

Rotem's so-called "linkage" argument must be rejected.

Department's Position: We disagree with respondents. Rotem received the ECIL grants in shekels and the Department appropriately allocated the grant amounts to the review periods according to our variable rate grant methodology, which accounted for the hyperinflation rates that existed in Israel when some of the grants were provided. See *Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Butt-Weld Pipe Fittings from Israel*, 60 FR 10569 (February 27, 1995). The fact that Rotem records the grant values in their books in dollars is irrelevant. As we explained in the *General Issues Appendix* at 37,263, "the countervailable subsidy (and the amount of the subsidy to be allocated over time) is fixed at the time the government provides the subsidy." We continued that "the statute does not permit the amount of the subsidy, including the allocated subsidy stream, to be reevaluated based upon subsequent events in the marketplace." *Id.* As a result, we cannot alter our grant allocations based on the fluctuations in the value of the shekel against the U.S. dollar.

Comment 4: Respondents argue that the Department's calculation methodology ignores the fact that Rotem's fixed assets are reduced for tax purposes by the value of the grants. Thus, respondents argue, because the true value of the grants is eroded by a concomitant tax increase, the grant benefit should be reduced by 36 percent, the current tax rate.

Petitioners argue that the tax impact of the subsidy received by Rotem is irrelevant and that Rotem's argument to have the tax impact considered is flawed because it seeks to have the Department consider subsequent economic events. Petitioners state that the critical factor in countervailing duty law is not subsequent economic impact or continuing competitive benefit, but rather the receipt of a subsidy. Therefore, petitioners argue, the tax effect should not be considered.

Department's Position: We disagree with respondents. In calculating the amount of a countervailable benefit, the Department's long-standing practice is to ignore the secondary tax consequences of the benefit. See § 355.46(b) of the 1989 *Proposed Regulations*. See also, e.g., *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Belgium*, 58 FR 37273 (July 9, 1993), and, *Final Affirmative Countervailing Duty Determination: Fresh and Chilled Atlantic Salmon from*

Norway, 56 FR 7678 (February 25, 1991). Thus, the tax effect of the grants received by Rotem is not pertinent to the Department's calculation of the benefit.

Comment 5: Respondents argue that the Department's rounding of the countervailing duty rates in the 1992 and 1993 reviews is either inconsistent or incorrect. Rotem's rate for 1992, 3.84 percent, is rounded to two decimal places. In contrast, Rotem's rate for 1993, 5.50 percent, is either rounded to only one decimal place, or incorrectly rounded to two decimal places from 5.494 percent. Therefore, respondents argue that the Department change either the 1992 rate to 3.8 percent, or the 1993 rate to 5.49 percent.

Department's Position: We agree with the respondents. We have now accurately rounded the rate for the 1993 review to be 5.49 percent.

Comment 6: Respondents argue that the benefit rate from the Exchange Rate Risk Insurance Scheme (EIS) should not be included in the cash deposit rate because the program was terminated in 1993. Respondents point to information submitted by the GOI in the questionnaire response demonstrating that the EIS was terminated in 1993.

Petitioners rebut that Rotem's receipt of residual EIS benefits will depend on such variables as the date of export shipment, the date of delivery, the date of payment, and the length of time necessary for EIS processing and payment. According to petitioners, in view of these uncertainties, which preclude the determination of a fixed date for the actual termination of EIS benefits to Rotem, the Department should continue to include EIS benefits in the cash deposit rate.

Department's Position: The Department's practice, as outlined in section 355.50(d)(1)(2) of the 1989 *Proposed Regulations*, is not to adjust the cash deposit rate when it determines that residual benefits may continue to be bestowed under a terminated program. The Department noted in the 1991 review of IPA from Israel that the EIS was terminated in 1993. See *Industrial Phosphoric Acid from Israel: Final Results of Countervailing Duty Administrative Review*, 59 FR 5176 (February 3, 1994). In that review, we included the rate from the EIS in the cash deposit rate because residual benefits continued to be available. The Department has verified that the GOI will continue to honor outstanding claims as long as they are made within three years of the date of export. See, *Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Butt-Weld Pipe Fittings from Israel*, 60

FR 10573 (February 27, 1995).

Therefore, because residual benefits continue to be available under this program, we have not adjusted the cash deposit rate.

Final Results of Review

For the period January 1, 1992 through December 31, 1992, we determine the net subsidy to be 3.84 percent *ad valorem* for all firms. For the period January 1, 1993 through December 31, 1993, we determine the net subsidy to be 5.49 percent *ad valorem* for all firms.

The Department will instruct the U.S. Customs Service to assess the following countervailing duties:

Manufacturer/exporter	Period	Rate
All companies ...	1992	3.84
All companies ...	1993	5.49

The Department will also instruct the U.S. Customs Service to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Act, of 5.49 percent of the f.o.b. invoice price on all shipments of the subject merchandise from Israel entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 355.34(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 355.22.

Dated: May 23, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

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[C-508-605]

Industrial Phosphoric Acid From Israel; Preliminary Results of Countervailing Duty Administrative Review

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

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on industrial phosphoric acid from Israel. For information on the net subsidy for the reviewed company, as well for all non-reviewed companies, please see the *Preliminary Results of Review* section of this notice. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Preliminary Results of Review* section of this notice. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 6, 1996.

FOR FURTHER INFORMATION CONTACT: Norma Curtis or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:**Background**

On August 19, 1987, the Department published in the Federal Register (52 FR 31057) the countervailing duty order on industrial phosphoric acid from Israel. On August 1, 1995, the Department published a notice of "Opportunity to Request an Administrative Review" (60 FR 39150) of this countervailing duty order. We received timely requests for review, and we initiated the review, covering the period January 1, 1994 through December 31, 1994, on September 15, 1995 (60 FR 47930).

In accordance with § 355.22(a) of the Department's *Interim Regulations*, this review covers only the producer and/or exporter of the subject merchandise for which a review was specifically requested (see *Antidumping and Countervailing Duties: Interim Regulations; Request for Comments*, 60 FR 25130 (May 11, 1995) (*Interim Regulations*)). Accordingly, this review covers Rotem Amfert Negev Ltd.

(Rotem). This review also covers nine programs.

As explained in the November 22, 1995 and January 11, 1996, *Memoranda from the Assistant Secretary for Import Administration for the Record Re: Deadlines Affected by the November/December-January Closure of the Import Administration*, which are on file in the public file of the Central Records Unit, Room B-099 of the Department of Commerce, all deadlines were extended to take into account the partial shutdowns of the Federal Government from November 15 through November 21, 1995, and December 15, 1995, through January 6, 1996. Therefore, the deadline for these preliminary results is no later than May 30, 1996, and the deadline for the final results of this review is no later than 120 days from the date on which these preliminary results are published in the Federal Register.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act. References to the *Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments*, 54 FR 23366 (May 31, 1989) (*1989 Proposed Regulations*), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *1989 Proposed Regulations* were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the URAA. See *Advance Notice of Proposed Rulemaking and Request for Public Comments*, 60 FR 80 (January 3, 1995); *Antidumping Duties; Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments*, 61 FR 7308 (February 27, 1996).

Scope of the Review

Imports covered by this review are shipments of industrial phosphoric acid (IPA) from Israel. Such merchandise is classifiable under item number 2809.20.00 of the *Harmonized Tariff Schedule* (HTS). The HTS item number is provided for convenience and

Customs purposes. The written description remains dispositive.

Privatization

Israeli Chemicals Ltd. (ICL), the parent company which holds one hundred percent of Rotem's shares, was partially privatized in 1992 and 1993. The percentages of ICL's shares privatized were twenty percent and five percent respectively. In the questionnaire responses, the Government of Israel and Rotem reported that ICL was also partially privatized in 1994. We have determined that the partial privatization of ICL represents a partial privatization of each of the companies in which ICL holds an ownership interest. See *Final Results of Countervailing Duty Administrative Reviews; Industrial Phosphoric Acid from Israel* published concurrently with this notice (*Final Results*).

In this review and prior reviews of the subject merchandise, the Department has found that Rotem and/or its predecessor, Negev Phosphates Ltd., received non-recurring countervailable subsidies prior to these partial privatizations. Further, the Department has found that a private party purchasing all or part of a government-owned company can repay prior non-recurring subsidies on behalf of the company as part or all of the sales price (see the General Issues Appendix appended to the *Final Countervailing Duty Determination; Certain Steel Products from Austria*, 58 FR 37262 (July 9, 1993) (*General Issues Appendix*)). Therefore, to the extent that a portion of the sales price paid for a privatized company can be reasonably attributed to prior subsidies, that portion of those subsidies are repaid. This methodology was applied in the 1992 and 1993 reviews. In the questionnaire response for 1994, respondents reported that the Government of Israel sold less than 0.5 percent of its shares in ICL. Because this percentage of shares privatized is so small, the percentage of subsidies potentially repaid through this privatization could have no measurable impact on Rotem's overall net subsidy rate. Therefore, we have not applied our repayment methodology which is described in the *General Issues Appendix*. (See May 23, 1996 memorandum to Paul L. Joffe regarding applicability of the Department's privatization methodology in the instant review, which is on file in the public file of the Central Records Unit, Room B-099 of the Department of Commerce.)

Analysis of Programs

I. Programs Previously Determined to Confer Subsidies

(A) Encouragement of Capital Investments Law (ECIL) Grants

The ECIL grants program was established to attract capital to Israel. In order to be eligible to receive various benefits under the ECIL, including investment grants, capital grants, accelerated depreciation, reduced tax rates, and certain loans, the applicant must obtain approved enterprise status. Approved enterprise status is granted by the Investment Center of the Israeli Ministry of Industry and Trade. Investment grants are given for the amount representing a percentage of the cost of the approved investment. The amount of the grant benefits received by approved enterprises depends on the geographic location of the eligible enterprise. For purposes of the ECIL program, Israel is divided into three zones—Development Zone A, Development Zone B, and the Central Zone—each with a different funding level.

Since 1978, only investment projects outside the Central Zone have been eligible to receive grants. The Central Zone comprises the geographic center of Israel, including its largest and most developed population centers. In *Final Affirmative Countervailing Duty Determination: Industrial Phosphoric Acid from Israel*, 52 FR 25447 (July 7, 1987) (*IPA Investigation*), the Department found the ECIL grants program to be *de jure* specific and thus countervailable because the grants are limited to enterprises located in specific regions. In this review, no new information or evidence of changed circumstances has been submitted to warrant reconsideration of this determination.

Rotem is located in Development Zone A, and received ECIL investment, drawback, and capital grants in disbursements over a period of years for several projects. In this review we have followed the methodology developed in *IPA Investigation* to determine the benefits from the ECIL grants. However, consistent with the *Final Results*, we are utilizing a calculation methodology that conforms with the use of variable rather than fixed interest rates in the years these grants were disbursed. This methodology reflects the actual long-term options open to Israeli firms, and also ensures that the net present value of the amount countervailed in the year of receipt does not exceed the face value of the grant. In accordance with *General Issues Appendix*, we allocated these

grants over ten years (the average useful life of renewable physical assets in the chemical manufacturing industry, as determined under the U.S. Internal Revenue Service Asset Depreciation Range System).

Section 355.49(b)(2) of the Department's *1989 Proposed Regulations* requires the use of a discount rate based on the cost of fixed-rate long-term debt for the firm under review or generally in the country under review. However, Rotem had no fixed-rate long-term debt during the years in which it received ECIL grants. Moreover, in *Final Results*, the Department determined that no long-term loans with fixed interest rates (or other long-term debt) were available in Israel during that period; the only long-term loans (or other long-term debt) available to companies in Israel were provided at variable interest rates. Consistent with *Final Results*, as the discount rate we have used the rate of return on CPI-indexed commercial bonds (as published in the Bank of Israel Annual Reports, plus the CPI).

To calculate the benefit, we summed the benefits from these projects for 1994. We then divided the results by Rotem's sales of IPA during the review period. On this basis, we preliminarily determine the net subsidy from this program to be 6.53 percent *ad valorem* for 1994.

(B) Long-term Industrial Development Loans

Prior to July 1985, approved enterprises were eligible to receive long-term industrial development loans funded by the Government of Israel (GOI). During the original investigation, we verified that these loans were project-specific. They were disbursed through the Industrial Development Bank of Israel (IDBI) and other industrial development banks which no longer exist.

The long-term industrial development loans were provided to a diverse number of industries, including agricultural, chemical, mining, machine, and others. However, the interest rates on loans vary depending on the Development Zone in which the borrower is located. The interest rates on loans to borrowers in Development Zone A are lowest, while those on loans to borrowers in the Central Zone are highest. Therefore, loans to companies in Zone A are provided on preferential terms relative to loans received by companies in the heavily populated and developed Central Zone. In *IPA Investigation*, the Department found long-term industrial development loans to be regional subsidies and

countervailable to the extent that they are provided at interest rates which are lower than those applied on loans provided to companies located in the Central Zone. In this review, no new information or evidence of changed circumstances has been submitted to warrant reconsideration of this determination. Rotem had loans outstanding under this program during the review period. The loans carry the Zone A interest rates because of Rotem's location. Therefore, we determine that Rotem received countervailable benefits under this program because the interest rates paid by Rotem are lower than those which would apply in the Central Zone.

As was determined in the *Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Butt-Weld Pipe Fittings from Israel*, 60 FR 10569 (February 27, 1995), under the terms of this program, the interest rates on these loans have two components—a fixed real interest rate and a variable interest rate, the latter of which is based on either the CPI or the dollar/shekel exchange rate. All of Rotem's loans were linked to the dollar/shekel exchange rate. Because the dollar-shekel exchange rate varies from year-to-year, we were unable to apply the Department's methodology described in the *1989 Proposed Regulations* because we cannot calculate *a priori* the payments due over the life of these loans, and hence cannot calculate the "grant equivalent" of the loans. Therefore, in accordance with § 355.49(d)(1) of the *1989 Proposed Regulations*, we have compared the interest that would have been paid by a company in the Central Zone, as a benchmark, to the amount actually paid by Rotem during the review period. We then calculated the interest savings during the period of review. We summed the benefits and divided the total by Rotem's sales of IPA during the review period. On this basis, we preliminarily determine the net subsidy from this program to be 0.002 percent *ad valorem* for 1994.

(C) Encouragement of Industrial Research and Development Grants (EIRD)

Rotem received several grants under this program during the review period. In *IPA Investigation*, we determined that these grants are countervailable. In this review, no new information or evidence of changed circumstances has been submitted to warrant reconsideration of this determination. We followed the methodology developed in *IPA Investigation* in determining the benefits from the EIRD funding.

During the 1994 review period, Rotem received three EIRD grants. The EIRD grants issued to Rotem on February 1, 1994 and April 7, 1994 benefited a research project concerning green acid, which is used as an input in the production of IPA as well as other products. The EIRD grant issued to Rotem on August 1, 1994 benefited a research project concerning phosphate, which can be used to produce IPA as well as other products. We view these grants as "non-recurring" grants based on the analysis set forth in the "Allocation" section of the *General Issues Appendix* (58 FR 37226) because these benefits are exceptional, and Rotem cannot expect to receive benefits on an ongoing basis from review period to review period. Since the total value of the grants received in 1994 was less than 0.50 percent of all Rotem's sales, we divided the total amount of the 1994 grants by Rotem's total sales of all products. On this basis, we preliminarily determine the benefit from this program to be 0.06 percent *ad valorem*.

II. Programs Preliminarily Determined To Be Not Used

We examined the following programs and preliminarily determine that the producer and/or exporter of the subject merchandise did not apply for or receive benefits under these programs during the period of review:

- A. Exchange Rate Risk Insurance Scheme;
- B. Reduced Tax Rates under ECIL;
- C. ECIL Section 24 loans;
- D. Labor Training Grants;
- E. Dividends and Interest Tax Benefits under Section 46 of the ECIL; and
- F. ECIL Preferential Accelerated Depreciation.

Preliminary Results of Review

In accordance with § 355.22(c)(4)(ii) of the Department's *Interim Regulations*, we have calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1994 through December 31, 1994, we preliminarily determine the net subsidy for Rotem to be 6.59 percent *ad valorem*.

If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service to assess the following countervailing duties:

Net Subsidies— Producer/Exporter	Net Subsidy Rate %
Rotem Amfert Negev Ltd.	6.59

The Department also intends to instruct the U.S. Customs Service to collect cash deposits of estimated countervailing duties, at the rate indicated above, on the f.o.b. invoice price for all shipments of the subject merchandise from the reviewed company, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

The URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies. The procedures for countervailing duty cases are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. Requests for administrative reviews must now specify the companies to be reviewed. See § 355.22(a) of the *Interim Regulations*. The requested review will normally cover only those companies specifically named. Pursuant to 19 CFR 355.22(g), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. See *Federal-Mogul Corporation and The Torrington Company v. United States*, 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council v. United States*, 822 F.Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to all non-reviewed companies covered by this order are those established in the most recently completed administrative proceeding. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1994 through December 31, 1994, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

Public Comment

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38, are due. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

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

Dated: May 29, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

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Minority Business Development Agency

Minority Business Development Centers; Florida

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice; Solicitation of Business Development Center Applications for Jacksonville, Orlando, Tampa, and West Palm Beach.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications from organizations to operate the Minority Business Development Centers (MBDC) listed in this document.