



DEPARTMENT OF COMMERCE

International Trade Administration

[C-714-001]

Phosphate Fertilizers from the Kingdom of Morocco: Notice of Amended Final Results of Countervailing Duty Administrative Review; 2022

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

SUMMARY: The U.S. Department of Commerce (Commerce) is amending the final results of the administrative review of the countervailing duty order on phosphate fertilizers (fertilizers) from the Kingdom of Morocco (Morocco) to correct a ministerial error. The period of review (POR) is January 1, 2022, through December 31, 2022.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Faris Montgomery or Jaron Moore, 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) 482-1537 or (202) 482-3640, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(b)(5), on November 7, 2024, Commerce disclosed its calculations to interested parties and provided interested parties with the opportunity to submit ministerial error comments.¹ On November 12, 2024, OCP S.A. (OCP) submitted an allegation of a ministerial error in the *Final Results*.² On November 18, 2024, the Mosaic Company submitted rebuttal

¹ See Memorandum, “Deadline for Ministerial Error Comments for the Final Results,” dated November 7, 2024.

² See *Phosphate Fertilizers from the Kingdom of Morocco: Final Results of Countervailing Duty Administrative Review; 2022*, 89 FR 88952 (November 12, 2024) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM); see also OCP’s Letter, “Ministerial Error Comments and Comments on Draft Customs Instructions,” dated November 12, 2024 (Ministerial Error Allegations).

comments in response to OCP's ministerial error allegations.³ On November 12, 2024, Commerce published its final results of administrative review.⁴

Legal Framework

Section 751(h) of the Act, defines a "ministerial error" as including "errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other unintentional error which the administering authority considers ministerial." With respect to final results of administrative reviews, 19 CFR 351.224(e) provides that Commerce "will analyze any comments received and, if appropriate, correct any ministerial error by amending...the final results of review..."

Ministerial Error

Commerce has determined that one of the two errors alleged by OCP constitutes a ministerial error within the meaning of section 751(h) of the Act and 19 CFR 351.224(f). In its ministerial error allegations, OCP alleges that, with regard to the provision of phosphate mining rights for less than adequate remuneration (LTAR) program, Commerce: (1) did not include OCP's allocated debt costs in OCP's total cost of production when calculating OCP's profit for phosphate rock; and (2) should have calculated a simple average of two datasets provided by different parties for a third-market country from the same business proprietary data source, as Commerce did with two datasets provided from the same business proprietary data source for another third-market country.⁵

For the calculation of the simple average of two datasets, we disagree with OCP and find that not averaging the datasets was a methodological decision and not a ministerial error. However, Commerce agrees that, in the *Final Results*, we did not include the allocated cost of OCP's debt in OCP's total cost of production when calculating OCP's profit to determine the

³ See Mosaic Company's Letter, "Rebuttal to OCP's Ministerial Error Allegations to the Final Determination," dated November 18, 2024.

⁴ See *Final Results* IDM.

⁵ See *generally* Ministerial Error Allegations.

price OCP paid for phosphate rock in the provision of phosphate mining rights for LTAR program as we intended. Commerce determines that this constitutes a ministerial error in the *Final Results* pursuant to section 751(h) of the Act and 19 CFR 351.224(f) and is amending the *Final Results* with respect to the phosphate mining rights for LTAR benefit calculation to correct the ministerial error in the calculation of the *ad valorem* subsidy rate. The revised net subsidy rate is provided below.

For a complete discussion of the ministerial error allegations, as well as Commerce's analysis, see the accompanying Ministerial Error Memorandum.⁶ The Ministerial Error 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>.

Amended Final Results

As a result of correcting the ministerial error, we determine that the countervailable subsidy rate for the producer/exporter under review to be as follows:

Company	Subsidy Rate (percent <i>ad valorem</i>)
OCP S.A. ⁷	16.60

Disclosure

We intend to disclose to parties in this proceeding, under administrative protective order, the calculations performed for these amended final results within five days after publication of this notice in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Assessment Rates

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

⁶ See Memorandum, "Ministerial Error Allegation in the Final Results," dated concurrently with this notice (Ministerial Error Memorandum).

⁷ 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 OCP Nutricrops S.A.

on all appropriate entries of subject merchandise in accordance with the amended 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 amended final results of this review in the *Federal Register*. However, OCP has filed a summons at the U.S. Court of International Trade challenging the *Final Results*. Therefore, our 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 Requirements

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 amended final results of this administrative review. The cash deposit requirement, effective upon the publication of the amended final results of this review, shall remain in effect until further notice.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an 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

We are issuing and publishing this notice in accordance with sections 751(h) and 777(i)(1) of the Act, and 19 CFR 351.224(e).

Dated: December 17, 2024.

Abdelali Elouaradia,
Deputy Assistant Secretary
for Enforcement and Compliance.

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