



DEPARTMENT OF COMMERCE

International Trade Administration

[C-351-861]

Ferrosilicon from Brazil: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination, in Part

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of ferrosilicon from Brazil. The period of investigation (POI) is January 1, 2023, through December 31, 2023.

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

FOR FURTHER INFORMATION CONTACT: Bob Palmer or Laurel Smalley, 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) 482-3456, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 10, 2024, Commerce published the *Preliminary Determination* in the *Federal Register*.¹ We invited interested parties to comment on the *Preliminary Determination*. For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and

¹ See *Ferrosilicon from Brazil: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination in Part, and Alignment of Final Determination With Final Antidumping Duty Determination*, 89 FR 73371 (September 10, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination of the Countervailing Duty Investigation of Ferrosilicon from Brazil," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

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>.

Scope of the Investigation

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

Scope Comments

No interested party commented on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, no changes were made to the scope of the investigation.

Verification

Commerce conducted verification of the information relied upon in making its final determination in this investigation, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Specifically, we conducted on-site verifications of the subsidy information reported by the Government of Brazil (GOB), Companhia de Ferro Ligas da Bahia – FERBASA (Ferbasa), and Minasligas S.A. (Minasligas) in October 2024 using standard verification procedures, including an examination of relevant sales and accounting records, and original source documents provided by the GOB, Ferbasa, and Minasligas.³

Analysis of Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs that were submitted by parties in this investigation, are discussed in the Issues and Decision Memorandum. For a list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, *see* Appendix II.

³ *See* Memoranda, “Verification of the Questionnaire Responses of Companhia de Ferro Ligas da Bahia – FERBASA,” dated December 20, 2024; “Verification of the Questionnaire Responses of the Government of Brazil,” dated December 20, 2024; and “Verification of the Questionnaire Responses of Minasligas S.A.,” dated December 19, 2024.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce 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.⁴ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making this final determination, Commerce relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of its ability to respond to Commerce’s requests for information, Commerce has drawn an adverse inference where appropriate in selecting from among the facts otherwise available.⁵ For a full discussion of our application of adverse facts available (AFA), *see* the “Use of Facts Otherwise Available and Application of Adverse Inferences” section in the Issues and Decision Memorandum.⁶

Final Affirmative Determination of Critical Circumstances, in Part

In accordance with sections 703(e)(1) and 776(a) and 776(b) of the Act and 19 CFR 351.206, Commerce continues to find that critical circumstances exist with respect to imports of ferrosilicon from Minasligas, and Ligas de Aluminio S.A. (LIASA), but do not exist with respect to Ferbasa and all other exporters or producers not individually examined. For a full description of the methodology and results of Commerce’s critical circumstances analysis, *see* the Issues and Decision Memorandum.

Changes Since the *Preliminary Determination*

Based on our findings at verification and our review and analysis of the comments received from parties, for this final determination, we made certain changes to the countervailable subsidy rate calculations for Ferbasa and for all other producers/exporters. We

⁴ *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.

⁵ *See* sections 776(a) and (b) of the Act.

⁶ *See* Issues and Decision Memorandum at 5-9.

also updated the data supporting our critical circumstances analysis. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Pursuant to section 705(c)(5)(A)(i) of the Act, Commerce will determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates based entirely under section 776 of the Act. We continue to calculate individual estimated countervailable subsidy rates for Ferbasa and Minasligas that are not zero, *de minimis*, or based entirely on facts otherwise available under section 776 of the Act. We, therefore, continue to calculate the all-others rate using a weighted average of the individual estimated subsidy rates calculated for Ferbasa and Minasligas, the individually examined exporters/producers in this investigation, pursuant to section 705(c)(5)(A)(i) of the Act.

Final Determination

Commerce determines that the following estimated countervailable subsidy rates exist for the period January 1, 2023, through December 31, 2023:

Company	Subsidy Rate (percent <i>ad valorem</i>)
Companhia de Ferro Ligas da Bahia – FERBASA ⁷	5.25
Minasligas S.A. ⁸	4.44
Ligas de Alumínio S.A.	61.73*
All Others	5.01

*Rate based on AFA.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of any public announcement, or if there is no public

⁷ Commerce has found the following company to be cross-owned with Ferbasa: Fundação José Carvalho Foundation (Jose Carvalho Foundation).

⁸ Commerce has found the following companies to be cross-owned with Minasligas: Irmazi Participações S.A. (Irmazi), Participações SZ Ltd. (SZ), and Centrium Empreendimentos Ltda. (Centrium).

announcement, within five days of the date of the publication of this notice in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to collect cash deposits and suspend liquidation of entries of subject merchandise, as described in the scope of the investigation section, that were entered, or withdrawn from warehouse, for consumption on or after September 10, 2024, the date of publication of the *Preliminary Determination* in the *Federal Register* for entries produced and/or exported by all other producers and/or exporters of ferrosilicon in Brazil. Because we preliminarily determined that critical circumstances existed with respect to Ferbasa, Minasligas, and LIASA, the non-responsive company, we instructed CBP to suspend liquidation of entries of subject merchandise from Brazil that were entered, or withdrawn from warehouse, for consumption, on or after June 12, 2024, which is 90 days prior to the date of the publication of the *Preliminary Determination* in the *Federal Register*.

In accordance with section 703(d) of the Act, on January 8, 2025, we instructed CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered or withdrawn from warehouse on or after January 8, 2025, but to continue the suspension of liquidation of all entries of subject merchandise on or after June 12, 2024, for the examined respondents, and on or after September 10, 2024, for all other companies, to, on, or before January 7, 2025.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does

not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of ferrosilicon from Brazil. Because the final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of ferrosilicon from Brazil no later than 45 days after this final determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance. If the ITC determines that material injury does not exist, this proceeding will be terminated and all cash deposits will be refunded.

If the ITC determines that such injury does exist, Commerce will issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Administrative Protective Order

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the 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 violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: March 21, 2025.

Christopher Abbott,
Deputy Assistant Secretary
for Policy and Negotiations,
performing the non-exclusive functions and duties
of the Assistant Secretary for Enforcement and Compliance.

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 of 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 Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Final Determination of Critical Circumstances
- IV. Subsidies Valuation Information
- V. Use of Facts Otherwise Available and Application of Adverse Inferences
- VI. Analysis of Programs
- VII. Discussion of the Issues
 - Comment 1: Whether Commerce Should Apply Adverse Facts Available (AFA) to the Government of Brazil (GBR)
 - Comment 1a: Whether Commerce Should Apply AFA to the DESENVOLVE Program
 - Comment 1b: Whether Commerce Should Include Certain Programs in the AFA Rate Calculation for LIASA
 - Comment 1c: Whether Commerce Should Apply AFA to the *Imposto Sobre Circulação de Mercadorias e Serviços* (ICMS) Exemptions on Sales of Solar Electricity in the State of Minas Gerais (ICMS Exemptions Solar) Program
 - Comment 2: Whether the ICMS Exemptions Solar Program Confers a Benefit to Minasligas
 - Comment 3: Whether Subsidiaries of Centrais Elétricas Brasileiras S.A. (Eletrobrás) are Government Authorities
 - Comment 4: Whether Commerce Should Revise its Electricity for Less Than Adequate Remuneration Benchmark Calculation
 - Comment 5: Whether Commerce Should Revise the Northeast Region Development Authority (SUDENE) Tax Incentives Benefit Calculation for Ferbasa
- VIII. Recommendation