

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: October 1, 1996.

Robert S. LaRussa,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 96-25957 Filed 10-8-96; 8:45 am]

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[A-570-501]

**Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Final Results of Antidumping Duty Administrative Review**

**AGENCY:** International Trade Administration/Import Administration.

**ACTION:** Notice of Final Results of the Antidumping Duty Administrative Review of Natural Bristle Paint Brushes and Brush Heads from the People's Republic of China.

**SUMMARY:** On April 4, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping order on natural bristle paint brushes and brush heads (paint brushes) from the People's Republic of China (PRC). The review covers six manufacturers/exporters and the period February 1, 1994 through January 31, 1995.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received and information requested from respondent, we have changed the results from those presented in the preliminary results of review.

**EFFECTIVE DATE:** October 9, 1996.

**FOR FURTHER INFORMATION CONTACT:** Elisabeth Urfer or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482-4733.

*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 April 4, 1996, the Department published in the Federal Register (61 FR 15037) the preliminary results of the antidumping duty order on paint brushes from the PRC. The Department has now completed this administrative review in accordance with section 751 of the Act.

*Scope of Review*

Imports covered by this review are shipments of natural bristle paint brushes and brush heads from the PRC. The merchandise under review is currently classifiable under item 9603.40.40.40 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

This review covers the period February 1, 1994 through January 31, 1995, and six producers/exporters of Chinese paint brushes.

*Separate Rates*

We have changed our separate rates determination with respect to the Hebei Animal By-Products I/E Corp. (HACO) from the preliminary results of review.

To establish whether a company operating in a state-controlled economy is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this policy, exporters in non-market economies (NMEs) are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to exports. Evidence supporting, though not requiring, a finding of *de jure* absence of government control includes: 1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; 2) any legislative enactments decentralizing control of companies; and 3) any other formal measures by the government

decentralizing control of companies. The *de facto* absence of government control with respect to exports is based on four factors: (1) whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and 4) whether each exporter has autonomy from the government regarding the selection of management.

The evidence on the record demonstrates that HACO meets the *de jure* and *de facto* criteria. In the preliminary results we denied HACO a separate rate because, based on the information on the record at that time, we found that HACO might not have autonomy in making decisions regarding the selection of its management. From the record, it appeared that the provincial government appointed HACO's general manager. However, because the implication of the provincial government's role in selection of HACO's management was not clear from the record, given that HACO met three of the four *de facto* criteria, we gave HACO an opportunity to clarify its response. We requested additional information from HACO, and considered such information in determining whether to assign HACO a separate rate in these final results of review.

On April 26, 1996, HACO submitted additional information in order to clarify its response. HACO stated that its general manager is selected through a poll of company employees, and that the "appointment" is a type of pro forma registration with the provincial government that occurs after the company employees have voted. Based on this explanation, we find that HACO has autonomy from the government regarding the selection of management. Therefore, we have determined that HACO meets all four of the *de facto* criteria. For further discussion of the Department's final determination that HACO is entitled to a separate rate, see *Decision Memorandum to the Director*, dated September 20, 1996: "Separate rate analysis for Hebei Animal By-Products I/E Corp in the administrative review of natural bristle paint brushes and brush heads from the People's Republic of China," which is on file in the Central Records Unit (room B099 of the Main Commerce Building).

Because we have determined that HACO merits a separate rate, we have analyzed HACO's sales for the final results of this review. See the Export Price and Normal Value sections below.

#### Facts Available

In the preliminary results we determined that the use of adverse facts available was appropriate for Yixing Sanai Brush Making Co., Ltd.; Eastar B.F. (Thailand) Company Ltd.; China National Metals & Minerals I/E Corp., Zhenjiang Trading Corp.; China National Native Produce and Animal By-Products Import-Export Corporation; and Inner Mongolia Autonomous Region Light Industrial Products I/E Corp., because these firms did not respond to the Department's antidumping questionnaire. We have not changed this determination for the final results. However, for the final results of review the rate assigned to these and all other companies that have not been found to be entitled to a separate rate has changed. As adverse facts available, we are assigning these companies the calculated rate for HACO, 351.92, which is the highest rate from any segment of the proceeding. Pursuant to section 776(c) of the Act, corroboration of this rate is not required because it is based on information obtained in the course of the review.

#### Analysis of the Comments Received

We gave interested parties an opportunity to comment on the preliminary results of review. We received comments only from the Paint Applicator Division of the American Brush Manufacturers Association (Paint Applicator Division), a domestic interested party.

*Comment 1:* The Paint Applicator Division asserts that HACO is not entitled to a separate rate test because not all producers/exporters of subject merchandise owned or controlled by the Hebei provincial government cooperated with the administrative review. The Paint Applicator Division notes that in the preliminary results the Department stated that a producer/exporter of subject merchandise located in Hebei province other than HACO failed to respond to the Department's request for information, and also notes that the Department sent this other producer/exporter of subject merchandise a questionnaire based on HACO's certified statements that it is owned or controlled by the Hebei provincial government.

The Paint Applicator Division cites to the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers From the People's*

*Republic Of China*, 58 FR 48833 (September 20, 1993), *accord Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Sebacic Acid From the People's Republic of China*, 59 FR 565 (January 5, 1994), and asserts that it is the Department's practice to first consider whether there are any other producers or exporters of subject merchandise under common ownership; then, if more than one producer/exporter are owned or controlled by the same governmental entity, the Department will collapse the producers/exporters and conduct a separate rate test only if all producers/exporters of the subject merchandise under common ownership cooperate with the Department. Citing the *Final Determination of Sales at Less Than Fair Value: Coumarin From The People's Republic of China*, 59 FR 66895 (December 28, 1994) (*Coumarin*), and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Paper Clips From the People's Republic of China*, 59 FR 51168 (October 7, 1994) (*Paper Clips*), the Paint Applicator Division argues that, although the Department has previously calculated a separate rate for an NME respondent even if that respondent's general manager was appointed by the government, the Department has not done so if there was any other producer/exporter of subject merchandise controlled by the same governmental entity. The Paint Applicator Division argues that this prevents exports from a company subject to the country-wide rate from being shipped through an affiliated company with a lower, separate rate to avoid the imposition of antidumping duties.

The Paint Applicator Division asserts that, because HACO's sister company failed to respond to the Department's questionnaire, calculating a separate rate for HACO in this review would create a situation where the Hebei provincial government could manipulate pricing and production between the affiliates to circumvent the antidumping law. The Paint Applicator Division concludes that, for the final results, the Department should continue to use the highest rate from any prior segment of the proceeding—127.07 percent—as facts available for all producers/exporters, including HACO.

*Department's Position:* We disagree with the Paint Applicator Division. HACO is entitled to a separate rates test to determine whether the government exercises control over the company's export activities. Only if we determine that HACO is controlled by the provincial government do we reach the

question of whether there are other firms that are under the common control of that government. Therefore, for these final results we have considered whether HACO is separate from the provincial government. (See comment 2 below.)

*Comment 2:* The Paint Applicator Division argues that, should the Department conduct a separate rate test for HACO for the final results, it should determine that HACO has failed to establish that it is not *de facto* controlled by the Hebei provincial government.

The Paint Applicator Division cites to *Tianjin Machinery Import & Export Corp. v. United States*, 806 F.Supp. 1008 (CIT 1992), and argues that, with respect to the determination of whether HACO is entitled to a separate rate in this review, HACO bears the burden of demonstrating that it is not *de facto* controlled by a governmental entity. The Paint Applicator Division asserts that any ambiguity in the administrative record on this issue must be interpreted in a manner adverse to HACO.

The Paint Applicator Division states that the Department's preliminary determination that HACO is *de facto* controlled by the Hebei provincial government due to the government's control over the selection of HACO's general manager was correct and fully supported by the evidence on the record. The Paint Applicator Division argues that the record at the time of the preliminary results shows that the Hebei provincial government exercises *de facto* control over HACO, through the appointment of HACO's general manager, and the role that the general manager plays in its business. The Paint Applicator Division cites to HACO's questionnaire responses, in which HACO stated that the general manager controlled the company, that the general manager controlled the company's bank account, and that the only person in its company with authority to enter into sales contracts is the general manager.

The Paint Applicator Division argues that, to the extent that clarification was even necessary, HACO's post-preliminary submission failed to establish that the preliminary results were incorrect, and, therefore, the Department should not change its preliminary results. First, the Paint Applicator Division argues, HACO's statements contradict its earlier responses, and are not credible. The Paint Applicator Division notes that, in response to the Department's two previous inquiries about the selection of its general manager, HACO never mentioned that its employees selected the general manager through a poll; only

after the preliminary results did HACO claim that its general manager is selected by the staff members of the company through a poll, and is approved by the Hebei Foreign Trade & Economic Cooperation Department. The Paint Applicator Division asserts that it appears that, knowing that those earlier certified responses had failed to persuade the Department that it was not *de facto* controlled by the provincial government, HACO simply changed its answer in an attempt to manipulate the Department's final results. The Paint Applicator Division argues that, because it is inconsistent with earlier, certified responses, HACO's post-preliminary results response is not reliable and should be rejected.

The Paint Applicator Division further argues that HACO has submitted no objective, documentary evidence to corroborate its assertion that its employees, not the provincial government, selects HACO's general manager. Citing the *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026 (April 30, 1996), *Coumarin*, and *Paper Clips*, the Paint Applicator Division argues that the Department routinely reviews company correspondence, board of directors meeting minutes, company newsletters, and other types of documentary evidence to corroborate assertions that the government is not involved in a company's personnel decisions.

The Paint Applicator Division argues that, even if the Department were to accept HACO's post-preliminary results response as reliable, that response confirms that HACO's general manager must be approved by the Hebei Foreign Trade & Economic Cooperation Department, and thus the record still establishes that the Hebei provincial government has veto power over the selection of HACO's management. Therefore, the Paint Applicator Division claims, HACO still has not satisfied its burden of demonstrating that it is not *de facto* controlled by the Hebei provincial government.

*Department's Position:* We disagree with the Paint Applicator Division. The information in HACO's April 26, 1996 submission does not contradict HACO's earlier submissions, but rather explains some of the confusion about the selection and function of the general manager. Where a company has the autonomy to select its management, even with the pro forma approval or acknowledgment of the provincial government, we consider the company to have met the relevant *de facto* control criterion. For example, in *Paper Clips*,

we found that, for one company, registration with a local machinery bureau, and, for a second company, approval by a government agency, were consistent with the fact that the company selected management independent of the government.

Although we often review company correspondence, board of directors meeting minutes, company newsletters, and other types of documentary evidence to corroborate assertions that the government is not involved in a company's personnel decisions, such a review of documentation is performed during verification. However, we did not conduct verification in this review.

#### *Export Price*

For sales made by HACO we used export price, in accordance with section 772(a) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States.

We calculated export price based on the price to unrelated purchasers. We deducted amounts for foreign inland freight and brokerage and handling. We valued foreign inland freight using data on Indonesian freight rates. We based brokerage and handling on a quote from a shipping company. We selected Indonesia as the surrogate country for the reasons explained in the "Normal Value" section of this notice.

#### *Normal Value*

For companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine normal value (NV) using a factors-of-production methodology if (1) the merchandise is exported from an NME country, and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(c)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review.

Accordingly, we treated the PRC as an NME country for purposes of this review and calculated NV by valuing the factors of production as set forth in 773(c)(3) of the Act in a comparable market economy country which is a significant producer of comparable merchandise. Pursuant to section 773(c)(4) of the Act and section 353.52(c) of the Department's

regulations, we determined that Indonesia is comparable to the PRC in terms of per capita gross national product (GNP), the growth rate in per capita GNP, and the national distribution of labor, and that Indonesia is a significant producer of comparable merchandise. Therefore, for this review, we have used publicly available information relating to Indonesia to value the various factors of production. (See *Memorandum to Laurie Parkhill from David Mueller*, dated February 6, 1996, "Natural Bristle Paint Brushes from the People's Republic of China: Non-market Economy Status and Surrogate Country Selection," and *Memorandum to the File from Elisabeth Urfer*, dated September 18, 1996, "Indonesia: Significant Production of Comparable Merchandise," which are on file in the Central Records Unit (room B099 of the Main Commerce Building).)

None of the parties submitted publically available published information on surrogate values for the Department's consideration. For purposes of calculating NV, we valued PRC factors of production as follows, in accordance with section 773(c)(1) of the Act:

- For handles, bristles, epoxy, ferrules, and nails, we used a per kilogram value obtained from the *Foreign Trade Statistical Bulletin of Indonesia: Imports (Indonesian Import Statistics)*. Using wholesale price indices (WPI) obtained from the *International Financial Statistics*, published by the International Monetary Fund (IMF), we adjusted these values to reflect inflation through the period of review (POR). We included freight costs incurred between the supplier and HACO, valued using the Indonesian freight rates. Where applicable, we made adjustments for recycled scrap.
- For direct labor, we used the unskilled labor rate published by the U.S. Department of Labor, Bureau of International Labor Affairs for 1992. This source shows number of hours worked per week. We adjusted the rate to reflect inflation through the POR using WPI published by the IMF.
- For factory overhead, we used information reported in a December 2, 1994 fax from the U.S. Foreign Commercial Service of the American Embassy in Jakarta, Indonesia. This data was received for the LTFV investigation of furfuryl alcohol from the People's Republic of China, and provides an estimated range of factory overhead in Indonesia. This information was used in the LTFV investigation of disposable pocket lighters from the People's Republic of China. From this

information, we were able to determine factory overhead as a percentage of materials and labor. The surrogate overhead rate included energy; therefore, we did not include HACO's reported energy factor in the calculation.

- For selling, general and administrative (SG&A) expenses, we used information obtained from a September, 1991 cable from the U.S. Embassy in Jakarta. This cable was received for the LTFV investigation of certain carbon steel butt-weld pipe fittings from the People's Republic of China, and provides an estimated range of SG&A expenses.

- For profit, we used information obtained from a September, 1991 cable from the U.S. Embassy in Jakarta. This cable was received for the LTFV investigation of certain carbon steel butt-weld pipe fittings from the People's Republic of China, and provides a range of profit margins.

- HACO did not provide per kilogram amounts for its packing materials; therefore, we relied on the facts otherwise available. For packing materials, we used a per piece packing rate calculated from the public version of the analysis memorandum from the first administrative review of this case. The company was a Hong Kong exporter of PRC paint brushes. Therefore, we adjusted the value to reflect inflation using the Hong Kong Consumer Price Index based on information published by the IMF.

- To value truck freight, we used the rates reported in a September, 1991 cable from the U.S. Embassy in Jakarta Indonesia. This cable was received for the LTFV investigation of certain carbon steel butt-weld pipe fittings from the People's Republic of China. We adjusted the rates to reflect inflation using WPI published by the IMF.

#### Currency Conversion

We made currency conversions pursuant to section 353.60 of the Department's regulations at the rates certified by the Federal Reserve Bank.

#### Final Results of the Review

We determine that the following dumping margins exist:

Manufacturer/ exporter	Time period	Margin (per- cent)
Hebei Animal By-Products I/E Corp .....	2/1/94-1/31/95	351.92
PRC-Wide Rate .....	2/1/94-1/31/95	351.92

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and NV may vary from the percentage stated above. The Department will issue appraisal instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of this notice of final results of review for all shipments of paint brushes from the PRC 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) for HACO, which was found to merit a separate rate for the final results of this review, the rate will be the company-specific rate, which is 351.92 percent; (2) for the companies named above which were not found to have separate rates, as well as for all other PRC exporters, the cash deposit rate will be the PRC-wide rate, which is 351.92; (3) for previously reviewed non-PRC exporters, the cash deposit rate will be the rate established in the most recent segment of the proceeding; and (4) for all other non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

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

This notice 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 subsequent assessment of double antidumping duties.

#### Notification to Interested Parties

This notice also 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 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: October 1, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

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#### [A-475-603]

### Tapered Roller Bearings From Italy, Revocation of the Antidumping Duty Order

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

**ACTION:** Notice of Revocation of Antidumping Duty Order.

**SUMMARY:** The Department of Commerce (the Department) is notifying the public of its revocation of the antidumping duty order on tapered roller bearings from Italy because it is no longer of any interest to domestic interested parties.

**EFFECTIVE DATE:** October 9, 1996.

**FOR FURTHER INFORMATION CONTACT:** Valerie Turoscy or Michael Panfeld, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482-0145.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department may revoke an antidumping duty order if the Secretary concludes that the duty order is no longer of any interest to domestic interested parties. We conclude that there is no interest in an antidumping duty order when no interested party has requested an administrative review for five consecutive review periods and when no domestic interested party objects to revocation (19 CFR 353.25(d)(4)(iii)).

On July 30, 1996, the Department published in the Federal Register (61 FR 39629) its notice of intent to revoke the antidumping duty order on tapered roller bearings from Italy (August 14, 1987). Additionally, as required by 19 CFR 353.25(d)(4)(ii), the Department served written notice of its intent to revoke this antidumping duty order on each domestic interested party on the service list. Domestic interested parties who might object to the revocation were provided the opportunity to submit their comments not later than the last day of the anniversary month.

In this case, we received no requests for review for five consecutive review periods. Furthermore, no domestic interested party, as defined under § 353.2 (k)(3), (k)(4), (k)(5), or (k)(6) of