

market direct selling expenses from NV. We also made adjustments, where applicable, for home-market indirect selling expenses to offset U.S. commissions in CEP calculations.

#### Level of Trade

To the extent practicable, we determine NV for sales at the same level of trade as the U.S. sales (either EP or CEP). When there are no sales at the same level of trade, we compare U.S. sales to home-market sales at a different level of trade. The NV level of trade is that of the starting-price sales in the home market.

To determine whether home-market sales were at a different level of trade than U.S. sales for this review, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. Based on the record evidence, we found that there were significant differences between the selling activities associated with the home-market level of trade and those associated with both EP and CEP. Therefore, we determined that EP and CEP sales are at a different level of trade than the home-market sales.

Consequently, we could not match U.S. sales to sales at the same level of trade in the home market. Moreover, data necessary to determine a level-of-trade adjustment was not available. Therefore, when we matched EP sales to sales in the home market, we made no level-of-trade adjustment. However, because home-market sales were made at a more advanced stage of distribution than that of the CEP level, we made a CEP-offset adjustment when comparing CEP and home-market sales, in accordance with section 773(a)(7)(B) of the Act. For a more detailed description of our analysis, see the Level-of-Trade section of our analysis memorandum dated April 17, 1998.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margin for the period August 1, 1996, through July 31, 1997 to be as follows:

Company	Margin (percent)
Bergerac, N.C. ....	9.24

Any interested party may request a hearing within 30 days of the date of publication of this notice. A hearing, if requested, will be held 2 days after submission of rebuttal briefs at the main Commerce Department building.

Issues raised in the hearing will be limited to those raised in briefs and

rebuttal briefs. Briefs from interested parties may be filed no later than 30 days after the date of publication. Rebuttal briefs, limited to the issues raised in case briefs, may be filed no later than five days after the deadline for filing case briefs.

Parties who submit briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue, and (2) a brief summary of the argument.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or hearing. The Department will issue final results of this review within 120 days of publication of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Because the inability to link sales with specific entries prevents calculation of duties on an entry-by-entry basis, we have calculated importer-specific *ad valorem* duty-assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between statutory NV and statutory EP or CEP, by the total statutory EP or CEP value of the sales compared and adjusting the result by the average difference between EP or CEP and customs value for all merchandise examined during the POR.) Bergerac, N.C., could not identify the importer of record for certain sales to unaffiliated customers. Therefore, we have calculated a single, per-unit duty assessment rate by dividing the total dumping margins by the total quantity sold for these importers.

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 the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash-deposit rates for Bergerac, N.C., will be the rate established in the final results of this review (except that no deposit will be required if the firm has a zero or *de minimis* margin, i.e., a margin less than 0.5 percent); (2) for previously reviewed or investigated companies not listed above, the cash-

deposit rate 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 review, a prior review, or the original less-than-fair-value investigation (LTFV), 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) the cash-deposit rate for all other manufacturers or exporters will be 1.38. This is the "all others" rate from the LTFV investigation which we are reinstating in accordance with the decisions by the Court of International Trade in *Floral Trade Council v. United States*, Slip Op. 93-79 (May 25, 1993), and *Federal-Mogul Corporation and The Torrington Company v. United States*, Slip Op. 93-83 (May 25, 1993). These cash-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 351.402(f)(2) 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 determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: May 4, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 98-12315 Filed 5-8-98; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-423-602]

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

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

**ACTION:** Notice of preliminary results of antidumping duty administrative review of industrial phosphoric acid from Belgium.

**SUMMARY:** In response to requests from one respondent, petitioner and one

domestic producer, the Department of Commerce is conducting an administrative review of the antidumping duty order on industrial phosphoric acid from Belgium. The period of review is August 1, 1996 through July 31, 1997. This review covers imports of industrial phosphoric acid from one producer, Societe Chimique Prayon-Rupel S.A. ("Prayon").

We have preliminarily found that sales of subject merchandise have been made below normal value. If these preliminary results are adopted in our final results, we will instruct the Customs Service to assess antidumping duties based on the difference between the export price and normal value.

Interested parties are invited to comment on these preliminary results. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. We will issue the final results not later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** May 11, 1998.

**FOR FURTHER INFORMATION CONTACT:** Robert Blankenbaker or Thomas Futtner, AD/CVD Enforcement Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0989, and 482-3814, respectively.

**SUPPLEMENTARY INFORMATION:**

### 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 of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

### Background

On August 20, 1987, the Department published in the **Federal Register** (52 FR 31439) the antidumping duty order on industrial phosphoric acid ("IPA") from Belgium. On August 4, 1997, the Department published in the **Federal Register** (62 FR 41925) a notice of opportunity to request an administrative review of this antidumping duty order. On August 29, 1997, in accordance with 19 CFR 351.213(b), Prayon, the petitioner FMC Corporation ("FMC"), and Albright & Wilson Americas Inc.

("Wilson"), a domestic producer of the subject merchandise, requested that the Department conduct an administrative review of Prayon's exports of subject merchandise to the United States. We published the notice of initiation of this review on September 25, 1997 (62 FR 50292).

### 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 numbers 2809.2000 and 4163.0000. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

### Product Comparisons

We calculated monthly, weighted-average, normal values (NVs). The industrial phosphoric acid exported by Prayon to the United States is PRAYPHOS P5, a refined industrial phosphoric acid, and is the identical merchandise sold by Prayon in its home market in Belgium. Therefore, we have compared U.S. sales to contemporaneous sales of identical merchandise in Belgium.

### Export Price

Prayon sells to end-users in the United States through its affiliated sales agent. For these sales, we used export price (EP). In accordance with sections 772 (a) and (c) of the Act, we calculated and EP because Prayon sold the merchandise directly to the first unaffiliated purchaser in the United States prior to importation. Additional factors used to determine EP include: (1) Whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer; (2) whether this was the customary commercial channel between the parties involved; and (3) whether the function of the U.S. affiliate was limited to that of a processor of sales-related documentation and a communications link with the unrelated buyer. Where the facts indicate that the activities of the U.S. affiliate were ancillary to the sale (e.g., arranging transportation or customs clearance, invoicing), we treat the transactions as EP sales. See e.g., *Certain Corrosion Resistant Steel Flat Products From Canada: Final Results of Antidumping Duty Administrative Review*, 63 FR 12725, 12738 (March 16, 1998). The record in this case indicates that Prayon has correctly classified its U.S. sales as EP sales. Prayon's affiliated sales agent in the United States, Quadra Corporation (USA) ("Quadra"), served

as a processor of sales-related documentation.

EP sales were based on the delivered price to unaffiliated purchasers in, or for exportation to, the United States. As appropriate, we made deductions for discounts and rebates, including early payment discounts. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. customs brokerage fees, merchandise processing fees, and U.S. inland freight expenses.

### Normal Value

We compared the aggregate quantity of home market and U.S. sales and determined that the quantity of the company's sales in its home market was more than five percent of the quantity of its sales to the U.S. market. Consequently, in accordance with section 773(a)(1)(B) of the Act, we based NV on home market sales.

We also excluded from our NV analysis sales to affiliated home market customers where the weighted-average sales prices to the affiliated parties were less than 99.5 percent of the weighted-average sales prices to unaffiliated parties. See *Usinor Sacilor v. United States*, 872 F. Supp. 1000, 1004 (CIT 1994).

We also made adjustments, consistent with section 773(a)(6)(B) of the Act, for inland freight. In addition, we made adjustments for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.

In calculating credit expense, Prayon reported the discount on accounts receivable sold to its affiliated coordination center. Since the reported credit expense is greater than the credit expense calculated using the standard credit calculation (i.e., (date of payment less date of shipment/ 365)\* monthly home market short-term interest rates\* gross price), we have determined that the discount transaction between Prayon and its affiliated coordination center is not conducted at arm's-length. Accordingly, we have used the standard credit calculation when calculating the amount of credit to deduct from normal value. We used the monthly home market short-term borrowing rates provided by Prayon in calculating inventory carrying costs as the basis for the monthly home market short-term interest rates used in the credit calculation.

No other adjustments were claimed or allowed.

### Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the export price (EP) or the (constructed export price (CEP) transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value, that of the sales from which we derive selling, general and administrative expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sale are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731, 61732 (November 19, 1997).

Prayon did not claim a LOT adjustment; however, we requested information concerning Prayon's distribution system, including selling functions, to determine whether such an adjustment was necessary. Prayon reported that all sales during the period of review (POR), in both the comparison market (the home market in this case) and the United States, were to end-users and distributors. In the U.S. market, Prayon sells to end-users through its affiliated sales agent. The subject merchandise is shipped from tankage in a storage facility in Canada directly to the customer. In the home market, Prayon sells through several channels of distribution. The first channel includes direct sales made to end-users. For the other channels, Prayon sells to either end-users or distributors through its affiliated sales agent. For all home

market customers, Prayon ships the subject merchandise via independent carriers directly to the customer from its storage facilities at the plant. We have examined information provided by Prayon concerning these sales and determined that the selling functions are the same in the home market and U.S. market. Prayon negotiates all final prices and quantities, and bears the cost of storage and handling, surveys and delivery to customer. Prayon does not maintain inventories for its customers, provide after-sales service, or offer advertising or other sales support activities to its customers in either market. Therefore, we preliminarily determine that sales in the home market and sales in the United States are at the same LOT and that no adjustment is warranted.

### Commissions

The Department operates under the assumption that commission payments to affiliated parties (in either the United States or home market) are not at arm's length. The Court of International Trade has held that this is a reasonable assumption. See *Outokumpu Copper Rolled Products AB v. United States*, 850 F. Supp. 16,22 (1994).

Accordingly, the Department has established guidelines to determine whether affiliated party commissions are paid on an arm's-length basis such that an adjustment for such commissions can be made. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan*, 61 FR 57,629 (November 7, 1996). First, we compare the commissions paid to affiliated and unaffiliated sales agents in the same market. If there are no commissions paid to unaffiliated parties, we then compare the commissions earned by the affiliated selling agent on sales of merchandise produced by the respondent to commissions earned on sales of merchandise produced by unaffiliated sellers or manufacturers. If there is no benchmark which can be used to determine whether the affiliated party commission is an arm's-length value (i.e., the producer does not use an unaffiliated selling agent and the affiliated selling agent does not sell subject merchandise for an unaffiliated producer), the Department assumes that the affiliated party commissions are not paid on an arm's-length basis.

In this case, Prayon used an affiliated sales agent in the home market and a different affiliated sales agent in the United States. Prayon did not use

unaffiliated agents during the POR and did not place on the record information that its affiliated home market and U.S. selling agents acted as agents for unaffiliated producers of the subject merchandise. As a result, we were unable to establish a benchmark for use in determining whether commission payments Prayon made to affiliated selling agents were at arm's length. Accordingly, we preliminarily determine not to make a circumstance of sale adjustment for commissions in either market.

### Currency Conversion

We made currency conversions in accordance with section 773A of the Act based on rates certified by the Federal Reserve Bank in effect on the dates of U.S. sales. See Change in Policy Regarding Currency Conversions, 61 FR 9434 (March 8, 1996).

### Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following margin exists for the period August 1, 1996 through July 31, 1997:

Manufacturer/exporter	Margin (percent)
Prayon .....	3.96

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Interested parties may also request a hearing within ten days of publication. If requested, a hearing will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first work day thereafter. Interested parties may submit case briefs not later than 30 days after 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 of this notice. The Department will issue a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such briefs, within 120 days from the publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with the methodology in Final Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review: Circular Welded Non-Alloy Steel Pipe from the Republic of Korea (62 FR 55574, October 27, 1997), we calculated exporter/importer-specific assessment

values by dividing the total dumping duties due for each importer by the number of tons used to determine the duties due. We will direct Customs to assess the resulting per-ton dollar amount against each ton of the merchandise entered by these importers during the review period.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of industrial phosphoric acid from Belgium entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this administrative review (except no cash deposit will be required where the weighted-average margin is *de minimis*, i.e., less than 0.5 percent); (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 an individual rate; (3) if the exporter is not a firm covered in this review, a previous review, or the original 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) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews or the original investigation, the cash deposit rate will be 14.67 percent, the "all others" rate established in the LTFV investigation.

This notice serves as a preliminary 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 administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 4, 1998.

**Robert S. LaRussa,**

*Assistant Secretary, Import Administration.*  
[FR Doc. 98-12317 Filed 5-8-98; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Export Trade Certificate of Review

**ACTION:** Notice of issuance of an amended Export Trade Certificate of Review, Application No. 94-2A007.

**SUMMARY:** The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to Florida Citrus Exports, L.C. ("FCE") on February 23, 1995. Notice of issuance of the original Certificate was published in the **Federal Register** on March 8, 1995 (60 FR 12735).

**DATE:** Effective February 4, 1998.

**FOR FURTHER INFORMATION CONTACT:** Morton Schnabel, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1998).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

#### Description of Amended Certificate

Export Trade Certificate of Review No. 94-2A007, was originally issued to Florida Citrus Exports, L.C. on February 23, 1995 (60 FR 12735, March 8, 1995) and previously amended on January 16, 1996 (61 FR 4255, February 5, 1996).

FCE's Export Trade Certificate of Review has been amended to:

1. Add the following entities as new "Members" of the Certificate within the meaning of section 325.2(1) of the Regulations (15 C.F.R. 325.2(1)): Dole Citrus, Vero Beach, FL (controlling entity: Dole Food Company, Inc., Westlake Village, CA); Hogan & Sons, Inc., Vero Beach, FL; and The Packers of Indian River, Ltd., Ft. Pierce, FL.
2. Delete Ocean Spray Cranberries Inc., Vero Beach, FL as a "Member" of the Certificate.

A copy of the amended certificate will be kept in the International Trade

Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: May 5, 1998.

**Morton Schnabel,**

*Acting Director, Office of Export Trading Company Affairs.*

[FR Doc. 98-12377 Filed 5-8-98; 8:45 am]

BILLING CODE 3510-DR-P

## DEPARTMENT OF COMMERCE

### Evaluation of Coastal Zone Management Program and National Estuarine Research Reserves

**AGENCY:** Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

**ACTION:** Notice of intent to evaluate.

**SUMMARY:** The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Pennsylvania, Delaware and Alaska Coastal Zone Management Programs.

These evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of states with respect to coastal program implementation. Evaluation of Coastal Zone Management Programs requires findings concerning the extent to which a state has met the national objectives enumerated in the CZMA, adhered to its coastal program document approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA. The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings are held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of public meetings during the site visits.

The Delaware Coastal Management Program site visit will be from June 1-5, 1998. One public meeting will be held during the week. This meeting is scheduled for Tuesday, June 2, 1998, at 7:00 P.M., at the Department of Natural Resources and Environmental Control Auditorium, Richardson and Robins Building, 89 Kings Highway, Dover, Delaware.

The Pennsylvania Coastal Management Program site visit will be