



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-557-828]

#### Ferrosilicon from Malaysia: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that imports of ferrosilicon from Malaysia are being, or are likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation (POI) January 1, 2023, through December 31, 2023.

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

FOR FURTHER INFORMATION CONTACT: Jacob Waddell or Carolyn Adie, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1369 or (202) 482-6250, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On November 6, 2024, Commerce published the *Preliminary Determination* in the *Federal Register*.<sup>1</sup> On December 11, 2024, in response to significant ministerial error allegations raised by CC Metals and Alloys, LLC and Ferroglobe USA, Inc., Commerce amended the *Preliminary Determination*.<sup>2</sup> We invited interested parties to comment on the *Preliminary Determination* and *Amended Preliminary Determination*.

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<sup>1</sup> See *Ferrosilicon from Malaysia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 89 FR 88010 (November 6, 2024) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> See *Ferrosilicon from Malaysia: Amended Preliminary Determination of Sales at Less Than Fair Value and Amended Preliminary Negative Determination of Critical Circumstances*, 89 FR 99829 (December 11, 2024) (*Amended Preliminary Determination*), and accompany Preliminary Ministerial Error Memorandum.

For a summary of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.<sup>3</sup> 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>.

#### Scope of the Investigation

The product covered by this investigation is ferrosilicon from Malaysia. 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, we made no changes to the scope of the investigation.

#### Final Negative Determination of Critical Circumstances

We continue to find that critical circumstances do not exist for imports of ferrosilicon from Malaysia for all producers and exporters pursuant to section 733(e)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206. For a discussion of Commerce's critical circumstance analysis, see the Issues and Decision Memorandum.

#### 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 Act. Specifically, Commerce conducted on-site verifications of the sales and cost information submitted by OM Materials (Sarawak) Sdn. Bhd. (OMSA) and Pertama Ferroalloys Sdn. Bhd (Pertama) for use in

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<sup>3</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value in the Investigation of Ferrosilicon from Malaysia," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

our final determination.<sup>4</sup> We used standard verification procedures, including an examination of relevant sales and accounting records, and original source documents provided by OMSA and Pertama.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II.

### Changes Since the *Preliminary Determination*

Based on our verification findings, a review of the record, and the comments received from interested parties regarding the *Preliminary Determination*, we made certain changes to the margin calculations for both OMSA and Pertama. For a discussion of these changes, *see* the Issues and Decision Memorandum.

### All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for individually investigated exporters and producers, excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act.

For the final determination of this investigation, Commerce calculated estimated weighted-average dumping margins for OMSA and Pertama that are not zero, *de minimis*, or based entirely on facts otherwise available. Therefore, Commerce calculated the all-others rate using a weighted average of the estimated weighted-average dumping margins calculated for the

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<sup>4</sup> *See* Memoranda, “Verification of the Sales Response of OM Materials (Sarawak) Sdn. Bhd. and OM Materials (S) Pte Ltd.,” dated February 12, 2025; “Verification of the Sales Response of Pertama Ferroalloys Sdn. Bhd and Asia Minerals Limited,” dated February 12, 2025; “Verification of the Constructed Export Price Sales Response of Asia Minerals North America, LLC,” dated February 12, 2025; “Verification of the Cost Response of OM Materials (Sarawak) Sdn. Bhd.,” dated February 12, 2025; and “Verification of the Cost Responses of Pertama Ferroalloys Sdn. Bhd.,” dated February 12, 2025.

examined respondents using each company’s publicly-ranged values for the merchandise under consideration.<sup>5</sup>

### Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

<b>Exporter/Producer</b>	<b>Weighted-Average Dumping Margin (percent)</b>	<b>Cash Deposit Rate (Adjusted for Subsidy Offsets) (percent)</b>
OM Materials (Sarawak) Sdn. Bhd. <sup>6</sup>	5.13	4.69
Pertama Ferroalloys Sdn. Bhd	21.26	20.98
All Others	12.24	11.85

### Disclosure

Commerce intends to disclose the calculations and analysis performed in connection with this final determination to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the publication date of this notice in the *Federal Register*, in accordance with 19 CFR 351.224(b).

### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise, as described in Appendix I of this notice, which were entered, or withdrawn from

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<sup>5</sup> See Memorandum, “All-Others Rate Calculation,” dated concurrently with this notice. With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company’s publicly-ranged U.S. sales values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1. As complete publicly ranged sales data were available, Commerce based the all-others rate on the publicly-ranged sales data of the mandatory respondents. For a complete analysis of the data, see All-Others Rate Calculation Memorandum.

<sup>6</sup> In the *Preliminary Determination* and *Amended Preliminary Determination*, this company was referred to as OM Sarawak Sdn. Bhd. We are correcting the name to “OM Materials (Sarawak) Sdn. Bhd.” See OMSA’s Letter, “OMSA’s Section A Response,” dated July 2, 2024, at 1.

warehouse, for consumption, on or after November 6, 2024, the date of publication of the *Preliminary Determination* in the *Federal Register*. These suspension of liquidation instructions will remain in effect until further notice.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon the publication of this notice, we will instruct CBP to require a cash deposit for estimated antidumping duties for such entries as follows: (1) the cash deposit rate for the respondents listed in the table above is the company-specific estimated weighted-average dumping margins listed for the respondents in the table; (2) if the exporter is not a respondent listed in the table above, but the producer is, then the cash deposit rate is the company-specific estimated weighted-average dumping margins listed for the producer of the subject merchandise in the table above; and (3) the cash deposit rate for all other producers and exporters is the all-others estimated weighted-average dumping margins listed in the table above.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce has made a final affirmative determination for countervailable export subsidies, Commerce offsets the estimated weighted-average dumping margin by the appropriate CVD rate. Commerce has continued to adjust the cash deposit rate for export subsidies in the companion CVD investigation by the appropriate export subsidy rate as indicated in the above chart. However, suspension of liquidation of provisional measures in the companion CVD case has been discontinued;<sup>7</sup> therefore, we are not instructing CBP to collect cash deposits based upon the adjusted estimated weighted-average dumping margin for those export subsidies at this time.

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<sup>7</sup> See *Ferrosilicon from Malaysia: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Duty Determination*, 89 FR 73364 (September 10, 2024); see also section 703(d) of the Act, which states that the provisional measures may not be in effect for more than four months, which in the companion CVD case is 120 days after the publication of the preliminary determination, January 8, 2025 (*i.e.*, last day provisional measures are in effect).

## U.S. International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, Commerce will notify the ITC of its final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) 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 or sales (or the likelihood of sales) for importation of ferrosilicon no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, all cash deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed in the "Continuation of Suspension of Liquidation" section above.

## Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or 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

This final determination and notice are issued and published in accordance with sections 735(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 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 Negative Determination of Critical Circumstances
- IV. Changes Since the *Amended Preliminary Determination*
- V. Affiliation
- VI. Application of Facts Available
- VII. Calculation of NV Based on CV
- VIII. Discussion of the Issues
  - Comment 1: Whether Commerce Should Apply Adverse Facts Available (AFA) to OMSA
  - Comment 2: Whether Commerce Should Apply Neutral Facts Available to OMSA
  - Comment 3: Whether Commerce Should Revise OMSA's Major Input Adjustment Rate Based on Verification Findings
  - Comment 4: Whether Commerce Should Revise Pertamina's Major Input Adjustment Rate Based on Verification Findings
  - Comment 5: Whether Commerce Should Revise Pertamina's General and Administrative (G&A) Expenses Based on Verification Findings
  - Comment 6: Whether the Final Invoice Date is the Appropriate Date of Sale for OMSA's U.S. Sales
  - Comment 7: Whether the Inclusion of Freight and Insurance Charges in Gross Unit Price is Appropriate for Certain OMSA Sales
- IX. Recommendation

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