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Investigation  
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November 23, 2020

MEMORANDUM TO: Joseph A. Laroski Jr.  
Deputy Assistant Secretary  
for Policy and Negotiations

FROM: James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Affirmative  
Determination of the Countervailing Duty Investigation of  
Phosphate Fertilizers from the Kingdom of Morocco

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## I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of phosphate fertilizers from the Kingdom of Morocco (Morocco), as provided in section 703(b)(1) of the Tariff Act of 1930, as amended (the Act).

## II. BACKGROUND

### A. Case History

On June 26, 2020, The Mosaic Company (the petitioner), filed a petition with Commerce seeking the imposition of countervailing duties (CVD) on imports of phosphate fertilizers from Morocco.<sup>1</sup> We describe the supplements to the Petition and our consultations with the Government of Morocco (GOM) in the Initiation Checklist.<sup>2</sup> On July 23, 2020, Commerce initiated a CVD investigation on phosphate fertilizers from Morocco.<sup>3</sup>

Although Commerce normally relies on the number of producers/exporters identified in the Petition and/or import data from U.S. Customs and Border Protection to determine whether to

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<sup>1</sup> See “Phosphate Fertilizers from Morocco and Russia: Petitions for the Imposition of Countervailing Duties,” dated June 26, 2020 (Petition).

<sup>2</sup> See Memorandum, “Countervailing Duty Investigation Initiation Checklist,” dated July 16, 2020 (Initiation Checklist).

<sup>3</sup> See *Phosphate Fertilizers from the Kingdom of Morocco and the Russian Federation: Initiation of Countervailing Duty Investigations*, 85 FR 44505 (July 23, 2020) (*Initiation Notice*).



select a limited number of producers/exporters for individual examination in CVD investigations, the Petition identified only one company as a producer/exporter of phosphate fertilizers in Morocco: OCP S.A. (OCP). We currently know of no additional producers/exporters of phosphate fertilizers from Morocco. Accordingly, Commerce is examining OCP, the only known producer/exporter of the subject merchandise in Morocco.

On July 28, 2020, Commerce issued its initial questionnaire to the GOM and instructed the GOM to forward the Initial Questionnaire to OCP.<sup>4</sup> We received an affiliation response from OCP on August 11, 2020.<sup>5</sup> We received responses to our Initial Questionnaire from the GOM and OCP on September 17, 2020.<sup>6</sup> We issued supplemental questionnaires to the GOM and OCP in October 2020, and received responses to these supplemental questionnaires in November 2020.<sup>7</sup>

On October 14, 2020, the petitioner alleged that OCP received five additional countervailable subsidies during the period of investigation (POI).<sup>8</sup> On November 3, 2020, Commerce initiated an investigation into these newly alleged subsidies.<sup>9</sup> We issued supplemental questionnaires regarding the new subsidy allegations to the GOM and OCP in November 2020, and received responses to these supplemental questionnaires in the same month. *See below* at Section VI. Programs for Which Additional Information is Necessary.

On November 4, 2020, the petitioner and OCP submitted benchmark information for Commerce's consideration.<sup>10</sup> On November 13 and 15, 2020, the petitioner and OCP submitted rebuttal benchmark information. On November 13 and 16, 2020, the petitioner and OCP submitted comments for consideration in the preliminary determination, respectively.<sup>11</sup>

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<sup>4</sup> See Commerce's letter, "Investigation of Phosphate Fertilizers from Morocco: Countervailing Duty Questionnaire," dated July 28, 2020 (Initial Questionnaire).

<sup>5</sup> See OCP's letter, "OCP S.A. Section III Affiliated Companies Response," dated August 11, 2020 (AFR).

<sup>6</sup> See GOM's letter, "Questionnaire Response of the Government of the Kingdom of Morocco," dated September 17, 2020 (GOM IQR), and OCP's Letter, "OCP S.A.'s Section III Questionnaire Response," dated September 17, 2020 (OCP IQR).

<sup>7</sup> See *e.g.*, OCP's letter, "OCP S.A. Supplemental Questionnaire Response," dated November 3, 2020 (OCP 11.3 SQR).

<sup>8</sup> See Petitioner's letter, "New Subsidy Allegations," dated October 14, 2020.

<sup>9</sup> See Memorandum, re: "New Subsidy Allegations," dated November 3, 2020.

<sup>10</sup> See Petitioner's Letter, "Petitioner's Submission of Factual Information to Measure the Adequacy of Remuneration and Other Factual Information," dated November 4, 2020 (Petitioner's Benchmarks) and OCP's Letter, "New Factual Information," dated November 4, 2020.

<sup>11</sup> See Petitioner's Letter, "Pre-Preliminary Comments," dated November 13, 2020 and OCP's Letter, "Pre-Preliminary Determination Comments," dated November 16, 2020. We note that due to the proximity of the petitioner's and OCP's pre-preliminary comments to the deadline for the preliminary determination, we did not take these comments into consideration.

## **B. Postponement of the Preliminary Determination**

On February 21, 2020, based on a request from the petitioners,<sup>12</sup> Commerce postponed the deadline for the preliminary determination until November 23, 2020, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).<sup>13</sup>

## **C. Period of Investigation**

The POI is January 1, 2019, through December 31, 2019.

## **III. INJURY TEST**

Because Morocco is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Morocco materially injure, or threaten material injury to, a U.S. industry. On August 13, 2020, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of phosphate fertilizers from Morocco that are allegedly subsidized by the GOM.<sup>14</sup>

## **IV. SUBSIDIES VALUATION**

### **A. Allocation Period**

Commerce normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise. Pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System,<sup>15</sup> the AUL in this proceeding is 10 years. The 10-year period corresponds to IRS Pub, 946 asset class 33.2. No party in this proceeding submitted comments challenging the proposed AUL period. Therefore, we preliminarily determine that a 10-year period is appropriate for purposes of allocating non-recurring subsidies.

### **B. Attribution of Subsidies**

In accordance with 19 CFR 351.525(b)(6)(i), Commerce normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution to respondents of subsidies received by cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise

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<sup>12</sup> See Petitioner’s letter, “Petitioner’s Request for Postponement of the Preliminary Determination,” dated August 20, 2020.

<sup>13</sup> See *Phosphate Fertilizers from the Kingdom of Morocco and the Russian Federation: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 85 FR 54535 (September 2, 2020).

<sup>14</sup> See *Phosphate Fertilizers from Morocco and Russia*, 85 FR 49394 (August 13, 2020).

<sup>15</sup> See U.S. Internal Revenue Service Pub 946 (2019), “Appendix B - Table of Class Lives and Recovery Periods” (IRS Pub. 946).

that otherwise transfers a subsidy to a respondent. Further, 19 CFR 351.525(c) provides that benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm producing the subject merchandise that is sold through the trading company, regardless of affiliation.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of Commerce's regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *CVD Preamble* to Commerce's regulations further clarifies Commerce's cross-ownership standard.<sup>16</sup> According to the *CVD Preamble*, relationships captured by the cross-ownership definition include those where:

the interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.<sup>17</sup>

Thus, Commerce's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade (CIT) upheld Commerce's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.<sup>18</sup>

### *OCP*

The sole mandatory respondent, OCP, is a state-owned, integrated producer of phosphate fertilizers<sup>19</sup> subject to this investigation. In fact, in 1920 it was established as the Moroccan Board of Phosphates, and subsequently converted to a limited liability company in 2008. OCP has held a monopoly for the research and exploitation of phosphates granted to it by the GOM.<sup>20</sup>

OCP identified numerous companies with which it is affiliated, and which satisfy the criteria for cross-ownership for purposes of attributing to OCP subsidies received by these companies. Specifically, OCP identified Jorf Fertilizers Company (JFC) I, JFC II, JFC III, JFC IV, JFC V,

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<sup>16</sup> See *Countervailing Duties; Final Rule*, 63 FR 65348, 65401-02 (November 25, 1998) (*CVD Preamble*).

<sup>17</sup> *Id.*, 63 FR at 65401.

<sup>18</sup> See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-04 (CIT 2001).

<sup>19</sup> See OCP IQR at 3.

<sup>20</sup> See OCP SQR at Exhibit SIII-1 at Law No. 46-07.

and Maroc Phosphore as wholly-owned subsidiaries of OCP that produce phosphate fertilizers.<sup>21</sup> Because all of these companies are wholly-owned by OCP and all produce the subject merchandise (*i.e.*, phosphate fertilizers), we will attribute the subsidies received by these companies to products produced by these corporations pursuant to 19 CFR 351.525(b)(6)(ii), net of intercompany sales.

### **C. Denominators**

In accordance with 19 CFR 351.525(b)(1)-(5), when selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondents' receipt of benefits under each program. As discussed in further detail below under "Programs Preliminarily Determined to Be Countervailable," where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator (or, when appropriate, the total combined sales of the cross-owned affiliates, as described above). Where the program has been found to be contingent upon export activities, we used the recipient's total export sales as the denominator. All sales used in our net subsidy rate calculations are net of intra-company sales. For a further discussion of the denominators used, see OCP's Preliminary Calculation Memorandum.<sup>22</sup>

## **V. BENCHMARKS AND INTEREST RATES**

### **A. Creditworthiness**

The petitioner alleged that OCP was uncreditworthy, as defined by 19 CFR 351.505(a)(4), from the years 2016-2018, and that as a government-owned entity, whether it received comparable commercial long-term loans is not dispositive of its creditworthiness.<sup>23</sup>

The examination of creditworthiness under 19 CFR 351.505(a)(4) is an attempt to determine if the company in question could obtain long-term financing from conventional commercial sources. According to 19 CFR 351.505(a)(4)(i), Commerce will generally consider a firm to be uncreditworthy if, based on information available at the time of the government-provided loan, the firm could not have obtained long-term loans from conventional commercial sources. In making its creditworthiness determination, according to 19 CFR 351.505(a)(4)(i), Commerce may examine, among other factors, the following types of information: (1) the receipt by the firm of comparable commercial long-term loans; (2) present and past indicators of the firm's financial health; (3) present and past indicators of the firm's ability to meet its costs and fixed financial obligations with its cash flow; and (4) evidence of the firm's future financial position such as market studies, country and industry economic forecasts, and project and loan appraisals prepared prior to the agreement between the lender and the firm on the terms of the loan.

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<sup>21</sup> See AFR at 5.

<sup>22</sup> See Memorandum, "Countervailing Duty Investigation of Phosphate Fertilizers from the Kingdom of Morocco: Preliminary Determination Calculations for OCP.S.A.," dated November 23, 2020 (OCP Preliminary Calculation Memorandum).

<sup>23</sup> See Initiation Checklist at 10.

OCP reports receiving financing 2016 through 2018.<sup>24</sup> As indicated in the *CVD Preamble*, the presence of comparable commercial loans will be dispositive of creditworthiness only for private-owned companies, not for government-owned companies.<sup>25</sup> Because OCP is a government-owned firm, Commerce does not consider such financing to be the type of commercial lending that is dispositive of creditworthiness under 19 CFR 351.505(a)(4)(ii). As a result, we turned to the other three factors pursuant to 19 CFR 351.505(a)(4)(i). Based on the record evidence, and our analysis as explained in the Creditworthiness Memorandum, we preliminarily determine that OCP was uncreditworthy during 2016 and 2017, and creditworthy in 2018.<sup>26</sup>

### *Interest Rate*

Pursuant to 19 CFR 351.505(a)(3)(iii), we derived an “uncreditworthy” interest rate for OCP. Pursuant to our regulations, we used the probability of default for Caa to C- rated companies in Moody’s study of historical default rates of global corporate bond issuers, and average cumulative default rates for Aaa to Baa-rated companies in Moody’s study of historical default rates of global corporate bond issuers (*i.e.*, investment grade companies).<sup>27</sup> As discussed below under Section VI, Analysis of Programs, OCP Bond Issuance, we calculated an uncreditworthy benchmark interest rate for the terms of each 2016 bond.<sup>28</sup>

## **B. Loan Benchmarks**

Section 771(5)(E)(ii) of the Act provides that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market,” indicating that a benchmark must be a market-based rate. In addition, 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient “could actually obtain on the market{,}” Commerce will normally rely on actual loans obtained by the firm. However, when there are no comparable commercial loans during the period, Commerce “may use a national average interest rate for comparable commercial loans,” pursuant to 19 CFR 351.505(a)(3)(ii). In addition, 19 CFR 351.505(a)(2)(ii) states that Commerce will not consider a loan provided by a government-owned special purpose bank for purposes of calculating benchmark rates.

### *Short-Term Loans*

With respect to short-term interest rates, the GOM and the petitioner have provided lending rate<sup>29</sup> information from Morocco’s Bank Al-Maghrib.<sup>30</sup> Additionally, OCP provided information about short-term loans from commercial banks for consideration as comparable commercial

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<sup>24</sup> See *e.g.*, OCP IQR at Exhibit Loan-11.

<sup>25</sup> See *CVD Preamble*, 63 FR at 65367.

<sup>26</sup> See Memorandum, “Preliminary Creditworthiness Determination for OCP S.A.,” dated November 23, 2020 (Creditworthiness Memorandum).

<sup>27</sup> See OCP Preliminary Calculation Memorandum.

<sup>28</sup> *Id.*

<sup>29</sup> See Petitioner’s Benchmarks, at Exhibits 19 and 20.

<sup>30</sup> The Bank Al-Maghrib is responsible for Morocco’s monetary policies. See GOM IQR at Exhibit I-1.

loans for purposes of identifying an interest rate benchmark.<sup>31</sup> We preliminarily determine that some of the loans identified by OCP constitute comparable commercial loans, and it is appropriate to use these loans to calculate a benchmark interest rate, pursuant to 19 CFR 351.505(a)(2)(iv).

### *Long-Term Financing*

OCP reported receiving long-term loans, loan guarantees on long-term loans, and issuing long-term bonds. The GOM provided interest rates for Spanish and German government bonds, French short-term interest rates, and historical Moroccan interest rates as reported by the International Monetary Fund's (IMF) International Financial Statistics (IFS).<sup>32</sup> Additionally, we placed historical French government bond interest rates on the record.<sup>33</sup> Additionally, OCP provided evidence that it obtained commercial Euro and Moroccan dirham (MAD)-denominated long-term loans from commercial banks, and purchased corporate bonds.<sup>34</sup> Depending on the terms of the long-term loan, we either used the comparable long-term commercial loans in accordance with 19 CFR 351.505(a)(2)(i) or the appropriate foreign government bond interest rates, in accordance with 19 CFR 351.505(a)(3)(iii) to calculate the benefit from long-term loans.

## **VI. ANALYSIS OF PROGRAMS**

Based upon our analysis of the record and the responses to our questionnaires, we preliminarily determine the following:

### **A. Programs Preliminarily Determined to Be Countervailable**

#### **Loan Programs**

##### **1. OCP Bond Program**

In 2016 and 2018, OCP issued local perpetual subordinated corporate bonds to support its investment project. For both bond issuances (*e.g.*, tranches), OCP's board of directors put the matter to OCP's Ordinary General Assembly<sup>35</sup> which decided the terms of each issuance.<sup>36</sup> These perpetual bonds, listed and unlisted, were issued with predetermined redemption dates, with fixed, but adjustable, rates<sup>37</sup> and increasing risk premiums on each optional redemption date, depending on the tranche.<sup>38</sup> The GOM reports that each bond issuance was made pursuant to Morocco's Law number (No.) 17-95, which relates to public limited companies and covers the

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<sup>31</sup> See OCP IQR at Exhibit LOAN-11 and CRED-2.

<sup>32</sup> See GOM IQR at Exhibit IV-7, IV-8, and IV-9, respectively.

<sup>33</sup> See OCP Preliminary Calculation Memorandum.

<sup>34</sup> See OCP IQR at Exhibit LOAN-11 and CRED-2.

<sup>35</sup> For shareholders meeting, see OCP 11.3 SQR at 5. For the law regulating public limited companies, see GOM IQR at Exhibit II-7.

<sup>36</sup> For OCP's 2016 and 2018 bond prospectuses, see GOM IQR at Exhibit II-2 and Exhibit II-3,

<sup>37</sup> For example, the interest rates in the 2016 bonds are fixed in a certain range, but are adjustable every 1, 5 or 10 years depending on the tranche purchased.

<sup>38</sup> See GOM IQR at Exhibit II-2 and Exhibit II-3.

conditions necessary for issuing bonds in Morocco and the rights of the bond holders.<sup>39</sup> These bonds were submitted for regulatory review by the AMMC,<sup>40</sup> the entity which oversees Morocco's capital market.<sup>41</sup>

With respect to the 2016 bond issuance, OCP reports that it contracted a subsidiary of Caisse de Dépôt et de Gestion (CDG), CDG Capital S.A. (CDG Capital), as financial advisor and global coordinator, placement agent, custodian, and the entity in charge of registration with the Casablanca Stock Exchange.<sup>42</sup> Further, OCP reports that the interest rates on the bonds were determined by the market at the time of the issuance as follows: OCP began by looking to the primary market Treasury bond yield curve, which is a publicly available yield rate available from Morocco's central bank, and then incorporating a risk premium.<sup>43</sup> These interest rates were then set in the prospectus.<sup>44</sup>

With respect to the 2018 bond issuance, OCP reports that it published a Request for Proposal seeking bond issuance services<sup>45</sup> and selected CDG Capital, Banque Centrale Populaire S.A. (BCP), Attijariwafa Bank Group (AWB), and BMCE Bank of Africa (BMCE) as placement agents for this bond offering.<sup>46</sup> OCP reports that the interest rates for the 2018 bond issues were derived in a similar manner as the 2016 bonds.<sup>47</sup>

As noted in the prospectuses for the 2016 and 2018 bonds, under the French auction system, investors were offered a risk premium interval, and invited to submit their bids within the said intervals.<sup>48</sup> The prospectus of each bond offering describes the precise algorithms for the determination of the final risk premium and the allotment of the securities (based on investor bids).<sup>49</sup> OCP reports that, ultimately, all investors paid a single rate per tranche as such rate was determined by the market at the time of issuance.<sup>50</sup> OCP's 2016 and 2018 bonds proved popular, with both issuances being oversubscribed.<sup>51</sup> Initial qualified investors<sup>52</sup> included state-owned (e.g., CDG), UCITS,<sup>53</sup> and private investors.<sup>54</sup>

As an initial matter, Commerce preliminarily determines that CDG and CDG Capital are authorities within the meaning described in section 771(5)(B) of the Act. The statute defines

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<sup>39</sup> *Id.* at II-5 and Exhibit II-7.

<sup>40</sup> Autorite Marocaine des Marches de Capitaux (AMMC) or Moroccan Capital Market Authority.

<sup>41</sup> *See* GOM IQR at Exhibit II-1.

<sup>42</sup> *See* OCP IQR at 94 and Exhibit BONDDISS-1.

<sup>43</sup> *Id.* at 18 and Exhibit BONDPURCH-7.

<sup>44</sup> *See* GOM IQR at Exhibit II-2.

<sup>45</sup> *See* OCP IQR at 96.

<sup>46</sup> *Id.* at 96-97 and Exhibit BONDDISS-5 and 6.

<sup>47</sup> *Id.* at 20.

<sup>48</sup> *See* GOM IQR at II-17 and Exhibits II-2 and II-3.

<sup>49</sup> *Id.*

<sup>50</sup> *See* OCP IQR at 19 and OCP 11.3 SQR at Exhibit BONDPURCH2-1.

<sup>51</sup> *See* OCP IQR at 19-20 and Exhibit BONDPURCH-7 and BONDPURCH-13.

<sup>52</sup> Qualified investors are entities which understand the inherent risk in such financial transactions. *See* OCP IQR at Exhibit BONDPURCH-5 and 6.

<sup>53</sup> Undertakings for the Collective Investment in Transferable Securities (UCITS). UCITS are investment funds similar to mutual funds. *See* OCP IQR at BONDPURCH-9.

<sup>54</sup> *See* GOM IQR at Exhibit II-4. *See also* OCP 11.3 SQR at Exhibit BONDPURCH2-1.

“authority” as “a government of a country or any public entity within the territory of the country.”<sup>55</sup>

CDG is wholly-owned by the GOM. In 1959, CDG was established by law as a wholly state-owned financial institution to support Morocco’s burgeoning autonomy and economic sovereignty.<sup>56</sup> The law establishing CDG indicates that its supervisory board will consist of: 1) two members of the Supreme Court appointed by the Minister of Justice; 2) the Minister of the National Economy or his representative; 3) the Minister of Finance or his representative, and; 4) the Governor of the Bank of Morocco or his representative.<sup>57</sup> Additionally, CDG uses the assistance of GOM tax collectors to act as public accountants.<sup>58</sup> Therefore, because CDG is wholly-owned by the GOM, is established by statute, and the GOM has significant presence on CDG’s supervisory board, we preliminarily determine that CDG is an authority. Additionally, because CDG Capital is a wholly-owned subsidiary of CDG, we preliminarily determine that CDG Capital is also an authority.<sup>59</sup> Accordingly, we preliminarily determine CDG Capital provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act. Additionally, Commerce preliminarily finds the bond issuances are specific pursuant to section 771(5A)(D)(i) of the Act, because the bonds were serviced and placed by an authority (CDG Capital) and because OCP retained CDG Capital to package and issue its bonds.

To calculate the benefit for this program, we treated the bonds as loans under section 771(5)(E)(ii) of the Act. We compared the amount of interest paid during the POI on these bonds to the amount of interest that the respondent would have paid on private bonds.<sup>60</sup> In conducting this comparison, we used the interest rate benchmarks described above in the section “Benchmarks and Interest Rates.”

With respect to the 2018 bond issuance, we preliminarily determine that these bonds confer no benefit. The bonds in each tranche were sold at a single interest rate,<sup>61</sup> and for the year in which OCP was creditworthy (2018), the benchmark interest rate is the rate that was offered to private entities.<sup>62</sup> Accordingly, because the tranche was sold at the same rate to government entities, private entities, and mutual funds, there was no benefit.

For bonds sold in 2016, when OCP was uncreditworthy, consistent with 19 CFR. 351.505(a)(3)(iii), the benchmark interest rate is the uncreditworthy interest rate appropriate to the terms of the interest rate of the relevant tranche (*i.e.*, 1, 5, or 10 year tranche), which results in a benefit for the bonds sold to GOM entities in that year. The benefit is the difference between the uncreditworthy interest rate, and the interest rate paid by OCP on the bonds. We

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<sup>55</sup> See section 771(5)(B) of the Act.

<sup>56</sup> See GOM IQR at Exhibit II-16 (Dahir No. 1-59-074 (February 10, 1959), as amended by Dahir No. 1-59-420 (January 6, 1960)), and Exhibit II-17 (CDG’s 2019 Annual Report).

<sup>57</sup> See GOM IQR at Exhibit II-16.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at Exhibit II-7 and Exhibit VI-9.

<sup>60</sup> See 19 CFR 351.505(a).

<sup>61</sup> See OCP 11.3 SQR at Exhibit BONDPURCH2-1.

<sup>62</sup> *Id.*

then divided OCP's calculated benefit by its total combined sales. On this basis, we preliminarily calculated a countervailable subsidy of 0.29 percent *ad valorem*.<sup>63</sup>

## 2. Government Loan Guarantees

The GOM reports that, in the 1990s, Morocco had limited hard currency reserves which resulted in strict capital controls.<sup>64</sup> As a result, when OCP, and other government entities,<sup>65</sup> sought loans from foreign development banks, those development banks required that the GOM guarantee those loans.<sup>66</sup> When the GOM guaranteed the foreign development bank loans, the GOM would print a notice in Morocco's *Bulletin Officiel* identifying the government entity obtaining the loan, the foreign bank, and the amount of the loan, and stating that it would guarantee the loan.<sup>67</sup> With respect to OCP's 2016 and 2018 bonds, there is no evidence on the record that the GOM or a government-owned entity guaranteed those bond issuances.<sup>68</sup>

We preliminarily determine that this program is specific pursuant to section 771(5A)(D)(iii)(I) because the users of the government loan guarantees are limited in number. Specifically, evidence on the record indicates that only four government-owned entities received government loan guarantees.<sup>69</sup> The *CVD Preamble* states that if the government directly guarantees the debt of a company it owns, it falls upon the respondent to demonstrate that it is normal commercial practice for private shareholders in that country to guarantee the debt of the companies in which they own shares.<sup>70</sup> While the record demonstrates that the GOM provided loan guarantees to various public entities upon the request of the foreign development banks as a result of the foreign currency reserve problem, there is no evidence that it was a normal Moroccan commercial practice for private shareholders to provide loan guarantees under similar circumstances during that time. Additionally, we preliminarily determine that this program provides a financial contribution pursuant to section 771(5)(D)(i) of the Act, as the GOM is providing a potential direct transfer of funds in the form of loan guarantees.

With respect to benefit, we note there are no GOM fees associated with the loan guarantees provided to OCP. To calculate the benefit, we compared the amount of interest OCP paid on these guaranteed loans during the POI to the amount they would have paid under the long-term benchmark interest rate described above. We then divided OCP's calculated benefit by its total combined sales. On this basis, we preliminarily calculate a subsidy rate of 6.64 percent *ad valorem*.<sup>71</sup>

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<sup>63</sup> See OCP Preliminary Calculation Memorandum.

<sup>64</sup> See GOM IQR at IV-2 and Exhibit IV-6,

<sup>65</sup> Other government entities include the Office National de L'électricité (ONEE) and Office National des Chemins de Fer (ONCF). See GOM IQR at Exhibit IV-1.

<sup>66</sup> *Id.* at IV-2 and Exhibit IV-1.

<sup>67</sup> *Id.* at Exhibit IV-1.

<sup>68</sup> *Id.* at Exhibits IV-2 and IV-3.

<sup>69</sup> *Id.* at Exhibit IV-1 and IV-4.

<sup>70</sup> See *CVD Preamble*, 63 FR 65348 at 65367. See also 19 CFR 351.506(a)(2).

<sup>71</sup> See OCP Preliminary Calculation Memorandum

## **Provision of Goods and Services for Less Than Adequate Remuneration (LTAR)**

### **1. Provision of Phosphate Mining Rights for LTAR**

The production of phosphate fertilizer involves the mining of phosphate ore and the further production of phosphate rock through a process called beneficiation. OCP was originally created in 1920 to be an office within the GOM (*Office Chérifien des Phosphates*) which would “make use of” Morocco’s phosphate reserves, which belong to the state (along with all subsoil minerals) under Moroccan law.<sup>72</sup> In 1951, the GOM established its “exclusive authority” to mine the country’s phosphate reserves.<sup>73</sup> According to the GOM, OCP was converted to a limited liability company in 2008, but retained its role as the single entity under Moroccan law to have the right to mine phosphates.<sup>74</sup> Further, in 2015, the GOM enacted a law related to mining (Dahir N°1-15-76 (July 1, 2015)), in which it repealed the provisions of the 1951 law, but which preserved the state (*i.e.*, OCP’s) monopoly with regard to the extraction of phosphates.<sup>75</sup> Although the Ministry of Energy, Mines, and Environment in Morocco oversees the country’s resources in general, OCP does not have to apply for, or obtain, phosphate mining rights because it is already assigned those rights under Moroccan law.<sup>76</sup>

OCP pays taxes on a per-ton basis for the amount of phosphate ore which it extracts, and the tax rate is set by regional authorities. Consistent with the law, the applicable taxes are collected annually on a per-ton basis and are set between 1 and 3 MAD per ton. The GOM reports that the extraction tax rate for OCP has been set at the highest rate (*i.e.*, 3 MAD per ton) by each regional authority.<sup>77</sup> However, the GOM has confirmed that while OCP has the exclusive right to mine phosphate ore, it does not pay any fees for the right to mine.

We preliminarily determine that the GOM, in continuing to grant OCP the exclusive right to extract ore from government-owned phosphate reserves, confers a financial contribution in the form of the provision of a good within the meaning of section 771(5)(D)(iii) of the Act. Based on the analysis below, we also preliminarily determine that there is a benefit to OCP in the form of the provision of a good for LTAR, and that this subsidy is *de jure* specific.

Since 1920, OCP is the only company with the right to extract the government-owned phosphate reserves in Morocco. Despite the GOM’s legislative changes regarding its management of the phosphate reserves in 1951,<sup>78</sup> and the 2008 transformation of OCP from a government office into a limited liability company, the essential, exclusive right held by OCP to mine Morocco’s phosphate ore has remained unchanged since OCP’s initial creation. Because OCP holds the exclusive right to extract phosphate ore, it is the only recipient of the undervalued phosphate ore in Morocco. Accordingly, because the mining rights are granted only to OCP as a matter of law,

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<sup>72</sup> See GOM IQR at V-1, 6 and Exhibit V-1.

<sup>73</sup> *Id.* at V-6 and Exhibit V-3.

<sup>74</sup> *Id.* at V-1 and Exhibit V-2.

<sup>75</sup> *Id.* at V-2 and Exhibit V-6.

<sup>76</sup> *Id.* at V-3.

<sup>77</sup> *Id.* at V-4.

<sup>78</sup> The GOM officially established its authority to mine the country’s phosphate reserves. See GOM IQR at V-2 and Exhibit V-6.

the provision of phosphate mining rights for LTAR is *de jure* specific, in accordance with section 771(5A)(D)(i) of the Act.

With respect to benefit, we preliminarily determine, in accordance with 19 CFR 351.511(a)(2)(i) that there are no suitable market-determined benchmark prices for phosphate ore mining rights in Morocco, *i.e.*, no “tier 1” in-country prices. The government is the sole provider of mining rights for phosphate ore in Morocco and, thus, there are no private, market-determined prices available for the good in question. We also preliminarily determine that the record does not contain any appropriate “tier 2” world market prices for phosphate ore mining rights that would be available to purchasers in Morocco. Therefore, in accordance with 19 CFR 351.511(a)(2)(iii), we have conducted a “tier 3” analysis and examined whether the government price is consistent with market principles. The *CVD Preamble* explains that this analysis may focus on factors including the government’s price-setting philosophy, costs (including rates of return sufficient to ensure future operations), or possible price discrimination.<sup>79</sup> Under the “tier 3” analysis, we based our analysis on whether the price paid by OCP for mining rights is consistent with market principles. We have adopted an approach that is similar to the approaches in *Silicon Metal from Australia* and *Cold-Rolled Steel from Russia*, where we also investigated the provision of mining rights for LTAR.<sup>80</sup> In those cases, we conducted our benefit analysis using benchmarks not based on mining rights, *per se*, but on the value of the underlying good conveyed *via* mining rights. On the basis of this analysis, explained in detail below, we preliminarily determine that OCP received a benefit under this program during the POI.

In order to calculate the benefit for the preliminary determination, we compared the actual per-unit cost buildup of OCP’s beneficiated phosphate rock, inclusive of all taxes paid to the GOM, to the benchmark, *i.e.*, a world market price of comparable phosphate rock.<sup>81</sup> We obtained a world market price by selecting, from among the benchmark data submitted by the petitioner and OCP, data which are reported on a free-on-board basis, and which include information related to the “bone phosphate of lime” (BPL) level or P<sub>2</sub>O<sub>5</sub> content<sup>82</sup> of the rock, such that we could exclude data which relate to phosphate rock which does not compare to that which was mined/beneficiated by OCP during the POI.<sup>83</sup> Therefore, to calculate the benefit, we multiplied the difference between the calculated per-unit cost buildup, including the production cost of the phosphate rock and the extraction taxes paid, and the benchmark per-unit price of phosphate rock, by the total amount of phosphate rock mined and beneficiated by OCP during the POI. We

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<sup>79</sup>See *CVD Preamble*, 63 FR at 65378.

<sup>80</sup> See *Silicon Metal from Australia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 82 FR 37843 (August 14, 2017), unchanged in *Silicon Metal from Australia: Final Affirmative Countervailing Duty Determination*, 83 FR 9834 (March 8, 2018) (*Silicon Metal from Australia*); see also *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From the Russian Federation: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 81 FR 49935 (July 29, 2016) (*Cold-Rolled Steel from Russia*).

<sup>81</sup> Although the alleged subsidy under this program is the provision of phosphate mining rights for LTAR, OCP has the right to mine phosphate *ore*, but there are no world market prices for phosphate ore. Accordingly, we have determined the per-unit cost of OCP’s production of beneficiated phosphate rock, including the cost of mining the ore, and compared that to a world market price for phosphate rock. For further discussion of the costs included in our calculation of the per-unit production cost of phosphate rock, see OCP Preliminary Calculation Memorandum.

<sup>82</sup> Phosphorus pentoxide (P<sub>2</sub>O<sub>5</sub>).

<sup>83</sup> For further discussion of the benchmark and benefit calculation for this program, see OCP Preliminary Calculation Memorandum.

then divided this difference by the combined sales of OCP and its cross-owned producers to derive a benefit conferred to OCP of 12.66 percent *ad valorem*.

## **Tax Programs**

### **1. Tax Incentives for Export Operations**

Morocco has a tiered corporate income tax rate system. Under this progressive corporate income tax scale, tax rates increase to match the taxable base of companies. The GOM reported that the corporate income tax rates in force during the POI were: 10 percent for net profit of less than or equal to MAD 300,000, 17.5 percent for net profit of MAD 300,001 to 1,000,000, and 31 percent for companies with net profit above MAD 1,000,000 over the fiscal year.<sup>84</sup> However, companies that would otherwise be subject to the 31 percent rate can obtain the 17.5 percent if they operate in certain sectors, including exporting enterprises.<sup>85</sup> The GOM explained that beginning in 1996, Moroccan law provided new exporting companies a complete five-year exemption from paying corporate income tax.<sup>86</sup> Though the GOM repealed this measure in January 2020, it remained in effect during the POI.<sup>87</sup>

OCP reported that both OCP and JFC V qualified for, and received, the reduced 17.5 percent income tax rate during the POI. However, OCP stated that OCP and JFC V did not qualify for the five-year income tax exemption for newly exporting companies.<sup>88</sup> JFCs I, III, and IV did not claim these tax exemptions during the POI.<sup>89</sup> OCP reported that during the POI, JFC II claimed the five-year exemption from paying corporate income tax on export operations available to new exporting companies. JFC II qualified for this exemption because its export operations included foreign currencies and its first export operation occurred in fiscal year 2017.<sup>90</sup>

We preliminarily determine that this program is specific pursuant to section 771(5A)(B) of the Act, because both the reduction in corporate income tax and exemption from paying income tax for exports are contingent, in law or in fact, on export performance. We also preliminarily determine that this reduced corporate income tax rate for exports provides a financial contribution in the form of revenue forgone by the GOM pursuant to section 771(5)(D)(ii) of the Act.

In order to calculate the benefit for this tax program for the preliminary determination, we compared the amount of taxes OCP, JFC II, and JFC V paid and the amount the companies would have paid in the absence of this program, in accordance with 19 CFR 351.509(a). We determined the amount in taxes that OCP, JFC II, and JFC V would have paid by examining each companies' tax return and OCP's method of calculating corporate income tax under Morocco's

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<sup>84</sup> See GOM IQR at VIII-1.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.* at VIII-2.

<sup>87</sup> *Id.* at VIII-2 and Exhibit VIII-2.

<sup>88</sup> See OCP IQR at 125.

<sup>89</sup> *Id.* at 123.

<sup>90</sup> *Id.* at 125 and 127.

tiered tax system.<sup>91</sup> First, we divided the benefit OCP received from this tax program during the POI by OCP and its cross-owned companies' total export sales. Then, we divided the benefit that both JFC II and JFC V obtained from this program by OCP and its cross-owned companies' total export sales. Finally, we added the *ad valorem rate* for the three companies together. On this basis, we preliminarily calculated a total subsidy rate of 3.87 percent *ad valorem*.<sup>92</sup>

## **B. Programs Preliminarily Determined Not to Have Conferred a Benefit**

We preliminarily determine that the program below did not confer a measurable benefit during the POI. Consistent with our past practice, we do not include programs with non-measurable benefits, *i.e.*, calculated rates of less than 0.005 percent, in a respondent company's net subsidy calculation.<sup>93</sup> In addition, because the benefits from this program are not measurable, we do not reach a preliminary determination as to whether there is financial contribution or specificity for this program.

### Direct Loans

OCP reported receiving benefits under this program. To calculate the benefit, we divided the amount of assistance OCP received by the denominator described above. The calculation of the benefit resulted in a subsidy rate that is less than 0.005 percent.<sup>94</sup>

## **C. Programs Preliminarily Determined Not Countervailable**

### 1. Value-Added Tax (VAT) Reform-VAT Refunds

Morocco's VAT regime was instituted in 1986 and was then incorporated into Morocco's General Tax Code (CGI).<sup>95</sup> General revisions were made to the Moroccan VAT regime in 2016, 2017, and 2018. The 2016 revision provided companies the ability to request reimbursements of VAT paid on purchased investment goods, instead of only earning VAT credits.<sup>96</sup> The 2017 revision provided for the VAT exemptions on investment goods if the investing enterprise commits to investing 100 million MAD over three years.<sup>97</sup> The 2018 revision enables desalination businesses to request reimbursement of VAT credits.<sup>98</sup>

Under Morocco's VAT regime, companies pay VAT (input VAT) on their purchases and collect VAT on the goods they sell (output VAT).<sup>99</sup> To determine a company's overall VAT due, the

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<sup>91</sup> *Id* at 130-133, Appendix GEN-1(a) and Appendix CIT-7 for OCP, Appendix GEN-1(c) and Appendix CIT-8 for JFC II, and Appendix GEN-1(f) and Appendix CIT-9 for JFC V. *See also* OCP 11.3 SQR at 29-32.

<sup>92</sup> *See* OCP Preliminary Calculation Memorandum.

<sup>93</sup> *See, e.g., Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the Russian Federation: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 81 FR 49935 (July 29, 2016), and accompanying IDM at 31-32.

<sup>94</sup> *See* OCP Preliminary Calculation Memorandum.

<sup>95</sup> Code General des Impôts (CGI) or General Tax Code. *See* GOM IQR at VII-1 and Exhibit VII-3.

<sup>96</sup> *See* GOM IQR at Exhibits VII-1 and VII-4.

<sup>97</sup> *Id* at Exhibits VII-1 and VII-5.

<sup>98</sup> *Id* at Exhibits VII-1 and VII-6.

<sup>99</sup> *Id* at VII-2 and Exhibit VII-1.

amount of input VAT that the company paid is deducted from the amount of output VAT that it collected, which results in either VAT due to the state or, if the company pays a greater amount of input VAT than the amount of output VAT it collects, it accumulates credits that can be used the following month or collected as a refund.<sup>100</sup> Morocco maintains an electronic system for tracking VAT, in which, before the end of month or quarter, VAT payers must declare the relevant amounts over the course of the preceding month or quarter, depending on the filing criteria,<sup>101</sup> and pay the corresponding tax or request a VAT credit reimbursement (or refund).<sup>102</sup> Under the Moroccan VAT regime, there are a number of specific situations where VAT paid is not deductible.<sup>103</sup> Additionally, the CGI identifies goods that are exempt from VAT but with the right of deduction.<sup>104</sup> Under Article 92 of the CGI, goods for export and fertilizers, among other items, are exempt from VAT with the benefit of the right to deduct input VAT.<sup>105</sup>

The GOM reports that by 2018, there were hundreds of Moroccan companies with substantial VAT credits that the GOM could not settle.<sup>106</sup> To eliminate these VAT arrears, in 2018, the GOM's Ministry of the Economy and Finance (MEF) entered into a Protocol for Financing of the VAT Credits (the First Protocol) with Moroccan banks, whereby the GOM borrowed money to refund these outstanding VAT credits, with the loan proceeds being transferred to the companies involved to settle the GOM's VAT debt.<sup>107</sup> The parties to this First Protocol were only the GOM and Moroccan banks, as it concerned the loan agreement between the GOM and the banks.<sup>108</sup> Pursuant to a separate agreement between the companies which were owed VAT refunds and the banks, each company which was owed VAT credit refunds then agreed with each bank (signatories to the First Protocol) to make the interest payments necessary to service the loans involved (the GOM remained responsible for paying back the principal). The GOM reports that these were non-recourse agreements whereby the banks could not hold the companies liable for the GOM's failure to pay the principal.<sup>109</sup>

The GOM reports that other than its joint venture company, JFC-V, the OCP companies were not a part of the First Protocol described above. Instead, the GOM entered into a second Protocol (OCP Protocol) with eight Moroccan banks to repay the loans financing the VAT credit reimbursements owed to the OCP companies; the primary difference being that the OCP Protocol had a different set of terms than the first Protocol.<sup>110</sup> Like the First Protocol, the parties to the OCP Protocol were the GOM and the Moroccan banks concerned (and not OCP). OCP entered into separate agreements (known as "factoring contracts") with the eight banks to pay interest on the GOM's loans at issue.<sup>111</sup> The GOM reports that the reimbursements to JFC V under the first Protocol (covering arrears through year-end 2019) were completed on December

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<sup>100</sup> *Id.*

<sup>101</sup> *Id.* at VII-4 and Exhibit VII-1.

<sup>102</sup> *Id.* at VII-6 and Exhibit VII-1.

<sup>103</sup> *Id.* at VII-5-6, and Exhibit VII-1.

<sup>104</sup> *Id.* at Exhibit VII-1.

<sup>105</sup> *Id.*

<sup>106</sup> *Id.* at VII-7.

<sup>107</sup> *Id.* at Exhibit VII-10.

<sup>108</sup> *Id.* at VII-7 and Exhibit VII-10.

<sup>109</sup> *Id.* at VII-7.

<sup>110</sup> *Id.* at VII-8 and Exhibit VII-11.

<sup>111</sup> *See* OCP IQR at Exhibits VAT-6(a)-(n).

31, 2019. The reimbursements to the other OCP companies under the OCP Protocol (covering arrears through the second quarter of 2018) were paid to OCP on October 25, 2018.<sup>112</sup>

We preliminarily determine that OCP, and its cross-owned producers, did not receive a benefit under this program during the POI. When a company has paid more in indirect VAT on its input purchases than it collects on its sales of final product, the company is due the difference under Moroccan law. When a company collects more in indirect VAT on its final product sales than it pays on its input purchases, the company remits the difference to the GOM. In this case, OCP reconciles the output VAT collected from its final sales with the VAT credits accumulated from its purchases from suppliers.<sup>113</sup> As OCP's sales of fertilizer are exempt from VAT, it would necessarily accumulate more credits than debits and must apply to the MEF for a cash refund on a monthly or quarterly basis.<sup>114</sup> In other words, OCP would not have enough debits to reconcile the accumulated credits because fertilizers are tax-exempt. As a result, OCP will always accumulate VAT credits which it can carry forward, or for which it can submit a monthly or quarterly request to the GOM for reimbursement. As noted above, because of the GOM's budgetary issues, the GOM was unable to refund the accumulated VAT credits of hundreds of companies, necessitating the Protocols as described above, which were instituted so that the GOM could pay the VAT debt due to companies which were already legally entitled to VAT refunds. In the case of the VAT refunds pursuant to the Protocols discussed above, OCP is paying the interest to the banks from which the GOM received the loans to pay OCP's VAT refund, effectively reducing the total amount of VAT credits which were due to OCP under Morocco's VAT regime.<sup>115</sup>

Commerce's regulation, 19 CFR 351.510, provides that, for an indirect tax, a benefit exists to the extent that the taxes paid by a firm as a result of the program are less than the taxes the firm would have paid in the absence of the program. For OCP, the credits accumulated under Morocco's VAT regime are based on the amount of taxes paid by OCP on its input purchases, and there are no additional credits granted. As noted above, fertilizers are exempt from VAT liability for export or domestic consumption. In OCP's case, the tax liability due to the GOM for export and domestic sales of fertilizers is zero. Moreover, as noted above, the actual amount of VAT OCP received via the factoring is less than the amount of VAT OCP actually paid, because OCP had to pay interest. OCP received no benefit, given that OCP is not better off with the program. Therefore, in OCP's case, it does not receive a benefit under 19 CFR 351.510(a). We, therefore, find that the GOM's VAT regime did not confer a benefit to OCP, or its cross-owned producers, during the POI. Additionally, because the GOM reimbursed these VAT credits which were owed to OCPs, we preliminarily find there is no revenue forgone pursuant to section 771(5)(D) of the Act. Accordingly, we preliminarily determine the VAT credit refunds under Morocco's VAT regime are not countervailable, as there is not a financial contribution or benefit provided to OCP.

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<sup>112</sup> *Id.* See also, GOM IQR at VII-8-9.

<sup>113</sup> See OCP IQR at 107 and VAT-2.

<sup>114</sup> *Id.*

<sup>115</sup> See OCP IQR at Exhibits VAT-6(a)-(n). See also, GOM IQR at VII-8-9.

#### **D. Programs Preliminarily Determined to Be Not Used during the POI**

As noted above, OCP reported that neither it, nor any of its cross-owned affiliates, used the following programs during the POI or over the AUL period:

1. OCP Bond Services for LTAR

The 2016 and 2018 OCP bond prospectuses identify the fees associated with issuing the bonds.<sup>116</sup> Additionally, OCP submitted the contracts between OCP and the financial institutions providing the bond services which describe the fees incurred.<sup>117</sup> Further, during the POI, OCP reported that it did not receive bond issuance services from the GOM state-owned entities.

2. Provision of Phosphogypsum Waste Disposal<sup>118</sup>

#### **E. Programs for Which Additional Information is Necessary**

As noted above, Commerce initiated an investigation into five newly alleged subsidies on November 3, 2020. We were unable to obtain the necessary information on the record with sufficient time to incorporate these programs into this preliminary determination. Accordingly, we will issue a post-preliminary analysis with respect to the alleged countervailability of the following programs.

1. Reduction in OCP's Tax Fines and Penalties
2. Revenue Exclusions from Minimum Tax Contributions
3. Customs Duty Exemptions for Capital Goods, Machinery, and Equipment
4. VAT Exemptions for Capital Goods, Machinery, and Equipment
5. Rail Transport Services for LTAR

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<sup>116</sup> *Id.* at Exhibits BONDPURCH-5 and BONDPURCH-6.

<sup>117</sup> *Id.* at Exhibits BONDISS-1-2, 5-6, and 10-11.

<sup>118</sup> *See* GOM IQR at IX-1-2, and Exhibit IX-1. *See also*, OCP IQR at 138.

**VII. RECOMMENDATION**

We recommend that you approve the preliminary findings described above.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

11/23/2020

X



Signed by: JOSEPH LAROSKI  
Joseph A. Laroski Jr.  
Deputy Assistant Secretary  
for Policy and Negotiations