differences in packing between the two markets, we increased home market price by U.S. packing costs and reduced it by home market packing costs. Prices were reported net of value added taxes (VAT) and, therefore, no deduction for VAT was necessary. We made adjustments, where appropriate, for physical differences in merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of UES's cost of materials and fabrication employed in producing the subject merchandise, SG&A and profit incurred and realized in connection with production and sale of the foreign like product, and U.S. packing costs. In accordance with section 773(e)(2)(A), we based SG&A and profit on the amounts incurred and realized by UES in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. We used the costs of materials, fabrication, and general and administrative expenses as reported in the CV portion of UES's questionnaire response. We used the U.S. packing costs as reported in the U.S. sales portion of UES's questionnaire response. We based selling expenses and profit on the information reported in the home market sales portion of UES's questionnaire response. See *Certain Pasta from Italy; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 61 FR 1344, 1349 (January 19, 1996). For selling expenses, we used the average per-unit home market selling expenses of above-cost sales weighted by the total quantity sold. For actual profit, we first calculated the difference between the home market sales value and home market COP, for all above-cost home market sales, and divided the sum of these differences by the total home market COP for these sales. We then multiplied this percentage by the COP for each U.S. model to derive an actual profit.

Commission Offset

Because there are commissions on U.S. sales and not on home market sales, we made an adjustment for indirect selling expenses in the home market to offset the U.S. commissions. We applied the offset to NV or CV, as appropriate, in accordance with 19 CFR 353.56(b)(1).

We based the commission offset amount on the amount of the home market indirect selling expenses. We limited the home market indirect selling expense deduction by the amount of the commissions incurred on sales to the United States.

Preliminary Results of the Review

As a result of our comparison of EP and NV, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/Exporter	Period	Margin (percent)
United Engineering Steels, Limited (UES), (now British Steel, Engineering Steels Limited)	3/1/94–2/28/95	1.26

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. Parties who submit comments are requested to submit with their comments (1) a statement of the issue and (2) a brief summary of the comment. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between EP and NV may vary from the percentage stated above. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of certain hot-rolled lead and bismuth carbon steel products from the United Kingdom entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in these reviews but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this or a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 25.82 percent, the ''all others'' rate established in the LTFV investigation.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)) and 19 CFR 353.22.

Dated: April 26, 1996.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–11248 Filed 5–3–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–423–602]

Industrial Phosphoric Acid From Belgium; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 15, 1995, the Department of Commerce (the Department) published the preliminary results of review of the antidumping duty order on industrial phosphoric acid (IPA) from Belgium (52 FR 31439; August 20, 1987). The review covers one manufacturer, Société Chimique Prayon-Rupel (Prayon), and exports of the subject merchandise to the United States during the period August 1, 1993, through July 31, 1994.

We gave interested parties an opportunity to comment on the preliminary results of review. Based on our analysis of the comments received, we have changed our analysis for the final results from that presented in the preliminary results of review.

EFFECTIVE DATE: May 6, 1996.

FOR FURTHER INFORMATION CONTACT: David Genovese or Joseph Hanley, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, telephone: (202) 482–5254.

SUPPLEMENTARY INFORMATION:

Background

On August 31, 1994, Prayon requested an administrative review of the antidumping duty order on IPA from Belgium. The Department initiated the review on September 16, 1994 (59 FR 47609), covering the period August 1, 1993, through July 31, 1994. On November 15, 1995, the Department published the preliminary results of review (60 FR 57398). The Department has now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of the Review

The products covered by this review include shipments of IPA from Belgium. This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2809.20. The HTS item numbers are provided for convenience and U.S. Customs purposes. The written description remains dispositive.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results of review. We received comments from Prayon and from FMC Corporation and Monsanto Company, two domestic producers of industrial phosphoric acid.

Comment 1

Prayon argues that for purchase price (PP) sales, when there are commissions in the U.S. market but not in the home market, it is the Department's practice to make a circumstance-of-sale (COS) adjustment by first adding U.S. commissions to the weighted-average foreign market value (FMV). Prayon asserts that FMV is then reduced (offset) by the lesser of the home market indirect selling expenses or U.S. commissions. Prayon argues that in the preliminary results of review, the Department deducted U.S. commissions from the United States price rather than add those commissions to the FMV. Prayon asserts that in its final determination, the Department should add U.S. commission to the weighted-average FMV and then reduce FMV by Prayon's home market indirect selling expenses capped by U.S. commissions.

Department's Position

We agree with Prayon. As Prayon states, in PP situations, when there are commissions in the U.S. market but not in the home market, it is the Department's practice to add U.S. commissions to FMV and then subtract from FMV home market indirect selling expenses capped by U.S. commission expense. See, *e.g., Certain Internal-Combustion Industrial Forklift Trucks from Japan*; Final Results of Antidumping Duty Administrative Review, 59 FR 1,374 (January 10, 1994). Accordingly, for these final results, we did not subtract U.S. commissions from U.S. price. Rather, we added U.S. commissions to FMV and then subtracted from FMV home market indirect selling expenses capped by U.S. commission expense.

Comment 2

Prayon argues that in calculating the FMV offset for U.S. commissions, the Department should have included inventory carrying costs in its pool of home market indirect selling expenses since such costs are indirect selling expenses.

Department's Position

We agree with Prayon. For these final results, we have included inventory carrying costs in the pool of home market indirect selling expenses when calculating the FMV offset for U.S. commissions.

Comment 3

Petitioners argue that by accepting Prayon's reported credit expense, the Department has based the date of payment on the date that Prayon received a transfer of funds from its wholly-owned subsidiary, Prayon Services et Finance S.A. (Prayon Services). Petitioners contend that this approach treats a transfer of funds between a parent company and its wholly-owned subsidiary as the equivalent of an independent payment for the merchandise in question.

Petitioners assert that in accepting the discounted transaction between Prayon and Prayon Services, the Department appears to rely on Prayon's allegation that the Belgian tax law required Prayon Services to use a market-based discount rate. Petitioners assert that the issue of whether Prayon Services' discount rate is acceptable under Belgian tax law is irrelevant. Rather, the central issue is when payment is received on the sale of the merchandise in question. Petitioner argues that a transfer of funds between a wholly-owned subsidiary and its parent is simply not, as a matter of economic reality, a payment in the context of the sale of this merchandise.

Petitioner further contends that for these final results, the Department, when calculating credit expense, should measure the time period in which credit is extended in a particular transaction from the date of shipment of the merchandise to the date payment is received from the purchaser of such merchandise.

Prayon argues that the amount by which accounts receivables are discounted in factoring transactions is an appropriate measure of credit cost since the discount accepted by Prayon is Prayon's cost of financing.[1] Prayon asserts that there is no merit in Petitioners' argument that credit costs must always be calculated as the cost of financing the resulting accounts receivable from the date of shipment of the merchandise until payment is received from the purchaser of such merchandise. Moreover, asserts Prayon, where a factoring transaction has taken place and payment is received from a third party, Petitioners' calculation of

[1] Prayon's accounts receivable are discounted through a factoring transaction with Prayon Services, a wholly-owned subsidiary established in compliance with Belgian law. ''Factoring is a type of financial service whereby a firm {in this case Prayon} sells or transfers title to its accounts receivable to a factoring company {*i.e.*, the factor, Prayon Services}, which then acts as principal, not as an agent. The receivables are sold without recourse, meaning that the factor {Prayon Services} cannot turn to the seller in the event accounts prove uncollectible.'' Barron's Financial Guides, *Dictionary of Finance and Investment Terms*, Third Edition, 1991, at page 136. Prayon engages in discount factoring meaning that it sells its accounts receivables at a discount from face value and obtains immediate payment from Prayon services.

credit cost does not measure the seller's cost of financing the sale, and consequently its use would be inappropriate.

Furthermore, Prayon asserts that the anticipated date of payment of the receivable is taken into account in determining the amount of the discount. Accordingly, the actual date on which Prayon Services ultimately receives payment from the purchaser has no effect on Prayon's return. Prayon argues that the Department has expressly recognized this in an analogous circumstance where a seller is given a promissory note in exchange for merchandise and, prior to the stipulated payment date, sells the note at a discount to a financial institution. Prayon cites *Lightweight Polyester Filament Fabrics from the Republic of Korea,* 48 FR 49,679 (1983), in which the Department stated that:

> By imputing an interest expense from the date of delivery to the date of payment, the expense incurred for granting credit is recognized. Further, when a note received for payment of a sale is discounted prior to its maturity, this amount represents the credit cost and we recognize this.

Prayon asserts that it is clear that, where the seller of merchandise concerned engages in a bona fide sale of a purchaser's debt to a factor or other financing entity, the seller's credit cost for the merchandise sales transaction is the discount taken by the purchaser of the receivable.

With regard to Prayon's relationship to Prayon Services, Prayon argues that the amount of discount taken in the sale of the accounts receivable can be used since the record shows that transactions between the two companies were conducted on an arm's-length basis. Prayon states that it sold all of its receivables at a discount to Prayon Services, which is an official coordination center certified under Belgian law. Prayon, citing to its supplemental questionnaire response of April 27, 1995 (at page 12), states that under Belgian law:

> The statutory requirement is that the factoring of accounts by the coordination center be conducted on arm's-length terms. As part of the certification process and on an ongoing basis, Prayon must demonstrate that the rates negotiated between Prayon and Prayon Services et Finance do not exceed those charged between independent parties and are in fact comparable to those charged by independent banks and other financial institutions.

Prayon argues that the antidumping law does not contemplate, and it is not the Department's practice, that all related party transactions are to be disregarded regardless of their terms and circumstances. As an example, Prayon cites to the antidumping regulations' related party provision (19 C.F.R. § 353.45(a)) which states that the Department will calculate foreign market value based on a sale by a producer or reseller to a related party if the Department is satisfied that ''the price is comparable to the price at which the producer or reseller sold such or similar merchandise to a person not related to the seller.'' Prayon also cites to 19 U.S.C. § 1677b(e)(2) which provides that the Department may disregard related party transactions in determining any element of value in constructed value calculations, if ''the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise under consideration.''

Prayon, citing to *Certain Cold-Rolled Carbon Steel Flat Products from Germany,* 60 FR 65,264 (December 19, 1995) (hereinafter *Steel Flat Products from Germany),* states that the Department squarely held that it would use related party transactions in calculating the credit cost adjustment where ''information on the record indicates that the intracompany loans in question were made at what could be considered market rates.'' Similarly, in *Fresh Kiwifruit from New Zealand,* 57 FR 13,695 (April 17, 1992), the Department rejected an effort by a respondent to disregard a related-party loan on the ground that ''there was no evidence that the interest rate on the related party loan did not reflect market interest rates.''

Prayon concludes by stating that the record in this proceeding affirmatively shows that the sales of Prayon's accounts receivable to the coordination center are conducted on arm's-length terms and, specifically, that the discount rates negotiated between the parties are comparable to those charged by independent banks and other financial institutions in Belgium. Accordingly, Prayon argues, the Department's preliminary determination that the amount of discount taken represents Prayon's actual cost of financing is appropriate and consistent with the law and the Department's practice.

Department's Position

When determining credit expense in the home market, the Department is concerned with the expense, real or imputed, incurred by a respondent when it sells its merchandise on account. Accordingly, we agree with Prayon that since factoring is a recognized method of financing receivables, the discount from face value can be used to establish credit expense if the factoring transactions are at arm's-length (*i.e.,* the discount is representative of market rates). Moreover, if the payment between Prayon and Prayon Services (*i.e.,* between a parent and its wholly-owned subsidiary) is determined to be at arm's-length, it is the Department's policy to recognize this payment as payment for the collection services in question rather than as an intra-company transfer of funds. See, *e.g., Steel Flat Products from Germany* cited by the respondent. However, upon a further examination of the record in this review, the Department is not satisfied that the discount rate ''charged'' by Prayon Services, when factoring Prayon's accounts receivables, is representative of market rates.

In its supplemental questionnaire response of April 27, 1995 (at page 14–15), Prayon calculated a weighted-average credit expense for its home market sales to each customer for each month during the POR using two different methods, one which calculates Prayon's actual cost of discounting the invoices to the coordination center and one which calculates an imputed credit expense based on the date of payment by the customer and the short-term interest rate for loans denominated in Belgian francs. In almost all home market observations, the credit expense calculated using the discount rate method is substantially higher than the imputed credit expense (*i.e.,* the market rate) Prayon would have incurred had it not sold its accounts receivable to Prayon Services.

Due to the substantial difference between the two methodologies, the Department is not satisfied that the discount rate ''charged'' by Prayon Service is representative of market rates. Moreover, since Prayon sold all of its accounts receivable to Prayon Services, the Department is unable to compare the discount rate charged by Prayon Services with a discount rate charged by an unrelated party to insure that the rate is comparable to market rates.

Additionally, we are not convinced that Prayon Service's legal obligation under Belgian law is sufficient proof that Prayon Services actually charged an arm's-length discount rate to Prayon. Prayon states that Prayon Services was established under Belgian law, which provides certain tax benefits for companies organized and operated according to certain specified requirements. However, the requirement that the factoring of accounts meet Belgian law requirements in order to capture certain tax benefits may not be

a reliable benchmark for U.S. antidumping purposes. This is supported by the Department's determination in *Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Corrosion-Resistant Carbon Steel Flat Products from Japan,* 58 FR 37154, 37158 (July 9, 1993) (''There is no requirement that U.S. antidumping practice conform to Japanese antitrust laws or practices which have entirely different purposes and standards'').

Therefore, because the standard established by Belgian law is not sufficiently similar to that established by the Department, as evidenced by the substantial difference between Prayon's discount rate and the Department's date of payment method, we cannot rely on Prayon's compliance with that law as evidence that the rate charged by Prayon Services to Prayon is at arm's-length.[2]

Accordingly, for these final results, the Department, when determining credit expense incurred by Prayon on its home market sales, has relied upon Prayon's reported credit expense based upon the date of payment by Prayon's customer to Prayon Services.

Final Results of Review

Based on our analysis of the comments received, and our changes to the final computer program, we have determined, as we did in the preliminary determination, that no antidumping margin exists for Prayon for the period August 1, 1993 to July 31, 1994. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Prayon will be zero percent; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a previous review or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, earlier reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in these final results of review, earlier reviews, or the original investigation, whichever is the most recent; and (4) the ''all others'' rate, as established in the original investigation, will be 14.67 percent.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 26, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–11117 Filed 5–3–96; 8:45 am]

BILLING CODE 3510–DS–P

[2] Indeed, a review of the translated official certification letter and royal decree recognizing Prayon Services (submitted as Appendix 6 of Prayon's supplemental questionnaire of April 27, 1995) indicates that there are allowable exceptions to the arm's-length requirements.

[A–508–604]

Industrial Phosphoric Acid From Israel; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On February 8, 1996, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on industrial phosphoric acid from Israel (61 FR 4766). The review covers one exporter, Haifa Chemicals, Ltd. (Haifa), and the period August 1, 1994 through July 31, 1995.

We gave interested parties an opportunity to comment on the preliminary results of review. Because the Department received no comments, these final results of review remain unchanged from the preliminary results of review.

EFFECTIVE DATE: May 6, 1996.

FOR FURTHER INFORMATION CONTACT: Amy S. Wei or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5253.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department—s regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On August 25, 1995, FMC Corporation and Monsanto Company, two domestic producers of industrial phosphoric acid, requested an administrative review of the antidumping duty order on industrial phosphoric acid from Israel. On September 15, 1995, the Department published the initiation of its administrative review of the antidumping duty order on industrial phosphoric acid from Israel, covering one exporter, Haifa, and the period August 1, 1994 through July 31, 1995 (60 FR 47930). On

February 8, 1996, the Department published the preliminary results of review. In the preliminary results of review, the Department preliminarily determined that there were no shipments of the subject merchandise during the period of review and assigned Haifa the rate applicable to it from its most recent administrative review. The Department has now completed this administrative review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by the review are shipments of industrial phosphoric acid, classifiable under item number