

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 36.72 percent. 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.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 29, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-501]

#### Final Results of Expedited Sunset Review: Natural Bristle Paintbrushes and Brush Heads From the People's Republic of China

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

**ACTION:** Notice of final results of expedited sunset review: natural bristle paintbrushes and brush heads from the People's Republic of China.

**SUMMARY:** On January 4, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on natural bristle paintbrushes and brush heads from the People's Republic of China (64 FR 364) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and substantive comments filed on behalf of the domestic industry and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482-6397 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** May 10, 1999.

#### Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

#### Scope

The merchandise subject to this antidumping order is natural bristle paint brushes and brush heads from the People's Republic of China. Natural bristle "bristle packs," which are groups of natural bristles held together at the base with glue that closely resemble a traditional paintbrush head are within the scope of the order.<sup>1</sup> Excluded from the order are paintbrushes with a blend

<sup>1</sup> See Memo to Joe Spetrini, Re: Final Scope Ruling on Antidumping Duty Order on Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China (May 12, 1997).

of 60 percent synthetic and 40 percent natural fibers.<sup>2</sup> 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 imports from all manufacturers and exporters of Chinese natural bristle paintbrushes and brush heads.

#### Background

On January 4, 1999, the Department initiated a sunset review of the antidumping order on natural bristle paintbrushes and brush heads from the People's Republic of China (64 FR 364), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of the Paint Applicator Division ("PAD") of the American Brush Manufacturers Association and its participating members on January 19, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. PAD claimed interested party status under 771(9)(E) of the Act as a trade association, the majority of whose members manufacture, produce, or wholesale a domestic like product in the U.S. The member companies of PAD also claimed interested party status under 771(9)(C) of the Act as U.S. producers of a domestic like product.<sup>3</sup> In addition, PAD indicated that five of its member companies were among the original petitioners in the proceeding.<sup>4</sup> We received a complete substantive response from PAD on February 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day, review of this order.

#### Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation

<sup>2</sup> See *Scope Rulings*, 59 FR 25615 (May 17, 1994).

<sup>3</sup> The members of PAD are: EZ Paint Corporation, Bestt Liebco, Wooster Brush Company, Purdy Corporation, Tru\*Serv Manufacturing and Linzer Products Corporation.

<sup>4</sup> These five companies are: EZ Paint Corporation, Bestt Liebco (formerly Joseph Lieberman & Sons, Inc.), Wooster Brush Company, Purdy Corporation, Tru\*Serv Manufacturing (formerly Baltimore Brush & Roller Co., Inc.).

or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, PAD's comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

### Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt.1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.3). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) Dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to the guidance on likelihood determinations provided in the *Sunset Policy Bulletin* and legislative history, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any

respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

The antidumping duty order on natural bristle paintbrushes and brush heads from the People's Republic of China was published in the **Federal Register** on February 14, 1986 (51 FR 5580). Since that time, the Department has conducted several administrative reviews.<sup>5</sup> The order remains in effect for all manufacturers and exporters of the subject merchandise.

In its substantive response, PAD argues that the Department should determine that revocation of the antidumping duty order on imports on natural bristle paintbrushes and brush heads and brush heads from China would likely result in the continuation of dumping in the United States (see February 3, 1999 Substantive Response of PAD at 11). With respect to whether dumping continued at any level above *de minimis* after the issuance of the order, PAD states that dumping has continued at substantial margins since the order was imposed in 1986 (see February 3, 1999 Substantive Response of PAD at 12).

With respect to whether imports of the subject merchandise ceased after the issuance of the order, PAD states that imports of natural bristle paintbrushes from China have declined significantly since the order was imposed (see February 3, 1999 Substantive Response of PAD at 14). Citing USDOC trade statistic data and U.S. Census Bureau trade statistic data, PAD asserts that imports of the subject merchandise have decreased from 38,000,000 units in 1984 (the last full year before the petition was filed) to 1,225,000 units in 1997 (the most recent full year for which data are available). PAD notes, however, the imports of subject merchandise continue.

In conclusion, PAD argues that the Department should determine that there is a likelihood that dumping would continue were the order revoked because (1) Dumping margins above *de minimis* levels have been in place since the imposition of the order, (2) imports

of subject merchandise, while significantly below pre-order levels, have, nevertheless, continued since the issuance of the order, and (3) there was an increase in imports from 1994 to 1995 which coincided with the period of review in which the Department preliminarily determined that imports were being dumped at substantial margins.

As discussed in Section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63-64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. Dumping margins above *de minimis* levels continue to exist for shipments of the subject merchandise from all Chinese producers/exporters.<sup>6</sup>

Consistent with section 752(c) of the Act, the Department also considered the volume of imports before and after issuance of the order. The Department, utilizing U.S. Census Bureau IM146 reports and data from our original investigation and subsequent administrative reviews, can confirm that imports of the subject merchandise decreased sharply following the imposition of the order but have continued in commercial quantities throughout the life of the order.

Based on this analysis, the Department finds that the existence of dumping margins after the issuance of the order is highly probative of the likelihood of continuation or recurrence of dumping. Deposit rates above *de minimis* levels continue in effect for exports of the subject merchandise by all known Chinese manufacturers/exporters. Therefore, given that dumping has continued over the life of the order, respondent interested parties have waived their right to participate in this review before the Department, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if the order were revoked.

<sup>5</sup> See *Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Final Results of Administrative Review of Antidumping Order*, 55 FR 42599 (October 22, 1990); *Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Final Results of Administrative Review of Antidumping Order*, 61 FR 52917 (October 9, 1996); *Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Final Results of Administrative Review of Antidumping Order*, 62 FR 11823 (March 13, 1997); and *Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Final Results of Administrative Review of Antidumping Order*, 63 FR 12449 (March 13, 1998).

<sup>6</sup> See *Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Final Results of Administrative Review of Antidumping Order*, 55 FR 42599 (October 22, 1990); *Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Final Results of Administrative Review of Antidumping Order*, 61 FR 52917 (October 9, 1996); *Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Final Results of Administrative Review of Antidumping Order*, 62 FR 11823 (March 13, 1997); and *Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Final Results of Administrative Review of Antidumping Order*, 63 FR 12449 (March 13, 1998).

### Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its notice of the antidumping duty order on natural bristle paintbrushes and brush heads from the PRC, established a country-wide weighted-average dumping margin of 127.07 percent for all imports of the subject merchandise from the People's Republic of China (51 FR 5580, February 14, 1986). We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, PAD argues that the Department should report to the Commission the more recently calculated and higher margin of 351.92 percent for all Chinese exporters and producers (61 FR 52917, October 9, 1996).<sup>7</sup> PAD asserts that the circumstances for reporting a more recent and higher margin as described by the Department in its policy bulletin and recent determinations are present (see February 3, 1999 Substantive Response of PAD at 18). Citing the *Sunset Policy Bulletin*, PAD states that in certain circumstances, because a foreign exporter or producer may "choose to increase dumping in order to maintain or increase market share," higher, more recently calculated margins may be more probative of a company's likely behavior in the absence of the order.

The Department agrees with PAD's argument concerning the choice of the margin rate to report to the Commission. We find increasing import volumes coupled with increasing dumping margins provide sufficient cause for the Department to report to the Commission

<sup>7</sup> PAD states that the Department has issued final determinations of dumping margins of 351.92 percent for a total of six companies in three different review periods (1994–1995, 1995–1996, and 1996–1997) and a preliminary determination of a dumping margin of 351.92 percent for one additional company in a fourth review period (1997–1998) (February 3, 1999 Substantive Response of PAD at 18, 19).

a rate other than that calculated in the original investigation.<sup>8</sup>

The Department established on February 14, 1986, in the antidumping duty order, a deposit rate of 127.07 percent on all PRC-origin natural bristle paintbrushes and brush heads. On October 22, 1990, the Department calculated a margin rate for Peace Target, Inc. of 47.1 percent (55 FR 42599, 42601); all other Chinese producers/exporters retained the deposit rate established in the antidumping duty order (51 FR 5580). These deposit rates remained in effect until October 9, 1996 at the conclusion of the 1994/1995 administrative review (see 61 FR 52917). The Department, in the Final Results of the 1994/1995 administrative review, calculated dumping margins of 351.92 percent and therefore, established duty deposit requirements for both Hebei Animal By-Products Import/Export Corporation and the PRC as a whole (61 FR 52920). For the Final Results of the 1995/1996 administrative review, the Department established a deposit rate of 351.92 percent for all Chinese producers/exporters of the subject merchandise. Although it appears that imports during 1994 increased only slightly, there was a dramatic increase in imports during 1995, increasing roughly 200 percent from 1994 levels.<sup>9</sup> Therefore, the significant rise in the dumping margin during this period was associated with a substantial increase in imports. Following the publication of the 1994/1995 Final Results on October 9, 1996, imports of the subject merchandise dramatically decreased, falling by almost 70 percent between 1995 and 1996.<sup>10</sup>

According to the *Sunset Policy Bulletin*, "a company may choose to increase dumping in order to maintain or increase market share. As a result, increasing margins may be more representative of a company's behavior in the absence of an order" (see section II.B.2 of the *Sunset Policy Bulletin*). In addition, the *Sunset Policy Bulletin*

<sup>8</sup> The Department recognizes that where a more recent dumping margin is "more representative of a company's behavior in the absence of the order," that is the margin that should be reported to the Commission (see section II.B.2 of the *Sunset Policy Bulletin*). The "more representative" standard may be satisfied if the Department finds an "increase in imports ... corresponding to the increase in the dumping margin" (see *Final Results of Expedited Sunset Review: Barium Chloride From the People's Republic of China*, 64 FR 5633, 5635 (February 4, 1999)).

<sup>9</sup> According to U.S. Census Bureau IM146 Reports, in 1995, subject merchandise increased by more than 7 million units, from 3.3 million units in 1994 to 10.4 million units in 1995.

<sup>10</sup> See U.S. Census Bureau IM146 Reports for HTSUS item number 9603.40.40.40.

notes that the Department will normally consider market share. However, absent information on relative market share, and absent argument or evidence to the contrary, we have relied on import volumes in the present case. Therefore, in light of the correlation between an increase in imports and an increase in the dumping margins, the Department finds this more recent rate is the most probative of the behavior of Chinese producers/exporters of natural bristle paintbrushes and brush heads if the order were revoked. Thus, the Department will report to the Commission the company-specific rate and country-wide rate from the Final Results of the administrative review for the period February 1, 1994 through January 31, 1995 as contained in the Final Results of Review section of this notice.

### Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margin listed below:

Manufacturer/exporter	Margin (percent)
Hebei Animal By-Products Import/Export Corp. ....	351.92
All Other Chinese Manufacturers/Exporters .....	351.92

This notice serves as the only 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 351.305 of the Department's regulations. Timely 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 five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: May 4, 1999.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

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