



DEPARTMENT OF COMMERCE

International Trade Administration

[C-714-001]

Phosphate Fertilizers from the Kingdom of Morocco: Final Results of Countervailing Duty Administrative Review; 2020-2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that OCP S.A.
(OCP), a producer/exporter of phosphate fertilizers from the Kingdom of Morocco (Morocco),
received countervailable subsidies during the period of review (POR), November 30, 2020,
through December 31, 2021.

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

FOR FURTHER INFORMATION CONTACT: Jaron Moore or Robert Palmer, AD/CVD
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(202) 482-3640 or (202) 482-9068, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the preliminary results of this administrative review on May 5,
2023.¹ On August 23, 2023, Commerce extended the deadline for the final results of this review
to no later than November 1, 2023.² For a description of the events that occurred since the

¹ See *Phosphate Fertilizers from the Kingdom of Morocco: Preliminary Results of Countervailing Duty
Administrative Review; 2020-2021*, 88 FR 29089 (May 5, 2023) (*Preliminary Results*), and accompanying
Preliminary Decision Memorandum.

² See Memorandum, “Extension of Deadline for Final Results of Countervailing Duty Administrative Review,”
dated August 23, 2023.

Preliminary Results, see the Issues and Decision Memorandum.³ We conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by this order are phosphate fertilizers. For a complete description of the scope of this order, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in interested parties' case briefs are addressed in the Issues and Decision Memorandum accompanying this notice. A list of the issues raised by parties, and to which Commerce responded in the Issues and Decision Memorandum, is provided in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Verification

As provided in section 782(i) of the Act, in September 2023, Commerce conducted an on-site verification of the subsidy information reported by OCP and the Government of Morocco. We used standard on-site verification procedures, including an examination of relevant accounting records and original source documents provided by the respondent.

Changes Since the *Preliminary Results*

Based on a review of the record and comments received from interested parties regarding the *Preliminary Results*, and for the reasons explained in the Issues and Decision Memorandum,

³ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Phosphate Fertilizers from the Kingdom of Morocco; 2020-2021," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

we made certain revisions to the subsidy calculations for OCP. These changes are explained in the Issues and Decision Memorandum.

Final Results of Administrative Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual net countervailable subsidy rate for OCP. Commerce determines that, during the POR, the net countervailable subsidy rate for the company under review is as follows:

Company	Subsidy Rate (percent <i>ad valorem</i>)
OCP S.A. ⁴	2.12

Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Assessment Rate

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries of subject merchandise in accordance with the final results of this review, for the above-listed company at the applicable *ad valorem* assessment rate. We intend to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the *Federal Register*. If a timely summons is filed with the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Rates

⁴ 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; and Jorf Fertilizers Company V.

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount shown for OCP on shipments of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the date of publication of the final results of this administrative review. The cash deposit requirement, effective upon the publication of the final results of this review, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: November 1, 2023.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Use of Facts Otherwise Available and Adverse Inferences
- V. Subsidies Valuation
- VI. Analysis of Programs
- VII. Discussion of the Issues
 - General
 - Comment 1: Whether to Accept OCP's Payroll Tax Refund as a Minor Correction
 - Comment 2: Whether Commerce's "Other Assistance" Question Is Contrary to Law
 - Comment 3: Whether Commerce Can Seek Information About the Provision of Rail Service for Less Than Adequate Remuneration (LTAR) and Direct Loans
 - Comment 4: Whether Maroc Phosphore Is a Reporting Entity
 - Provision of Mining Rights for LTAR
 - Comment 5: Whether Commerce Should Revise the Phosphate Rock Benchmark
 - Comment 6: Whether to Include or Exclude Headquarters (HQ), Support, and Debt Costs in the Costs of Producing Phosphate Rock
 - Comment 7: The Cost of Production (COP) Profit Rate
 - Comment 8: Whether Commerce Should Apply Adverse Facts Available (AFA) and Disregard OCP's Reported Costs of Production for Phosphate Rock
 - Comment 9: Whether Commerce Should Adjust the Phosphate Rock Benchmark for Freight
 - Reductions in Tax Fines and Penalties
 - Comment 10: Whether the Reductions in Tax Fines and Penalties Is Specific
 - Provision of Port Services for LTAR
 - Comment 11: Whether Agence Nationale des Ports' (ANP) Provision of Port Services and Infrastructure to OCP Constitutes a Financial Contribution
 - Comment 12: Whether ANP's Provision of Port Services Is *De Facto* Specific
 - Comment 13: Whether ANP's Provision of Port Services Confers a Benefit
 - Customs Duty Exemption for Capital Goods, Machinery, and Equipment
 - Comment 14: Whether to Correct a Ministerial Error in the Benefit Calculation for the Customs Duty Exemptions for Capital Goods, Machinery, and Equipment Program
- VIII. Recommendation