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DEPARTMENT OF COMMERCE

International Trade Administration

[C-714-001, C-821-825]

Phosphate Fertilizers from the Kingdom of Morocco and the Russian Federation: Initiation of Countervailing Duty Investigations

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

DATES: Applicable July 16, 2020.

FOR FURTHER INFORMATION CONTACT: Robert Palmer (Morocco) or George Ayache (Russia), 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) 482-2623, respectively.

SUPPLEMENTARY INFORMATION:

The Petitions

On June 26, 2020, the U.S. Department of Commerce (Commerce) received countervailing duty (CVD) petitions concerning imports of phosphate fertilizers from the Kingdom of Morocco (Morocco) and the Russian Federation (Russia), filed in proper form on behalf of The Mosaic Company (the petitioner), a domestic producer of phosphate fertilizers.¹

¹ See Petitioner's Letter, "Petitions for the Imposition of Countervailing Duties: Phosphate Fertilizers from Morocco and Russia," dated June 26, 2020 (the Petitions).

Between June 30 and July 1, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petitions.² The petitioner filed responses to these requests between July 2 and 6, 2020.³

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of Morocco (GOM) and the Government of Russia (GOR) are providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of phosphate fertilizers in Morocco and Russia, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing phosphate fertilizers in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petitions were accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigations.⁴

² See Commerce's Letter, "Petitions for the Imposition of Countervailing Duties on Phosphate Fertilizers from Morocco and Russia: Supplemental Questions," dated July 1, 2020 (General Issues Questionnaire); Commerce's Letter, "Petition for the Imposition of Countervailing Duties on Phosphate Fertilizers from Morocco: Supplemental Questions," dated June 30, 2020; and Commerce's Letter, "Petition for the Imposition of Countervailing Duties on Phosphate Fertilizers from Russia: Supplemental Questions," dated June 30, 2020.

³ See Petitioner's Letter, "Phosphate Fertilizers from Morocco: Response to the Department's Supplemental Questions Concerning the Petition for the Imposition of Countervailing Duties on Imports of Phosphate Fertilizers from Morocco," dated July 2, 2020 (Morocco Supplement); Petitioner's Letter, "Phosphate Fertilizers from Russia: Response to the Department's Supplemental Questions Concerning the Petition for the Imposition of Countervailing Duties on Imports of Phosphate Fertilizers from Russia," dated July 2, 2020 (Russia Supplement); and Petitioner's Letter, "Phosphate Fertilizers from Morocco and Russia: Response to the Department's Supplemental Questions on General Issues Concerning the Petitions for the Imposition of Countervailing Duties on Imports of Phosphate Fertilizers from Morocco and Russia," dated July 6, 2020 (General Issues Supplement).

⁴ See "Determination of Industry Support for the Petitions" section, *infra*.

Period of Investigation

Because the Petitions were filed on June 26, 2020, the period of investigation (POI) is January 1, 2019 through December 31, 2019.⁵

Scope of the Investigations

The merchandise covered by these investigations are phosphate fertilizers from Morocco and Russia. For a full description of the scope of these investigations, *see* the Appendix to this notice.

Comments on Scope of the Investigations

On July 1, 2020, Commerce requested further information from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.⁶ On July 6, 2020, the petitioner revised the scope.⁷ The description of the merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁸ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,⁹ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on August 5, 2020, which is 20

⁵ See 19 CFR 351.204(b)(2).

⁶ See General Issues Questionnaire.

⁷ See General Issues Supplement at 11-13.

⁸ See *Countervailing Duties*, 62 FR 27323 (May 19, 1997) (*Preamble*).

⁹ See 19 CFR 351.102(b)(21) (defining "factual information").

calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on August 17, 2020, which is the next business day¹⁰ after 10 calendar days from the initial comment deadline.¹¹

Commerce requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such comments must be filed on the record of the concurrent CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹² An electronically filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOM and the GOR of the receipt of the Petitions and provided it the opportunity for consultations with

¹⁰ In this case, 10 days after the initial comment deadline falls on August 15, 2020, a Saturday. Where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

¹¹ *See* 19 CFR 351.303(b).

¹² *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

respect to the Petitions.¹³ Commerce held consultations with the GOR and the GOM on July 10 and 13, 2020, respectively.¹⁴

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a

¹³ See Commerce’s Letter, “Countervailing Duty Petition on Phosphate Fertilizers from Morocco: Invitation for Consultations,” dated June 26, 2020; and Commerce’s Letter, “Countervailing Duty Petition on Phosphate Fertilizers from Russia: Invitation for Consultations,” dated June 26, 2020.

¹⁴ See Memoranda, “Countervailing Duty Petition on Phosphate Fertilizers from the Russian Federation (Russia): Consultations with Officials from the Government of Russia,” dated July 13, 2020; and “Countervailing Duty Petition on Phosphate Fertilizers from Morocco: Consultations with Officials from the Government of Morocco,” dated July 15, 2020.

domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁵ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁶

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.¹⁷ Based on our analysis of the information submitted on the record, we have determined that phosphate fertilizers, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁸

In determining whether the petitioner had standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the "Scope of the Investigations," in the appendix to this notice. To

¹⁵ See section 771(10) of the Act.

¹⁶ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989)).

¹⁷ See Volume I of the Petitions at I-19-22.

¹⁸ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see the country-specific CVD Initiation Checklists at Attachment II, Analysis of Industry Support for the Countervailing Duty Petitions Covering Phosphate Fertilizers from Morocco and Russia (Attachment II).

establish industry support, the petitioner provided its 2019 production of the domestic like product and compared it to the total 2019 production of the domestic like product, which includes its production data and estimates for that of the other domestic producers.¹⁹ The petitioner estimated the 2019 production of the domestic like product for all other producers based on production capacity data reported by the International Fertilizer Association (IFA) and production data reported by The Fertilizer Institute (TFI), supplemented with its own production estimates for certain products not included in the IFA or TFI data.²⁰ We relied on data provided by the petitioner for purposes of measuring industry support.²¹

On July 10, 2020, we received comments on industry support from Koch Fertilizer, LLC (Koch Fertilizer), a wholesaler of phosphate fertilizers.²² On July 13, 2020, we received comments on industry support from International Raw Materials Ltd. (IRM), a U.S. importer of phosphate fertilizers.²³ On July 14, 2020, we received comments on industry support from OCP S.A. (OCP), a producer/exporter of phosphate fertilizers in Morocco.²⁴ The GOM commented on industry support in its July 14, 2020, consultations paper.²⁵ On July 15, 2020, we received

¹⁹ See Volume I of the Petitions at I-5-6 and Exhibits I-5-8; see also General Issues Supplement at 16-18 and Exhibits GEN-SUPP-QR-10-11.

²⁰ *Id.*

²¹ *Id.* For further discussion, see Attachment II of the country-specific CVD Initiation Checklists.

²² See Koch Fertilizer's Letters, "Phosphate Fertilizers from Morocco and Russia: Entry of Appearance," dated July 10, 2020, and "Phosphate Fertilizer from Morocco and Russia: {Comments on the} to Countervailing Duty Petition," dated July 10, 2020.

²³ See IRM's Letter, "Phosphate Fertilizers from Morocco – Request on Behalf of International Raw Materials Ltd. to Poll the Domestic Industry," dated July 13, 2020.

²⁴ See OCP's Letter, "Phosphate Fertilizers from Morocco and Russia: Pre-Initiation Comments on Industry Support," dated July 14, 2020.

²⁵ See GOM's Letter, "Phosphate Fertilizers from Morocco: Submission of Consultations Paper," dated July 14, 2020.

comments on industry support from American Plant Food, a wholesaler of phosphate fertilizers.²⁶ The petitioner responded to the industry support comments on July 15, 2020.²⁷

Our review of the data provided in the Petitions, the General Issues Supplement, the Petitioner’s Rebuttal, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.²⁸ First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²⁹ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.³⁰ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.³¹ Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.³²

²⁶ See American Plant Food’s Letter, “Phosphate Fertilizer from Morocco and Russia – Opposition to the Countervailing Duty Petition,” dated July 15, 2020.

²⁷ See Petitioner’s Letter, “Phosphate Fertilizers from Morocco: Response to Submissions Concerning Industry Support,” dated July 15, 2020 (Petitioner’s Rebuttal).

²⁸ See Attachment II of the country-specific CVD Initiation Checklists.

²⁹ *Id.*; see also section 702(c)(4)(D) of the Act.

³⁰ See Attachment II of the country-specific CVD Initiation Checklists.

³¹ *Id.*

³² *Id.*

Injury Test

Because Morocco and Russia are “Subsidies Agreement Countries” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations.

Accordingly, the ITC must determine whether imports of the subject merchandise from Morocco and/or Russia materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24) of the Act.³³ The petitioner demonstrates that subject imports from Russia exceed the negligibility threshold of three percent under section 771(24)(A) of the Act.³⁴ In CVD petitions, section 771(24)(B) of the Act provides that imports of subject merchandise from developing and least-developed countries must exceed the negligibility threshold of four percent. The petitioner also demonstrates that subject imports from Morocco, which has been designated as a developing country under section 771(36)(A) of the Act,³⁵ exceed the negligibility threshold of four percent.³⁶

The petitioner contends that the industry’s injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression and suppression; lost sales and revenues; underutilized capacity and declines in the

³³ See Volume I of the Petitions at I-25 and Exhibit I-25.

³⁴ *Id.*

³⁵ See *Designations of Developing and Least-Developed Countries under the Countervailing Duty Law*, 85 FR 7613, 7615-7616 (February 10, 2020).

³⁶ See Volume I of the Petitions at I-25 and Exhibit I-25.

domestic industry's production and shipments due to idling and closures of production facilities; decline in profitability; declines in employment and wages; and adverse impact on investments in production operations.³⁷ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as cumulation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.³⁸

Initiation of CVD Investigations

Based upon the examination of the Petitions on phosphate fertilizers from Morocco and Russia, we find that the Petitions meet the requirements of section 702 of the Act. Therefore, we are initiating CVD investigations to determine whether imports of phosphate fertilizers from Morocco and Russia benefit from countervailable subsidies conferred by the GOM and the GOR, respectively. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Morocco

Based on our review of the Petitions, we find that there is sufficient information to initiate a CVD investigation on all eight alleged programs and a creditworthiness allegation with regard to OCP Group. For a full discussion of the basis for our decision to initiate on each program, *see* Morocco Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

³⁷ *Id.* at I-1 through I-3, I-18, I-19, I-24 through I-56 and Exhibits I-1, I-2, I-3, I-21 and I-26 through I-69.

³⁸ *See* country-specific CVD Initiation Checklists, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Countervailing Duty Petitions Covering Phosphate Fertilizers from Morocco and Russia (Attachment III).

Russia

Based on our review of the Petitions, we find that there is sufficient information to initiate a CVD investigation on all eight alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* Russia Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

The petitioner named one company in Morocco and four companies in Russia as producers/exporters of phosphate fertilizers.³⁹ Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in these investigations.

With respect to Russia, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of phosphate fertilizers from Russia during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the "Scope of the Investigation," in the appendix.

On July 2, 2020, Commerce released CBP data for U.S. imports of phosphate fertilizers from Russia under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation of this CVD investigation.⁴⁰ Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. Interested parties

³⁹ *See* Volume I of the Petitions at Exhibit I-19; *see also* Russia Supplement at 1-2.

⁴⁰ *See* Memorandum, "Countervailing Duty Petition on Phosphate Fertilizers from Russia: Release of Customs Data from U.S. Customs and Border Protection," dated July 2, 2020.

must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Commerce's website at <http://enforcement.trade.gov/apo>.

With respect to Morocco, although Commerce normally relies on import data from CBP to determine whether to select a limited number of producers/exporters for individual examination in CVD investigations, the petitioner identified only one company as a producer/exporter of phosphate fertilizers in Morocco, OCP Group, and provided information from independent sources as support.⁴¹ Furthermore, we currently know of no additional producers/exporters of phosphate fertilizers from Morocco. Accordingly, Commerce intends to examine the only known producer/exporter in the Morocco investigation (*i.e.*, OCP Group). Interested parties wishing to comment on respondent selection for the Morocco investigation must do so within three business days of the publication date of this notice of initiation.

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 PM on the date noted above, unless an exception applies. Commerce intends to finalize its decision regarding respondent selection within 20 days of the publication of this notice.

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petitions has been provided to the GOM and GOR via ACCESS.

Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

⁴¹ See Volume II of the Petitions at II-1.

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of phosphate fertilizers from Morocco and Russia are materially injuring or threatening material injury to a U.S. industry.⁴² A negative ITC determination for any country will result in the investigation being terminated with respect to that country.⁴³ Otherwise, the investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁴⁴ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁴⁵ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which

⁴² See section 703(a) of the Act.

⁴³ *Id.*

⁴⁴ See 19 CFR 351.301(b).

⁴⁵ See 19 CFR 351.301(b)(2).

provides specific time limits based on the type of factual information being submitted. Parties wishing to submit factual information in these investigations are asked to review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances Commerce will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting extension requests or factual information in these investigations.

Certification Requirements

Any party submitting factual information in an antidumping duty or CVD proceeding must certify to the accuracy and completeness of that information.⁴⁶ Parties must use the

⁴⁶ See section 782(b) of the Act.

certification formats provided in 19 CFR 351.303(g).⁴⁷ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Commerce website at <http://enforcement.trade.gov/apo>. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing a letter of appearance). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.⁴⁸

This notice is issued and published pursuant to sections 702 and 777(i) of the Act and 19 CFR 351.203(c).

Dated: July 16, 2020.

Joseph A. Laroski Jr.,
Deputy Assistant Secretary for Policy and Negotiations.

⁴⁷ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

⁴⁸ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Appendix

Scope of the Investigations

The merchandise covered by these investigations is phosphate fertilizers in all physical forms (*i.e.*, solid or liquid form), with or without coating or additives such as anti-caking agents. Phosphate fertilizers in solid form are covered whether granular, prilled (*i.e.*, pelletized), or in other solid form (*e.g.*, powdered).

The covered merchandise includes phosphate fertilizers in the following forms: ammonium dihydrogenorthophosphate or monoammonium phosphate (MAP), chemical formula $\text{NH}_4\text{H}_2\text{PO}_4$; diammonium hydrogenorthophosphate or diammonium phosphate (DAP), chemical formula $(\text{NH}_4)_2\text{HPO}_4$; normal superphosphate (NSP), also known as ordinary superphosphate or single superphosphate, chemical formula $\text{Ca}(\text{H}_2\text{PO}_4)_2 \cdot \text{CaSO}_4$; concentrated superphosphate, also known as double, treble, or triple superphosphate (TSP), chemical formula $\text{Ca}(\text{H}_2\text{PO}_4)_2 \cdot \text{H}_2\text{O}$; and proprietary formulations of MAP, DAP, NSP, and TSP.

The covered merchandise also includes other fertilizer formulations incorporating phosphorous and non-phosphorous plant nutrient components, whether chemically-bonded, granulated (*e.g.*, when multiple components are incorporated into granules through, *e.g.*, a slurry process), or compounded (*e.g.*, when multiple components are compacted together under high pressure), including nitrogen, phosphate, sulfur (NPS) fertilizers, nitrogen, phosphorous, potassium (NPK) fertilizers, nitric phosphate (also known as nitrophosphate) fertilizers, ammoniated superphosphate fertilizers, and proprietary formulations thereof that may or may not include other nonphosphorous plant nutrient components. For phosphate fertilizers that contain non-phosphorous plant nutrient components, such as nitrogen, potassium, sulfur, zinc, or other non-phosphorous components, the entire article is covered, including the non-phosphorous content, provided that the phosphorous content (measured by available diphosphorous pentoxide, chemical formula P_2O_5) is at least 5% by actual weight.

Phosphate fertilizers that are otherwise subject to these investigations are included when commingled (*i.e.*, mixed or blended) with phosphate fertilizers from sources not subject to these investigations. Phosphate fertilizers that are otherwise subject to these investigations are included when commingled with substances other than phosphate fertilizers subject to these investigations (*e.g.*, granules containing only non-phosphate fertilizers such as potash or urea). Only the subject component of such commingled products is covered by the scope of these investigations. The following products are specifically excluded from the scope of these investigations:

- (1) ABC dry chemical powder preparations for fire extinguishers containing MAP or DAP in powdered form;
- (2) industrial or technical grade MAP in white crystalline form with available P_2O_5 content of at least 60% by actual weight;
- (3) industrial or technical grade diammonium phosphate in white crystalline form with available P_2O_5 content of at least 50% by actual weight;
- (4) liquid ammonium polyphosphate fertilizers;

- (5) dicalcium phosphate, chemical formula CaHPO_4 ;
- (6) monocalcium phosphate, chemical formula $\text{CaH}_2\text{P}_2\text{O}_8$;
- (7) trisodium phosphate, chemical formula Na_3PO_4 ;
- (8) sodium tripolyphosphate, chemical formula $\text{Na}_5\text{P}_3\text{O}_{10}$;
- (9) prepared baking powders containing sodium bicarbonate and any form of phosphate;
- (10) animal or vegetable fertilizers not containing phosphate fertilizers otherwise covered by the scope of these investigations;
- (11) phosphoric acid, chemical formula H_3PO_4 .

The Chemical Abstracts Service (CAS) numbers for covered phosphate fertilizers include, but are not limited to: 7722-76-1 (MAP); 7783-28-0 (DAP); and 65996-95-4 (TSP). The covered products may also be identified by Nitrogen-Phosphate-Potash composition, including but not limited to: NP 11-52-0 (MAP); NP 18-46-0 (DAP); and NP 0-46-0 (TSP).

The covered merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 3103.11.0000; 3103.19.0000; 3105.20.0000; 3105.30.0000; 3105.40.0010; 3105.40.0050; 3105.51.0000; and 3105.59.0000. Phosphate fertilizers subject to these investigations may also enter under subheadings 3103.90.0010, 3105.10.0000, 3105.60.0000, 3105.90.0010, and 3105.90.0050. Although the HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

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