



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-821-825]

Phosphate Fertilizers from the Russian Federation: Notice of Court Decision Not in Harmony with the Results of Countervailing Duty Administrative Review; Notice of Amended Final Results

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

SUMMARY: On August 12, 2026, the U.S. Court of International Trade (CIT) issued its final judgment in *Archer Daniels Midland Co v. United States*, Consol. Court no. 23-00239, sustaining the U.S. Department of Commerce (Commerce)'s second remand results pertaining to the administrative review of the countervailing duty (CVD) order on phosphate fertilizers from the Russian Federation (Russia) covering the period of review (POR) November 30, 2020, through December 31, 2021. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the countervailable subsidy rate assigned to Joint Stock Company Apatit (JSC Apatit).

DATES: Applicable August 22, 2026.

FOR FURTHER INFORMATION CONTACT: Henry Wolfe, 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) 482-0574.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 2023, Commerce published its *Final Results* in the 2020-2021 administrative review of the CVD order on phosphate fertilizers from Russia.¹ Commerce used a tier-three benchmark pursuant to 19 C.F.R. § 351.511(a)(2)(iii) to assess the Government of Russia's provision of phosphate ore mining rights to JSC Apatit for less than adequate remuneration (LTAR) and compared JSC Apatit's phosphate rock cost buildup to world market igneous phosphate rock export prices. Commerce determined the subsidy rate for the mining rights program to be 26.78 percent *ad valorem* and calculated a total countervailable subsidy rate of 28.50 percent *ad valorem*.²

The Archer Daniels Midland Company appealed Commerce's *Final Results*. On May 6, 2025, the CIT remanded, in part, the *Final Results* to Commerce, directing Commerce to: (1) either present record evidence showing that the phosphate rock market is significantly driven by the distinction between sedimentary and igneous rock or reconstruct the tier three benchmark for the provision of phosphate mining rights for LTAR program;³ and (2) either clarify two issues relating to the selection of a tier two benchmark for the provision of natural gas for LTAR program or construct a tier three benchmark.⁴

¹ See *Phosphate Fertilizers from the Russian Federation: Final Results of Countervailing Duty Administrative Review; 2020–2021*, 88 FR 76182 (November 6, 2023) (*Final Results*).

² *Id.*

³ See *Archer Daniels Midland Company v. United States*, CIT No. 23-00239, Slip Op. 25-55 (CIT May 6, 2025) at 16.

⁴ *Id.* at 26-27.

In its first remand redetermination, issued in August 2025, Commerce provided further explanation for its phosphate rock benchmark for the provision of phosphate mining rights for LTAR program, and reconsidered and revised its benchmark for natural gas purchases for the provision of natural gas for LTAR program.⁵ The CIT sustained Commerce with respect to the provision of natural gas for LTAR program but remanded Commerce for a second time with respect to the provision of phosphate mining rights for LTAR program, directing Commerce to construct a tier-three benchmark to include world phosphate rock price data that was previously excluded solely based on the distinction between igneous and sedimentary phosphate ore.⁶

In its second final remand redetermination, issued in May 2026, Commerce constructed a tier-three benchmark to include world phosphate rock price data that was previously excluded solely based on the distinction between igneous and sedimentary ore, and calculated that JSC Apatit did not receive a measurable benefit for the provision of mining rights for LTAR program, which resulted in a total *ad valorem* subsidy rate of 22.86 percent for JSC Apatit for the POR.⁷ The CIT sustained Commerce's second final remand redetermination.⁸

Timken Notice

⁵ See *Final Results of Redetermination Pursuant to Court Remand, Archer Daniels Midland Company v. United States*, CIT No. 23-00239, Slip Op. 25-55 (CIT May 6, 2025), dated August 4, 2025, available at <https://access.trade.gov/FinalRemandRedetermination>.

⁶ See *Archer Daniels Midland Company v. United States*, CIT No. 23-00239, Slip Op. 26-10 (CIT February 6, 2026) at 12.

⁷ See *Final Results of Redetermination Pursuant to Court Remand, Archer Daniels Midland Company v. United States*, CIT No. 23-00239, Slip Op. 26-10 (CIT February 6, 2026), dated May 6, 2026, available at <https://access.trade.gov/FinalRemandRedetermination>.

⁸ See *Archer Daniels Midland Company v. United States*, CIT No. 23-00239, Slip Op. 26-92 (CIT August 12, 2026) at 13.

In its decision in *Timken*,⁹ as clarified by *Diamond Sawblades*,¹⁰ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s August 12, 2026, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to JSC Apatit as follows:

Company	Subsidy Rate (percent <i>ad valorem</i>)
JSC Apatit ¹¹	22.86

Cash Deposit Requirements

Because JSC Apatit has a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

⁹ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹⁰ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹¹ As noted in the *Final Results*, Commerce finds the following companies to be cross-owned with JSC Apatit: PhosAgro Public Joint Stock Company; Limited Liability Company PhosAgro-Region; Limited Liability Company PhosAgro-Belgorod; Limited Liability Company PhosAgro-Don; Limited Liability Company PhosAgro-Kuban; Limited Liability Company PhosAgro-Lipetsk; Limited Liability Company PhosAgro-Kursk; Limited Liability Company PhosAgro-Orel; Limited Liability Company PhosAgro-Stavropol; Limited Liability Company PhosAgro-Volga; Limited Liability Company PhosAgro-SeveroZapad; Limited Liability Company PhosAgro-Tambov; and Limited Liability Company PhosAgro-Sibir. See *Final Results* at 76183.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: were produced and/or exported by JSC Apatit and were entered, or withdrawn from warehouse, for consumption during the period November 30, 2020, through December 31, 2021. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess countervailing duties on unliquidated entries of subject merchandise produced and/or exported JSC Apatit in accordance with 19 CFR 351.212(b). We will instruct CBP to assess countervailing duties on all appropriate entries covered by this review when the *ad valorem* rate is not zero or *de minimis*. Where an *ad valorem* subsidy rate is zero or *de minimis*,¹² we will instruct CBP to liquidate the appropriate entries without regard to countervailing duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: August 14, 2026.

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

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¹² See 19 CFR 351.106(c)(2).