



## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-821-839]

### Ferrosilicon from the Russian Federation: Preliminary Affirmative Countervailing Duty Determination

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of ferrosilicon from the Russian Federation (Russia). The period of investigation is January 1, 2023, through December 31, 2023. Interested parties are invited to comment on this preliminary determination.

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

**FOR FURTHER INFORMATION CONTACT:** Mark Hoadley AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3148.

### SUPPLEMENTARY INFORMATION:

#### Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on April 24, 2024.<sup>1</sup> For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>2</sup> A list of topics

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<sup>1</sup> *See Ferrosilicon from Brazil, Kazakhstan, Malaysia, and the Russian Federation: Initiation of Countervailing Duty Investigations*, 89 FR 31133 (April 24, 2024) (*Initiation Notice*).

<sup>2</sup> *See* Memorandum, “Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Ferrosilicon from the Russian Federation,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary 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 Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

### **Scope of the Investigation**

The product covered by this investigation is ferrosilicon from Russia. For a complete description of the scope of this investigation, *see* Appendix I.

### **Scope Comments**

In accordance with the preamble to Commerce's regulations,<sup>3</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>4</sup> No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*.

### **Methodology**

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>5</sup>

Commerce notes that, in making these findings, it relied on facts available and, because it finds that the interested parties did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among

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<sup>3</sup> *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>4</sup> *See Initiation Notice*.

<sup>5</sup> *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

the facts otherwise available.<sup>6</sup> For further information, *see* the “Use of Facts Otherwise Available and Adverse Inferences” section in the Preliminary Decision Memorandum.

### **All-Others Rate**

Sections 703(d) and 705(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any rates that are zero, *de minimis*, or based entirely under section 776 of the Act.

Pursuant to section 705(c)(5)(A)(ii) of the Act, if the individual estimated countervailable subsidy rates established for all exporters and producers individually examined are zero, *de minimis*, or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated subsidy rate for all other producers or exporters. Commerce has preliminarily determined the estimated subsidy rate for the individually examined respondent under section 776 of the Act. Consequently, as a reasonable method, Commerce is determining the all-others rate based on the rate determined for Russian Ferro Alloys Inc./RFA International LP, the mandatory respondent in this investigation, as determined under section 776 of the Act.<sup>7</sup> For a full description of the methodology underlying Commerce’s analysis, *see* the Preliminary Decision Memorandum.

### **Preliminary Determination**

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

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<sup>6</sup> *See* sections 776(a) and (b) of the Act.

<sup>7</sup> *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2; *see also Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from Taiwan*, 73 FR 39673, 39674 (July 10, 2008); and *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670, 79671 (December 31, 2013), unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476, 14477 (March 14, 2014).

<b>Company</b>	<b>Subsidy Rate (percent <i>ad valorem</i>)</b>
Russian Ferro Alloys Inc./RFA International LP	748.58*
All Others	748.58*

\* Rate based on adverse facts available (AFA).

### **Suspension of Liquidation**

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

### **Disclosure**

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the *Federal Register*, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied total AFA to the individually examined company, Russian Ferro Alloys Inc./RFA International LP, in this investigation in accordance with section 776 of the Act, there are no calculations to disclose.

### **Verification**

Because the mandatory respondents in this investigation did not provide information requested by Commerce and Commerce preliminarily determines each of the mandatory respondents to have been uncooperative, verification will not be conducted.

### **Public Comment**

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of the

preliminary determination. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.<sup>8</sup> Interested parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.<sup>9</sup>

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.<sup>10</sup> Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).<sup>11</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants and whether any participant is a foreign national, and a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and

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<sup>8</sup> See 19 CFR 351.309(c)-(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

<sup>9</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>10</sup> We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

<sup>11</sup> See *APO and Service Final Rule*.

date for the hearing.<sup>12</sup> Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

### **Final Determination**

Section 705(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination.

### **U.S. International Trade Commission Notification**

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of ferrosilicon from Russia are materially injuring, or threaten material injury to, the U.S. industry.

### **Notification to Interested Parties**

This determination is issued and published in accordance with sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

Dated: June 21, 2024.

### **Ryan Majerus,**

*Deputy Assistant Secretary*

*for Policy and Negotiations,*

*performing the non-exclusive functions and duties*

*of the Assistant Secretary for Enforcement and Compliance.*

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<sup>12</sup> See 19 CFR 351.310(d).

## **Appendix I**

### **Scope of the Investigation**

The scope of this investigation covers all forms and sizes of ferrosilicon, regardless of grade, including ferrosilicon briquettes. Ferrosilicon is a ferroalloy containing by weight four percent or more iron, more than eight percent but not more than 96 percent silicon, three percent or less phosphorus, 30 percent or less manganese, less than three percent magnesium, and 10 percent or less any other element. The merchandise covered also includes product described as slag, if the product meets these specifications.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by performing any grinding or any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the ferrosilicon.

Ferrosilicon is currently classifiable under subheadings 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050 of the Harmonized Tariff Schedule of the United States (HTSUS). While the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Respondent Identification
- V. Use of Facts Otherwise Available and Adverse Inferences
- VI. Analysis of Programs
- VII. Recommendation

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