



DEPARTMENT OF COMMERCE

International Trade Administration

[C-714-001]

Phosphate Fertilizers from the Kingdom of Morocco: Amended Preliminary Determination of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is amending the preliminary affirmative countervailing duty determination on phosphate fertilizers from the Kingdom of Morocco (Morocco) to correct a significant ministerial error.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Robert Palmer or Samuel Glickstein, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-9068 or (202) 482-5307, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(b), on November 30, 2020, Commerce published its preliminary affirmative countervailing duty determination on phosphate fertilizers from Morocco.¹ On November 30, 2020, we received timely ministerial error allegations from the petitioner² and OCP S.A. (OCP)

¹ See *Phosphate Fertilizers from the Kingdom of Morocco: Preliminary Affirmative Countervailing Duty Determination*, 85 FR 76522 (November 30, 2020) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

² The petitioner in this investigation is The Mosaic Company.

that Commerce made significant ministerial errors in the *Preliminary Determination* with respect to OCP's subsidy rate.³

Period of Investigation

The period of investigation (POI) is January 1, 2019 through December 31, 2019.

Scope of the Investigation

The products covered by this investigation are phosphate fertilizers from Morocco. For a complete description of the scope of this investigation, *see* Appendix.

Analysis of Significant Ministerial Error Allegations

Commerce will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination according to 19 CFR 351.224(e). A ministerial error is defined in 19 CFR 351.224(f) as “an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.”⁴ A significant ministerial error is defined as a ministerial error, the correction of which, singly or in combination with other errors, would result in: (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the countervailing duty rate calculated in the original preliminary determination; or (2) a difference between a countervailing duty rate of zero (or *de minimis*) and a countervailing duty rate greater than *de minimis*, or vice versa.⁵

Amended Preliminary Determination

Pursuant to 19 CFR 351.224(e) and (g)(1), Commerce is amending the *Preliminary Determination* to reflect the correction of one ministerial error made in the calculation of the

³ *See* Petitioner's letter, “Ministerial Error Comments on the Preliminary Determination,” dated November 30, 2020 (Petitioner's Clerical Error Comments); and OCP's letter, “Ministerial Error Comments,” dated November 30, 2020 (OCP's Ministerial Error Comments).

⁴ *See* section 705(e) of the Act.

⁵ *See* 19 CFR 351.224(g).

countervailable subsidy rate for OCP.⁶ Specifically, when applying the benchmark interest rate to calculate OCP’s benefit under the loan guarantee program, we inadvertently failed to convert the number into a useable percentage format. Commerce finds that this ministerial error is a significant ministerial error within the meaning of 19 CFR 351.224(g), because correction of this error decreases OCP’s countervailing subsidy rate from 23.46 to 16.88 percent, which is a change that is at least five absolute percentage points in, but not less than 25 percent of, the subsidy rate calculated for OCP in the original *Preliminary Determination*. Furthermore, as OCP’s subsidy rate is the only calculated subsidy rate in this investigation and as such is also the all-others subsidy rate,⁷ Commerce is amending the preliminary all-others subsidy rate accordingly. For a complete discussion of the alleged ministerial errors, *see* the Preliminary Ministerial Error Memo.

Amended Preliminary Determination

Company	Subsidy Rate
OCP S.A. ⁸	16.88 percent
All-Others	16.88 percent

Amended Cash Deposits and Suspension of Liquidation

The collection of cash deposits and suspension of liquidation will be revised according to the rates calculated in this amended preliminary determination. Because the amended rates for OCP and all others result in decreased cash deposits, they will be effective retroactively to

⁶ See Memorandum, “Countervailing Duty Investigation of Phosphate Fertilizers from the Kingdom of Morocco: Allegations of Significant Ministerial Errors in the Preliminary Determination,” dated concurrently with this notice (Preliminary Ministerial Error Memo).

⁷ See *Preliminary Determination* at 85 FR 76522, 76523.

⁸ As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with OCP S.A.: Jorf Fertilizers Company I, Jorf Fertilizers Company II, Jorf Fertilizers Company III, Jorf Fertilizers Company IV, Jorf Fertilizers Company V, and Maroc Phosphore.

November 30, 2020, the date of publication of the *Preliminary Determination*. Parties will be notified of this determination, in accordance with section 703(d) and (f) of the Act.

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the amended preliminary determination, in accordance with 19 CFR 351.224.

International Trade Commission Notification

In accordance with section 703(f) of the Act, we will notify the International Trade Commission of our amended preliminary determination.

Notification to Interested Parties

This amended preliminary determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: December 21, 2020.

Joseph A. Laroski Jr.,
Deputy Assistant Secretary
for Policy and Negotiations.

Appendix

Scope of the Investigation

The merchandise covered by this investigation is phosphate fertilizers in all physical forms (*i.e.*, solid or liquid form), with or without coating or additives such as anti-caking agents. Phosphate fertilizers in solid form are covered whether granular, prilled (*i.e.*, pelletized), or in other solid form (*e.g.*, powdered).

The covered merchandise includes phosphate fertilizers in the following forms: ammonium dihydrogenorthophosphate or monoammonium phosphate (MAP), chemical formula $\text{NH}_4\text{H}_2\text{PO}_4$; diammonium hydrogenorthophosphate or diammonium phosphate (DAP), chemical formula $(\text{NH}_4)_2\text{HPO}_4$; normal superphosphate (NSP), also known as ordinary superphosphate or single superphosphate, chemical formula $\text{Ca}(\text{H}_2\text{PO}_4)_2 \cdot \text{CaSO}_4$; concentrated superphosphate, also known as double, treble, or triple superphosphate (TSP), chemical formula $\text{Ca}(\text{H}_2\text{PO}_4)_2 \cdot \text{H}_2\text{O}$; and proprietary formulations of MAP, DAP, NSP, and TSP.

The covered merchandise also includes other fertilizer formulations incorporating phosphorous and non-phosphorous plant nutrient components, whether chemically-bonded, granulated (*e.g.*, when multiple components are incorporated into granules through, *e.g.*, a slurry process), or compounded (*e.g.*, when multiple components are compacted together under high pressure), including nitrogen, phosphate, sulfur (NPS) fertilizers, nitrogen, phosphorous, potassium (NPK) fertilizers, nitric phosphate (also known as nitrophosphate) fertilizers, ammoniated superphosphate fertilizers, and proprietary formulations thereof that may or may not include other nonphosphorous plant nutrient components. For phosphate fertilizers that contain non-phosphorous plant nutrient components, such as nitrogen, potassium, sulfur, zinc, or other non-phosphorous components, the entire article is covered, including the non-phosphorous content, provided that the phosphorous content (measured by available diphosphorous pentaoxide, chemical formula P_2O_5) is at least 5% by actual weight.

Phosphate fertilizers that are otherwise subject to this investigation are included when commingled (*i.e.*, mixed or blended) with phosphate fertilizers from sources not subject to this investigation. Phosphate fertilizers that are otherwise subject to this investigation are included when commingled with substances other than phosphate fertilizers subject to this investigation (*e.g.*, granules containing only non-phosphate fertilizers such as potash or urea). Only the subject component of such commingled products is covered by the scope of this investigation. The following products are specifically excluded from the scope of this investigation:

- (1) ABC dry chemical powder preparations for fire extinguishers containing MAP or DAP in powdered form;
- (2) industrial or technical grade MAP in white crystalline form with available P_2O_5 content of at least 60% by actual weight;
- (3) industrial or technical grade diammonium phosphate in white crystalline form with available P_2O_5 content of at least 50% by actual weight;
- (4) liquid ammonium polyphosphate fertilizers;
- (5) dicalcium phosphate, chemical formula CaHPO_4 ;
- (6) monocalcium phosphate, chemical formula $\text{CaH}_4\text{P}_2\text{O}_8$;

- (7) trisodium phosphate, chemical formula Na_3PO_4 ;
- (8) sodium tripolyphosphate, chemical formula $\text{Na}_5\text{P}_3\text{O}_{10}$;
- (9) prepared baking powders containing sodium bicarbonate and any form of phosphate;
- (10) animal or vegetable fertilizers not containing phosphate fertilizers otherwise covered by the scope of this investigation;
- (11) phosphoric acid, chemical formula H_3PO_4 .

The Chemical Abstracts Service (CAS) numbers for covered phosphate fertilizers include, but are not limited to: 7722-76-1 (MAP); 7783-28-0 (DAP); and 65996-95-4 (TSP). The covered products may also be identified by Nitrogen-Phosphate- Potash composition, including but not limited to: NP 11-52-0 (MAP); NP 18-46-0 (DAP); and NP 0-46-0 (TSP).

The covered merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 3103.11.0000; 3103.19.0000; 3105.20.0000; 3105.30.0000; 3105.40.0010; 3105.40.0050; 3105.51.0000; and 3105.59.0000. Phosphate fertilizers subject to this investigation may also enter under subheadings 3103.90.0010, 3105.10.0000, 3105.60.0000, 3105.90.0010, and 3105.90.0050. Although the HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

[FR Doc. 2020-28760 Filed: 12/28/2020 8:45 am; Publication Date: 12/29/2020]