the quarterly interest expense and outstanding balances which resulted in an actual interest rate of approximately two percentage points higher than the interest rate reported by Ecoframe. It is important to note that Ecoframe's interest rate agreement with its UK bank was never submitted to the Department prior to verification or presented at verification for review. For purposes of the final determination, we are calculating credit expense for home market sales based on the quarterly interest expense and outstanding balances examined at verification.

Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after May 13, 1996, the date of publication of our preliminary determination in the Federal Register. Because Robobond received a *de minimis* final dumping margin, entries of subject merchandise from Robobond are excluded from these instructions. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. This suspension of liquidation will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage
Ecoframe	20.01
Robobond/Simons	de minimis
Magnolia	84.82
All Others	20.01

Pursuant to section 733(d)(1)(A) and section 735(c)(5) of the Act, the Department has not included zero and *de minimis* weighted-average dumping margins and margins determined entirely under section 776 of the Act, from the calculation of the ''all others'' deposit rate.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: September 25, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–25242 Filed 10–1–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–428–810]

High-Tenacity Rayon Filament Yarn From Germany; 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 July 3, 1996, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on high-tenacity rayon filament yarn from Germany. The review covers one manufacturer/exporter of the subject merchandise to the United States for the period of review (POR) covering June 1, 1994 through May 31, 1995.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments and rebuttal comments received from Akzo Nobel Faser AG, Akzo Nobel Industrial Fibers Inc., and Akzo Nobel Fibers Inc. (collectively ''Akzo'') (the respondent), and the North American Rayon Corporation (the petitioner), we have corrected certain clerical errors in the margin calculations. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: October 2, 1996.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich or Zev Primor, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5831/4114.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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 July 3, 1996, the Department published the preliminary results of administrative review of the antidumping duty order on high-tenacity rayon filament yarn from Germany (61 FR 34792). The Department has now conducted this review in accordance with section 751 of the Act.

Scope of the Review

The product covered by this administrative review is high-tenacity rayon filament yarn from Germany. During the review period, such merchandise was classifiable under Harmonized Tariff Schedule (HTS) item number 5403.10.30.40. High-tenacity rayon filament yarn is a multifilament single yarn of viscose rayon with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage. This review covers one manufacturer/exporter of the subject merchandise and the period June 1, 1994, through May 31, 1995.

Analysis of Comments Received

Comment #1: Respondent contends that the antidumping duty order should be revoked upon completion of the instant review. Respondent states that the URAA changed the *de minimis* standard to two percent. Arguing that the URAA affects all reviews requested after January 1, 1995, respondent maintains that it is now eligible for revocation, since it received margins of less than two percent for each of the last three review periods. Respondent also emphasizes that it filed the requisite certification pursuant to 19 CFR 353.25(b).

Respondent contends that the Agreement on Implementation of Article VI of the General Agreement on Tariffs

and Trade 1994 (Antidumping Agreement) does not establish a clear-cut definition for the term ''investigation.'' In particular, respondent states that since an express limitation to the scope of the term ''investigation'' is not established in the Antidumping Agreement, it contends that an ''investigation'' can be interpreted as applicable to both the initial investigation phase as well as the review phase of antidumping proceedings. Therefore it argues that the two percent *de minimis* standard for ''investigations'' should apply to an antidumping review proceeding. Moreover, respondent claims that the Department should apply this law retroactively to the two earlier reviews, in which case it will have three years of *de minimis* margins and revocation of the order would be required. Finally, respondent contends that such an approach would provide consistency between the investigation and review stage of an antidumping proceeding.

The petitioner emphasizes that before the Department shall consider revoking an antidumping duty order, a *de minimis* margin (defined as 0.5 percent or below) must be determined for three consecutive years. Petitioner contends that the Department was correct in its determination not to revoke the antidumping duty order with respect to Akzo because, of the three reviews conducted, there has been only one year during which Akzo received a margin of 0.5 percent or below (*i.e.*, the administrative review period of June 1, 1993 through May 31, 1994).

Department's Position: We agree with petitioner that the 0.5 percent *de minimis* standard set forth in 19 CFR 353.6 continues to apply to reviews. As a matter of domestic law, the statute and the Statement of Administrative Action (SAA) which accompanied the passage of the URAA are very clear that the new two percent *de minimis* standard applies only to investigations initiated after January 1, 1995, the effective date of the URAA. See sections 733(b)(3) and 735(a)(4).

The SAA clearly states that ''[t]he requirements of Article 5.8 apply only to investigations, not to reviews of antidumping duty orders or suspended investigations.'' See H.R. Doc. No. 316, Vol. 1, Uruguay Round Trade Agreements, Texts of Agreements, Implementing Bill, Statement of Administrative Action, and Required Supporting Statements, 103rd Cong., 2nd Sess. (Sept. 27, 1994), at 845. The two percent *de minimis* standard is applicable only to investigations: ''* * * in antidumping investigations, Commerce [shall] treat the weighted-average dumping margin of any producer or exporter which is below two percent *ad valorem* as *de minimis*.'' SAA at 844. Likewise, ''[t]he Administration intends that Commerce will continue its present practice in reviews of waiving the collection of estimated cash deposits if the deposit rate is below 0.5 percent *ad valorem*, the existing regulatory standard for *de minimis*.'' SAA at 845 (emphasis added), *see also* 19 CFR 353.2(1) (an ''investigation'' is a distinct proceeding ending, *inter alia*, on publication of an order).

Comment #2: Petitioner claims that the Department did not use the proper shipment dates (as reported in respondent's supplemental response) in the calculation of imputed credit costs incurred on those sales made from Germany but shipped from the respondent's warehouse in Canada.

Respondent states that credit expenses for these transactions were indeed calculated based on the shipment dates submitted in the supplemental response, in accordance with the Department's questionnaire instructions, and not on the shipment dates originally submitted by respondent.

Department's Position: We have confirmed that respondent correctly calculated the credit expense on these transactions by using the dates on which the subject merchandise was shipped from Germany. These dates were included in respondent's supplemental questionnaire response.

Comment #3: Petitioner claims that the Department performed a programming error in identifying the period of review. Petitioner states that in order to remove from the margin analysis any U.S. sales made outside of the POR, the beginning and ending period dates should be June 1, 1994, and May 31, 1995, respectively.

Respondent disagrees with petitioner's claim. Respondent contends that if petitioner's proposal is accepted, one of its export price (EP) sales would be eliminated from the Department's margin analysis since the date of sale for this transaction occurred prior to June 1, 1994, whereas the merchandise entered the United States subsequent to that date. In justifying why this particular sale should be included during the POR, respondent contends that it adhered to the Department's questionnaire instructions which state, ''Report each U.S. sale of merchandise entered for consumption during the POR, except: (1) For EP sales, if you do not know the entry dates, report each transaction involving merchandise shipped during the POR.'' Therefore, although the sale date fell outside the POR, respondent reported this transaction due to the fact that the merchandise entered the United States during the POR. Further, respondent claims that petitioner's proposed correction to the margin program would not advance the objective stated in the preamble to the Department's proposed regulations which is to liquidate entire periods of review and to avoid tying entries to sales.

Department's Position: We agree with petitioner that we used improper dates in our margin program to identify the period of review. For these final results, we have corrected the dates to accurately reflect the POR. However, we agree with respondent that we should analyze the one U.S. sale made before the POR because the merchandise was entered into the United States during the POR and because the sale was not reviewed in the previous administrative review. Therefore, we have included the sale in this review.

This decision comports with the Department's effort, as reflected in the preamble to the Department's Proposed Rule 353.212, to promote the objective of offering clarity and predictability to the antidumping law by normally requiring that duties be assessed on merchandise entering during a particular review period:

> With respect to the use of duty assessment rates, the Department believes that, except in unusual situations, we should assess duties on subject merchandise entered during each review period. Therefore, paragraph (b)(1) provides that the Department normally will calculate a duty assessment rate based on sales reviewed, and will apply those rates to entries made during the review period. In all cases, this will result in the assessment of duties on merchandise entered during the review period.

See Notice of Proposed Rulemaking and Requests For Public Comment, 61 FR 7308, 7316 (Feb. 27, 1996).

*Comment #*4: Petitioner contends that in the preliminary results, the Department incorrectly classified an ''emergency sale'' as an EP sale. Petitioner argues that since the subject merchandise was sold to a U.S. customer after its importation into the United States, this sale, which respondent terms as an emergency transaction, should therefore be classified as a constructed export price (CEP) sale. Petitioner argues that as a CEP sale, the Department is required to deduct selling expenses incurred by Akzo's U.S. subsidiaries as well as CEP profit in accordance with section 772(d)(3) of the Act. Further, petitioner contends that credit expenses are understated, since the Department did

not take into consideration credit expenses incurred during the period beginning with the original date of shipment from Akzo's factory until the ''emergency transaction'' sale date in the United States.

Respondent argues that what it describes as an ''emergency transaction'' of approximately several thousand pounds of yarn cannot be considered a CEP sale since the sale meets all the requirements of an EP sale. Respondent explains that this particular subject merchandise was sold to the original unrelated customer prior to importation into the United States, the sales procedure involved with this ''emergency transaction'' was no different from other EP sales made. In the alternative, respondent states that the original sale of this subject merchandise took place during the period of the second administrative review, whereupon, the merchandise was stored in the original customer's warehouse. In the subsequent review period, respondent issued a credit note to that customer, canceling the first sale, and resold the merchandise to another customer. The original transaction was previously reviewed by the Department, and was covered by liquidation instructions issued for that review. Therefore, respondent states that the Department has the discretion to exclude the ''emergency transaction'' from this review.

Department's Position: We have determined to exclude the sale at issue in this review from our margin calculations. Section 772 of the Act defines both EP and CEP as those sales made to the first unrelated buyer located in the United States. In this case, the original sale to the first unrelated U.S. buyer occurred during the previous review. The subject merchandise entered the United States during the previous POR. The Department captured this sale of approximately several thousand pounds of yarn in that review and subsequently assessed an antidumping duty on this sale. Thus, the ''emergency sale'' in question, which occurred during the instant review, is a resale of the merchandise within the United States and not subject to additional assessment. Therefore, we have excluded it from our analysis for these final results.

Comment #5: Petitioner asserts that discrepancies exist between Akzo's reported POR quantity of U.S. sales and U.S. Customs data. Petitioner asserts that respondent was not able to convincingly demonstrate the reason for the quantity discrepancy. Moreover, petitioner states that the discrepancy is even larger than originally measured, since petitioner did not include the amount associated with the ''emergency transaction'' in its subsequent comparisons.

Respondent contends that because the Department conducted a thorough verification of Akzo's reported sales, petitioner's comments in this regard hold no merit. Respondent claims that the Department substantiated the accuracy of its U.S. sales data base by reconciling the reported quantities to the 1994 fiscal year and POR financial statements. Further, respondent contends that according to petitioner's own calculations, the allegation of underreporting of sales is proven false. Respondent cites to petitioner's November 13, 1995 letter in which petitioner acknowledged that it neglected to account for a particular sale when matching respondent's reported data to U.S. Customs data. Respondent contends that when these sales are added, and the ''emergency transaction'' subtracted from its reported U.S. sales, its total quantity for U.S. sales exceeds U.S. Customs data.

Department's Position: We agree with respondent. We conducted a thorough verification of the quantity and value of respondent's U.S. sales during verification and determined that respondent's reported U.S. quantity and value amounts reconciled to its general ledger and audited financial statement amounts. See Sales Verification Report, at 7.

Comment #6: Respondent contends that the Department's methodology used for model matching is ineffective. Specifically, respondent contends that certain models sold in its home market were not properly identifiable as having identical contemporaneous matches to models sold in the United States. Respondent proposes programming language which, in its estimation, would remedy the matching problems. Petitioner does not rebut respondent's comment.

Department's Position: Overall, our model matching methodology properly identifies and matches identical merchandise in respondent's home market with contemporaneous U.S. sales.

However, we detected a minor programing error which resulted in certain sales not being appropriately matched. Therefore, we made appropriate corrections to the program to remedy this error.

Comment #7: Both petitioner and respondent allege clerical errors made in the margin program for the preliminary results. First, petitioner claims that the Department erred in its foreign inland freight and foreign brokerage currency conversion calculations. Respondent concurs with petitioner's claim.

Second, respondent contends that the Department inadvertently misspelled a particular variable in the margin program with the result that home market and U.S. sales were not properly matched since the months included within the extended period of review are not utilized for matching purposes. Petitioner does not dispute respondent's contention.

Department's Position: We agree with both petitioner and respondent and have made the appropriate corrections to the margin program for these final results.

Final Results of Review

As a result of the comments received, we have changed the results from those presented in our preliminary results of review:

Manufacturer/exporter	Margin (percent)
Akzo Nobel Faser A.G., Akzo Nobel Industrial Fibers, Inc., Akzo Nobel Fibers, Inc. (Akzo)	0.60

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to Customs.

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 this administrative review, as provided by section 751(a) of the Act: (1) The cash deposit rate for Akzo will be the rate established above; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less than fair value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, 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 or the less-than-fair-value (LTFV) investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 24.58 percent, the ''all others'' rate established in the LTFV investigation.

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

This notice also serves as final reminder to importers of their responsibility 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 is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

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

Dated: September 25, 1996.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–25245 Filed 10–1–96; 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 May 24, 1996, 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, 1994, through July 31, 1995.

We gave interested parties an opportunity to comment on the preliminary results of review. Based on our analysis of the comments received, we have not changed our analysis for the final results from that presented in the preliminary results of review.

EFFECTIVE DATE: October 2, 1996.

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

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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 requested an administrative review of the antidumping duty order on IPA from Belgium with regard to Prayon. The Department initiated the review on September 15, 1995 (60 FR 47930), covering the period August 1, 1994, through July 31, 1995. On May 24, 1996, the Department published the preliminary results of review (61 FR 26160). The Department has now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

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 number is 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 FMC Corporation and Monsanto Company, two domestic producers of industrial phosphoric acid.

Comment 1

Prayon argues that the Department does not have the legal authority to exclude from the home market sales listing Prayon's sales to Europhos, an affiliate which does not resell the IPA.

Prayon argues that section 773(a)(1)(B)(i) of the Act defines normal value (NV) as the price at which the foreign like product is first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade. Prayon notes that section 771(15) of the Act specifies types of sales considered outside the ordinary course of trade (*e.g.*, sales made below the COP). Prayon further notes that section 773(a)(5) of the Act deals with sales through affiliates (*i.e.*, sales through affiliates can be disregarded and the price of the sale by the affiliated party may be used to determine NV). However, Prayon argues that, the Act makes no provision for excluding from the calculation of NV sales made to an affiliated party that are not for resale, but for consumption by that party.

Prayon further argues that the Department does not have the authority under section 353.45 of its regulations (''Transactions between related persons'') to disregard home market sales to affiliated parties for consumption by those parties. Prayon argues that section 353.45(b) merely reiterates the provisions of 773(a)(5) and that section 353.45(a) rests on the authority of 773(a)(5) and therefore only applies where there are sales made through affiliated parties, not to affiliated parties.

Prayon concludes that in the absence of any legal authority to exclude such sales, sales to Europhos must be considered in calculating NV.

Petitioner argues that it is a fundamental tenet that ''(t)the antidumping law attempts to construct value on the basis of arm's length transactions.'' *Smith-Corona Group* v. *United States*, 713 F.2d 1568, 1572 (Fed. Cir. 1983)(*Smith-Corona*). Thus, asserts Petitioner, the Department has routinely exercised the power to exclude sales between affiliated parties from its dumping margin calculations. Moreover, argues Petitioner, this power has, on a number of occasions, been reviewed and sanctioned by the courts.

Department's Position

We disagree with Prayon. Prayon's sales to Europhos have not been shown to be at arm's-length prices (*i.e.*, the weighted-average sales price to Europhos was less than 99.5 percent of the weighted-average sales price to unaffiliated parties); therefore, the Department must exclude them. See *Usinor Sacilor* v. *United States*, 872 F. Supp. 1000, 1004 (CIT 1994) (hereinafter *Usinor*).

While section 771 of the Act does specify certain types of sales which are considered outside the ordinary course of trade, this list is not exhaustive and