valorem* for Russo/Di Nola.

C. Industrial Development Loans Under Law 64/86

In addition to the Law 64/86 industrial development grants discussed below, Law 64/86 also provided reduced rate industrial development loans with interest contributions paid by the GOI on loans taken by companies constructing new plants or expanding or modernizing existing plants in the Mezzogiorno. As discussed below in the "Industrial Development Grants Under Law 64/86" section, pasta companies were eligible for interest contributions to expand existing plants, but not to establish new plants. The fixed interest rates on these long-term loans were set at the reference rate with the GOI's interest contributions serving to reduce this rate. Although Law 64/86 was abrogated in 1992 (effective 1993), projects approved prior to 1993 were authorized to receive interest subsidies after 1993.

Russo's predecessor, Cicciano, had a Law 64/86 industrial development loan outstanding during the POR. No other respondent in this proceeding had Law

64/86 loans outstanding during the POR.

In the *Pasta Investigation*, the Department determined that Law 64/86 loans confer a countervailable subsidy 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 after accounting for the GOI's interest contributions. Also, these loans were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these loans confer a countervailable subsidy.

In accordance with 19 CFR 351.505(c)(2), we calculated the benefit for the POR by computing the difference between the Payments Russo made on its Law 64/86 loan during the POR and the payments Russo would have made on the benchmark loan. We divided the benefit received by Russo by Russo/Di Nola's total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 64/86 industrial development loans to be 0.03 percent *ad valorem* for Russo/Di Nola.

D. European Regional Development Fund Grants

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

Russo/Cicciano is the only respondent in this proceeding that reported receiving grants under the ERDF which could potentially confer a benefit during the POR. Specifically, Russo's predecessor company, Cicciano, was approved for an ERDF grant in 1999. Most of the payments to Cicciano as part of this grant were made prior to Cicciano's purchase by Di Nola; however, some payments were received subsequent to the change in ownership in December 2001.

In the *Pasta Investigation*, the Department determined that ERDF grants confer a countervailable subsidy within the meaning of section 771(5) of the Act. They are a direct transfer of

funds bestowing a benefit in the amount of the grant. Also, these grants were found to be regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. In this review, neither the EU, the GOI, nor the responding companies have provided new information which would warrant reconsideration of our determination that ERDF grants are countervailable subsidies.

With regard to the benefits under this program received prior to Cicciano's change in ownership, as discussed above in the "Changes In Ownership" section, we preliminarily find that any pre-sale subsidies received by Cicciano are non-countervailable during the POR.

As for the benefits provided subsequent to the change in ownership, in the *Pasta Investigation*, the Department treated ERDF 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.

Because the amount of the grant that was approved exceeded 0.5 percent of the reported total sales in the year of approval, we used the grant methodology described in 19 CFR 351.524(d) to allocate the post-change-in-ownership benefit over time. We divided the benefit attributable to the POR by the value of Russo/Di Nola's total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the ERDF grant to be 0.01 percent *ad valorem* for Russo/Di Nola.

E. Law 236/93 Training Grants

Under Law 236/93, which is administered by the regional governments but funded by the GOI, grants are provided to Italian companies for worker training.

Pagani received a grant under this program during the POR. Its grant application was approved in 1999, and tranches of the grant were disbursed in 2000, 2001, and 2002.

In *Certain Pasta from Italy: Final Results of the Third Countervailing Duty Administrative Review*, 66 FR 11269 (February 23, 2001) ("*Pasta Third Review*"), the Department determined that Law 236/93 training 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. Also, because the GOI and the regional government of Abruzzo did not provide adequate information about the distribution of grants under this program, we determined that Law 236/93 training grants were specific within the meaning of section 771(5A) of the Act. In this

review, neither the GOI nor any other party has provided sufficient information that would warrant reconsideration of or change our past determination that these grants are countervailable subsidies.

Consistent with 19 CFR 351.524(c)(1) and our treatment of this grant in the *Pasta Third Review*, the Department is treating this worker training subsidy as a recurring benefit. Therefore, to calculate the countervailable subsidy, we divided the amount received by Pagani in the POR by the companies' total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy for this program to be 0.06 percent *ad valorem* for Pagani.

F. Law 1329/65 Interest Contributions (Sabatini Law) (Formerly Lump-Sum Interest Payment Under the Sabatini Law for Companies in Southern Italy)

The Sabatini Law was enacted in 1965 to encourage the purchase of machine tools and production machinery. It provides, *inter alia*, for one-time, lump-sum interest contributions from the Mediocredito Centrale toward interest owed on loans taken out to purchase these types of equipment.

Paasta Zara, Pagani, and Russo/Di Nola reported they received interest contributions under the Sabatini Law.

With respect to Pasta Zara and Pagani, in the *Pasta Investigation*, the Department concluded that the benefits provided in northern Italy under this program were not specific and, therefore, not countervailable. No party in this proceeding has challenged this past finding. Thus, we preliminarily find that any benefits provided to Pagani and Pasta Zara are not countervailable because these companies are located in northern Italy.

As for Russo/Di Nola, because the concessionary rate for companies in southern Italy was lower than the interest rate available to users of the program in northern Italy, the Department in the *Pasta Investigation* determined that the Sabatini Law interest contributions to companies in southern Italy were countervailable subsidies within the meaning of section 771(5) of the Act. They were 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. In addition, they were regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination

that benefits provided under this program in southern Italy confer a countervailable subsidy.

The Department also determined in the *Pasta Investigation* and in subsequent reviews of this order that companies were able to anticipate the interest contributions at the time the loans were taken out. Consequently, in accordance with 19 CFR 351.508(c)(2) and 19 CFR 351.505(c)(2), any benefit would be countervailed in the year of receipt. *See also Certain Pasta from Italy: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 66 FR 40987 (August 6, 2001) (unchanged in *Certain Pasta from Italy: Final Results of the Fourth Countervailing Duty Administrative Review*, 66 FR 64214 (December 12, 2001) and *Certain Pasta from Italy: Amended Final Results of the Fourth Countervailing Duty Administrative Review*, 67 FR 59 (January 2, 2002)). No new information has been placed on the record of this review that would cause us to depart from this practice.

In the instant proceeding Russo/Di Nola reported that Di Nola received interest contributions under this program during the POR. To calculate the countervailable subsidy for these interest contributions that were received during the POR, we divided the amount received by Russo/Di Nola in the POR by Russo/Di Nola's total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy for this program to be 0.08 percent *ad valorem* for Russo/Di Nola.

G. Development Grants Under Law 30 of 1984

Law 30 of 1984 was enacted by the Regional Government of Friuli-Venezia Giulia to provide one-time development grants to companies for investments in industrial projects, including the construction of new plants and modernization or expansion of existing plants. Eligible companies can receive a grant amounting to 20 percent of the cost of the investment, with the grant not to exceed 1,000,000,000 lire. Only companies located in certain parts of the Friuli-Venezia Giulia region are eligible to receive benefits under this program in accordance with article 87, paragraph 3, letter c of the EC Treaty.

Pasta Zara 2 received a grant under this program during the POR for consultancy costs for company start-up and preparation of contracts relative to the purchase of plant equipment. No other respondent in this proceeding reported receiving POR benefits under this program.

In the *Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from Italy*, 64 FR 73244, 73255 (December 29, 1999) ("*CTL Plate from Italy*"), the Department determined that these grants confer a countervailable subsidy within the meaning of section 771(5) of the Act. Specifically, they are a financial contribution as defined in section 771(5)(D)(i) of the Act in the form of a direct transfer of funds from the GOI bestowing a benefit in the amount of the grant. Also, these grants were found to be specific within the meaning of section 771(5A)(D)(iv) of the act because eligibility for the grants was limited to certain geographical areas within the Friuli-Venezia Giulia region. In this review, neither the GOI nor the responding companies have provided new information which would warrant reconsideration of our determination that these grants confer a countervailable subsidy.

Also in *CTL Plate from Italy*, the Department treated grants under this program as non-recurring. No new information has been placed on the record of this review that would cause us to depart from this treatment.

Pursuant to 19 CFR 351.524(b)(2), the Department will normally expense non-recurring 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 amount of the development grant approved by the GOI for Pasta Zara 2 under this program was less than 0.5 percent of Pasta Zara 2's sales in the year in which the grant was approved, we allocated the entire amount of the grant to the POR (the year in which the grant was received) in accordance with 19 CFR 351.524(b)(2). We divided the full amount of the grant by the value of the companies' total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 30/84 development grants to be 0.02 percent *ad valorem* for Pasta Zara/Pasta Zara 2.

H. Social Security Reductions and Exemptions—Sgravi

Italian law allows companies, particularly those located in the Mezzogiorno, to use a variety of exemptions and reductions ("*sgravi*") of the payroll contributions that employers make to the Italian social security system for health care benefits, pensions, etc. The *sgravi* benefits are regulated by a complex set of laws and

regulations, and are sometimes linked to conditions such as creating more jobs. We have found in past proceedings that the benefits under some of these laws (e.g., Laws 183/76 and 449/97) are available only to companies located in the Mezzogiorno and other disadvantaged regions. Other laws (e.g., Laws 407/90 and 863/84) provide benefits to companies all over Italy, but the level of benefits is higher for companies in the south than for companies in other parts of the country.

The various laws identified as having provided *sgravi* benefits during the POR are the following: Law 407/90 (Pagani, Lensi, and Corticella), Law 223/91 (Combattenti, Pagani, Lensi, and Pasta Zara/Pasta Zara 2), Law 337/90 (Corticella), Law 56/87 (Pasta Zara), and Law 25/55 (Pasta Zara).

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

In the instant review, no party in this proceeding challenged our past determinations that *sgravi* benefits were not countervailable for companies located outside of the Mezzogiorno. Therefore, because Pagani, Lensi, and Pasta Zara/Pasta Zara 2 are not located in the Mezzogiorno, we preliminarily find that these three companies did not receive any countervailable subsidies under this program during the POR.

Additionally, neither the GOI nor the responding companies challenged our past determinations that most *sgravi* benefits for companies in southern Italy confer a countervailable subsidy. However, Corticella/Combattenti, which is located in the Mezzogiorno, has claimed that benefits under the three *sgravi* laws through which it received benefits during the POR (Law 407/90, Law 223/91, and Law 337/90) are not specific. Specifically, Corticella/Combattenti claim that benefits under these three laws are not countervailable because they are generally available throughout Italy.

Based on a review of record evidence in the instant proceeding, we preliminarily find, consistent with our past determinations, that benefits under

these three laws are specific within the meaning of section 771(5A) of the Act and, thus, confer countervailable subsidies. Contrary to Corticella/Combattenti's claims, no party in this proceeding has provided sufficient information with regard to laws 407/90 and 223/91 which would warrant reconsideration of our past determinations that these laws are regionally specific within the meaning of section 771(5A)(D)(iv) of the Act. As for law 337/90, record information also shows that this law is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act because the higher levels of benefits were limited to companies in the Mezzogiorno and to handicraft enterprises.

In accordance with 19 CFR 351.524(c) and consistent with our methodology in the *Pasta Investigation* and in subsequent reviews of this order, we have treated social security reductions and exemptions as recurring benefits. To calculate the countervailable subsidy, we divided Corticella/Combattenti's savings in social security contributions during the POR by the companies' total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the *sgravi* program to be 0.01 percent *ad valorem* for Corticella/Combattenti.

I. Law 908/55

The GOI created the Fondo di Rotazione Iniziative Economiche (Rotational Fund for Economic Initiatives) ("FRIE") through Law 908 of October 18, 1955 in order to promote economic initiatives within the territory of Trieste and the province of Gorizia in the Friuli-Venezia Giulia region. The fund provides reduced-interest loans for the construction, re-activation, transformation, modernization, improvement, and industrial development of industrial plants and handicraft companies in the above-noted areas. Companies who receive long-term, variable rate loans under this program receive an interest rate equal to 50 percent of the 6-month Euro Interbank Offered Rate.

Pasta Zara 2 was the only respondent in this proceeding who reported having outstanding Law 908/55 loans during the POR. Specifically, Pasta Zara 2 had two long-term, variable rate FRIE loans that were outstanding during the POR whose loan terms were established in 1999 and 2001.

We preliminarily find that these loans are a direct transfer of funds from the GOI within the meaning of section 771(5)(D)(i) of the Act. Also, the loans are regionally specific within the

meaning of section 771(5A)(D)(iv) of the Act. Finally, we preliminarily determine that a benefit exists pursuant to section 771(5)(E)(ii) of the Act. According to 19 CFR 351.505(a)(5), in order to determine whether long-term variable interest rate loans confer a benefit, the Department first compares the benchmark interest rate to the rate on the government-provided loan for the year in which the government loan terms were established. According to 19 CFR 351.505(a)(5)(i), if the comparison shows that the origination-year interest rate on the government-provided loan was lower than the for the origination-year interest rate on the benchmark loan, the Department will examine that loan in the POR to measure the benefit. Based on a comparison of the origination year interests rates of the 908/55 loans and the benchmark loans, we found that the government loan rates were lower than the benchmark rates in both instances. Thus, we preliminarily find that a benefit was conferred through these loans within the meaning of section 771(5)(E)(ii) of the Act as described in 19 CFR 351.505(a)(5) and that these loans constitute countervailable subsidies pursuant to section 771(5) of the Act.

In accordance with 19 CFR 351.505(c)(4), we calculated the benefit for the POR by computing the difference between the payments Pasta Zara 2 made on their Law 908/55 loans during the POR and the payments Pasta Zara 2 would have made on the benchmark loan. We then divided the benefit received by the companies' total sales in the POR.

On this basis, we preliminarily determine the countervailable subsidy from the Law 908/55 loans to be 2.74 percent *ad valorem* for Pasta Zara/Pasta Zara 2.

II. Program Preliminarily Determined To Be Not Countervailable

European Economic Commission ("ECC") Decision 94/217

Under EEC Decision 94/217, SMEs could receive onetime interest contributions on European Investment Bank ("EIB") loans for investments that led to the creation of new jobs. The program was intended to provide assistance to SMEs in the EC by lowering the interest rates on EIB loans for these companies. The loans under this program were limited to ECU 30,000 times the number of jobs created, and interest contribution payments were in total limited to ten percent of the size of the loan (equal to two percent per year on the five-year loans that were required under this program). In order

to receive the interest contributions, companies were required to submit a certification relating to the creation of jobs, and the financial institutions acting as intermediaries were required to certify that the loans had been made and were in repayment. Once these certifications were received, the EIB agent institution would forward the EIB interest contribution to the beneficiary via its financial intermediary. The application deadline for applying for benefits under this program was December 15, 1995, and all payments under this program were finalized by the end of 1997.

Pasta Zara is the only respondent in this proceeding that reported receiving interest contributions under EEC Decision 94/217.

According to record information, any SME in the EC was eligible to apply for loans under these programs and to receive the associated interest contributions. The interest contributions were not export subsidies or import substitution subsidies according to sections 771(5A)(A) and (B) of the Act. Nor were the interest contributions specific according to the criteria stipulated in sections 771(5A)(D)(i), (ii), or (iv) of the Act. Finally, according to record information, thousands of SMEs within the EC received benefits under this program in many different industries. According to data on the sectoral distribution of benefits under this program, the metal working and mechanical engineering industries (20.6 percent) and the private and public sector services industries (11.3 percent) received the most benefits under this program, with the foodstuffs industry (which would include the pasta industry) ranked third with 8.9 percent of the benefits and the rubber and plastic processing industry ranked fourth with 6.6 percent of the benefits. Based on this information, we preliminarily find that the pasta industry was not a predominant user of this program and did not receive a disproportionately large amount of the benefits under this program. Thus, the program is not *de facto* specific according to section 771(5A)(D)(iii) of the Act. Based on the above analysis, we find that this program is not specific as defined in section 771(5A) of the Act, and thus, not countervailable.

111. Programs Preliminarily Determined to Not Confer Subsidies During the POR

A. Industrial Development Grants Under Law 64/86

Law 64/86 provided assistance to promote development in the Mezzogiorno. 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. (As noted above, loans were also provided under Law 64/86.) In 1992, the Italian Parliament abrogated Law 64/86 and replaced it with Law 488/92 (*see above*). 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.

Russo/Di Nola is the only respondent in this proceeding that reported receiving grants under Law 64/86 which could potentially confer a benefit during the POR. Specifically, Cicciano received a grant under this program in 1998 for the general modernization and technical reorganization of the Cicciano plant used in the production of cookies, pasta, and flour.

In past reviews in this proceeding, we found grants made through this program to be countervailable. *See, e.g., Pasta Investigation*. However, the grant under this program was received by Cicciano prior to its purchase by Di Nola in December 2001. Thus, as discussed above in the "Changes In Ownership" section, we preliminarily find that any pre-sale subsidies received by Cicciano as part of this program are extinguished in their entirety and, therefore, provide no countervailable benefit to Russo/Di Nola during the POR.

B. Brescia Chamber of Commerce Training Grants

The Chamber of Commerce of Brescia provided training grants during 2002 and 2003 to companies in the province of Brescia for the professional training of entrepreneurs, directors, and employees. The goal of these grants was to improve economic, social, and productive development in the province.

Lensi was the only respondent in this proceeding that reported receiving grants under this program during the POR.

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. Live Cattle From Canada; Final Negative*

Countervailing Duty Determination, 64 FR 57040, 57055 (October 22, 1999) ("*Cattle from Canada*"). In this instance, any benefit to the subject merchandise resulting from this grant would be so small that there would be no impact on the overall subsidy rate, regardless of a determination of countervailability. Thus, consistent with our past practice, we do not consider it necessary to determine whether benefits conferred thereunder to the subject merchandise are countervailable.

C. Law 317/91 Benefits for Innovative Investments

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. Pasta Zara has stated that it received tax benefits under this law in 1994 but that no benefits were received in the POR. No other respondent reporting receiving POR benefits from this program.

Pursuant to 19 CFR 351.524(c)(1), the Department normally considers tax programs to provide recurring benefits. Because neither Pasta Zara nor its affiliates received tax benefits under Law 317/91 during the POR, we preliminarily determine that this program did not confer a countervailable subsidy in the POR.

D. Tremonti Law 489/94 (Formerly Law Decree 357/94)

Tremonti Law 489/94 allowed for a deduction from taxable income of 50 percent of the difference between investments in new plant and equipment compared to the average investment rate for the preceding five years. Pasta Zara has stated that one of its affiliates received tax benefits under this law in 1995 but that no benefits were received in the POR. No other respondent reporting receiving POR benefits from this program.

Pursuant to 19 CFR 351.524(c)(1), the Department normally considers tax programs to provide recurring benefits. Because neither Pasta Zara nor its affiliates received tax benefits under Law 489/94 during the POR, we preliminarily determine that this program did not confer a countervailable subsidy in the POR.

E. Ministerial Decree 87/02

Ministerial Decree Number 87 (February 25, 2002), in accordance with Law 193 of June 22, 2000, allows companies that hire or have training programs for prisoners to benefit from a monthly tax credit amounting to 516.46 Euros for every prisoner recruited. Pasta

Zara was the only respondent in this proceeding that reported receiving tax credits under this program during the POR.

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*.) In this instance, any benefit to the subject merchandise resulting from this grant would be so small that there would be no impact on the overall subsidy rate, regardless of a determination of countervailability. Thus, consistent with our past practice, we do not consider it necessary to determine whether benefits conferred thereunder to the subject merchandise are countervailable.

Law 10/91 Grants to Fund Energy Conservation

Under Law 10/91, the GOI provides funds for the development of energy-conserving technology. Law 10/91 authorized grants based on applications submitted in 1991 and 1992. Pasta Zara was the only respondent that reported receiving benefits under this program. Specifically, Pasta Zara reported that it received a grant through this program in 1993 in order to purchase new boilers for its facility.

Pursuant to 19 CFR 351.524(b)(2), the Department will normally expense non-recurring 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 amount of the energy savings grant approved by the GOI for Pasta Zara under this program was less than 0.5 percent of Pasta Zara's sales in the year in which the grant was approved, this grant would be expensed prior to the POR in accordance with 19 CFR 351.524(b)(2). Thus, no countervailable benefit was provided to Pasta Zara/Pasta Zara 2 during the POR under this program.

IV. Programs Preliminarily Determine Not To Have Been Used During the POR

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

B. *Regional Tax Exemptions Under IRAP*

C. *Corporate Income Tax (IRPEG) Exemptions*

D. *Export Restitution Payments*

F. *Export Credits Under Law 227/77*

G. *Capital Grants Under Law 675/77*

H. *Retraining Grants Under Law 675/77*

I. *Interest Contributions on Bank Loans Under Law 675/77*

J. *Interest Grants Financed by IRI Bonds*

K. *Preferential Financing for Export Promotion Under Law 394/81*

L. *Urban Redevelopment Under Law 181*

M. *Grant Received Pursuant to the Community Initiative Concerning the Preparation of Enterprises for the Single Market (PRISMA)*

N. *Industrial Development Grants under Law 183/76*

O. *Interest Subsidiaries Under Law 598/94*

P. *Duty-Free Import Rights*

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

R. *European Social Fund Grants*

S. *Law 113/86 Training Grants*

T. *European Agricultural Guidance and Guarantee Fund*

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter covered by this administrative review. For the period January 1, 2002 through December 31, 2002, we preliminarily determine the net subsidy rates for producers/exporters under review to be those specified in the chart shown below.

Producer/exporter	Net subsidy rate
Pastificio Fratelli Pagani S.p.A.	0.06 percent (<i>de minimis</i>)
Pastificio Corticella S.p.A./Pastificio Combattenti S.p.A.	0.10 percent (<i>de minimis</i>)
Pasta Zara S.p.A./Pasta Zara 2 S.p.A./Societa per Azioni Pasta Giulia S.p.A.	2.76 percent
Pasta Lensi S.r.l.	0.00 percent (<i>de minimis</i>)
Pastificio Carmine Russo S.p.A./Pastificio Di Nola S.p.A.	0.16 percent (<i>de minimis</i>)

The calculations will be disclosed to the interested parties in accordance with 19 CFR 351.224(b).

If the final results of this review remain the same as these preliminary

results, the Department intends to instruct Customs to assess countervailing duties at these net subsidy rates. The Department will issue appropriate instructions directly to Customs within 15 days of publication of the final results of this review. The Department also intends to instruct Customs to collect cash deposits of estimated countervailing duties at these rates on the f.o.b. value of all shipments of the subject merchandise from the producers/exporters under review that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

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), the Department has directed Customs to assess countervailing duties on all entries between January 1, 2002 and December 31, 2002 at the rates in effect at the time of entry.

For all non-reviewed firms, we will instruct Customs 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.

Public Comment

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 not later than five days after the date of filing the case briefs. Parties who submit briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. 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. Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs.

The Department will publish a notice of the final results of this administrative review within 120 days from the publication of these preliminary results.

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

Dated: July 26, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04-17419 Filed 7-29-04; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton and Man-Made Fiber Textiles Produced or Manufactured in the People's Republic of China

July 27, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting a limit.

EFFECTIVE DATE: August 2, 2004.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of this limit, refer to the Quota

Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the Bureau of Customs and Border Protection Web site at <http://www.cbp.gov>. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel Web site at <http://otexa.ita.doc.gov>.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Group III is being increased as a special adjustment to allow for shipment of leno mesh fabric (in Category 220).

Also, visa and ELVIS requirements for Category 220 are being changed. Effective for goods exported on and after August 2, 2004, leno mesh fabric in Harmonized Tariff Schedule of the United States (HTSUS) number 5803.90.3000 will require a "220-L" visa and ELVIS transmission, and the rest of Category 220 will continue to require a "220" visa and ELVIS transmission.

A description of the textile and apparel categories in terms of HTS

numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (*see Federal Register* notice 69 FR 4926, published on January 28, 2004). *Also see* 68 FR 65445, published on November 20, 2003.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

July 27, 2004.

Committee for the Implementation of Textile Agreements

Commissioner,
Bureau of Customs and Border Protection,
Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 14, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on August 2, 2004, you are directed to increase the limit for Group III, to the level indicated below:

Category	Twelve-month limit ¹
Group III: 201, 220, 224-V ² , 224-O ³ , 225, 227, 369-O ⁴ , 400, 414, 469pt. ⁵ , 603, 604-O ⁶ , 618-620 and 624-629, as a group.	76,107,974 square meters equivalent.

¹ The limit has not been adjusted to account for any imports exported after December 31, 2003.

² Category 224-V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

³ Category 224-O: all HTS numbers except 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020 (Category 224-V).

⁴ Category 369-O: all HTS numbers except 6307.10.2005 (Category 369-S); 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.0805, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302.51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.0020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9882, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505 (Category 369pt.).

⁵ Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

⁶ Category 604-O: all HTS numbers except 5509.32.0000 (Category 604-A).

In addition, effective on August 2, 2004, for goods exported on and after this date, leno mesh fabric in HTSUS number 5803.90.3000 produced or manufactured in China, will require a category "220-L" visa and ELVIS transmission, and the rest of Category 220 will continue to require a "220" visa and ELVIS transmission.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 04-17365 Filed 7-29-04; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF DEFENSE

Office of the Secretary; Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Munitions System Reliability will meet in closed session on August 19-20, 2004, at Picatinney Arsenal, New Jersey. This Task Force will review the efforts thus far to improve the reliability of munitions systems and identify additional steps to be taken to reduce the amount of unexploded ordnance resulting from munitions failures. The Task Force will: Conduct a methodologically sound assessment of the failure rates of U.S. munitions in actual combat use; review