

which we do not agree are discussed in the relevant sections of the Decision Memo, accessible in B-099 and on the Web at www.ita.doc.gov/import_admin/records/frn/.

Final Results of Review

We determine that the following weighted-average margin exists for the period August 1, 1997, through July 31, 1998:

Company	Margin
CEMEX/CDC	45.98%

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated an exporter/importer assessment value. With respect to both export-price and constructed-export-price sales, we calculated a unit duty per metric ton by dividing the total margins for the reviewed sales by the total entered quantity of those reviewed sales for each importer. For a discussion concerning our calculation of a unit duty per metric ton rather than an assessment rate, see the notice of preliminary results, dated September 8, 1999, and the preliminary calculation memorandum, dated September 2, 1999. We will instruct Customs to assess the resulting unit duty against the entered quantities of for the subject merchandise on each of the importer's entries made during the review period.

Cash Deposit Requirements

The following deposit requirements shall be effective upon publication of this notice of final results of administrative review for all shipments of gray portland cement and clinker from Mexico, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for CEMEX/CDC will be the rate shown above; (2) for previously investigated or reviewed 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 or any previous reviews or the original less-than-fair-value (LTFV) 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) the cash deposit rate for all other manufacturers or exporters will continue to be 61.85 percent, which was the "all others" rate in the LTFV investigation. See Final

Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker from Mexico, 55 FR 29244 (July 18, 1990).

The deposit requirements 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 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also 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 351.305. 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.

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

Dated: March 6, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

Appendix—List of Issues

1. Revocation
2. As Invoiced vs. as Produced
3. Ordinary Course of Trade
4. Level of Trade
5. Constructed Export Price Calculation
6. Regional Assessment
7. Bag vs. Bulk
8. Difference-in-Merchandise Calculation
9. Sales-Below-Cost Test
10. Special Cement
11. Assessment-Rate Calculation
12. Adjustments
 - a. Rebates
 - b. Freight
 - c. Advertising
 - d. Early-Payment Discounts
 - e. Credit Expenses
 - f. Other Adjustments
13. Financing of Cash Deposits
14. Duty Absorption
15. PROMEXMA Sales
16. Contrucentro's Employee Sales
17. Further-Manufactured Sales
18. Ministerial Errors
 - a. Model Matching
 - b. CDC's Employee Sales

c. U.S. Direct Selling Expenses

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-501]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Natural Bristle Paintbrushes and Brush Heads From the People's Republic of China

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on natural bristle paintbrushes and brush heads (paintbrushes) from the People's Republic of China ("PRC") in response to requests by petitioner, the Paint Applicator Division of the American Brush Manufacturers Association ("the Paint Applicator Division"), and one of the respondents, Hebei Animal By-Products Import and Export Corporation ("HACO"). This review covers the period February 1, 1998, through January 31, 1999 (POR).

We have preliminarily determined that sales have been made below normal value ("NV") by one of the companies subject to this review. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between export price ("EP") and NV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 15, 2000.

FOR FURTHER INFORMATION CONTACT:

Sarah Ellerman, Mark Hoadley, or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-4106, (202) 482-0666, and (202) 482-3020, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1999).

Background

On February 14, 1986, the Department published in the **Federal Register** (51 FR 5580) an antidumping duty order on paintbrushes from the PRC. On February 11, 1999, the Department published in the **Federal Register** (64 FR 6878) a notice of opportunity to request an administrative review of the antidumping duty order on paintbrushes from the PRC covering the period February 1, 1998, through January 31, 1999.

On February 26, 1999, in accordance with 19 CFR 351.213(b)(1), petitioner, the Paint Applicator Division, requested that we conduct an administrative review of Hunan Provincial Native Produce and Animal By-Products Import and Export Corporation ("Hunan"). HACO submitted a request on February 23, 1999, that its entries be reviewed. Accordingly, we published a notice of initiation of this antidumping duty administrative review on March 29, 1999 (64 FR 14860). The Department is conducting 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. Excluded from the review are paint brushes and brush heads with a blend of 40% natural bristles and 60% synthetic filaments. 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 Department's written description of the merchandise is dispositive.

Verification

As provided in section 782(i) of the Act, we verified information provided by HACO, Hunan, and their suppliers by using standard verification procedures, including on-site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and the selection of original documentation containing relevant information. Our verification results are outlined in public and proprietary versions of the verification reports.

Successorship to HACO

The record indicates that HACO has merged with two other companies to form Hebei Founder Import and Export Company (Founder). In determining whether one company is the successor to another for purposes of applying the

antidumping duty law, the Department examines a number of factors including, but not limited to, changes in: (1) Management, (2) production facilities, (3) suppliers, and (4) customer base. *See, e.g.*, Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review, 57 FR 20460 (May 13, 1992); Steel Wire Strand for Prestressed Concrete from Japan; Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, 55 FR 7759 (March 5, 1990); and Industrial Phosphoric Acid From Israel; Final Results of Antidumping Duty Changed Circumstances Review, 59 FR 6944 (February 14, 1994).

While examining these factors alone will not necessarily provide a dispositive indication of succession, the Department will generally consider one company to have succeeded another if its operations are essentially inclusive of the alleged predecessor's. *See* Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review, 55 FR 20460, 20461 (May 13, 1992). Thus, if the evidence demonstrates, with respect to the production and sale of the subject merchandise, that the new company operates as the same business entity as the former company, the Department will assign the new company the cash deposit rate of its predecessor.

At verification, we confirmed that HACO had been combined with two other Chinese companies in December 1998 to form Founder. HACO no longer exists as a separate entity, and is now a department within Founder. We verified this fact by examining Founder's financial statements and paintbrush catalogs, and by discussing the matter with Founder personnel and former personnel of HACO. (For a more complete discussion, *see* the Memorandum to the File from Mark Hoadley and Sarah Ellerman; 1998–1999 Administrative Review of Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China (A–570–501) Sales Verification Report of Founder Import and Export Company, dated February 28, 2000. These former employees of HACO are now employed by Founder, which can be seen by comparing the verified organizational charts from the current review period with those of the previous review period. Furthermore, Founder's supplier and U.S. purchasers of subject merchandise are the same as HACO's, which can be seen by comparing the verified response of the current review with the verification report from the previous review period. For more information, see the proprietary version

of Memorandum to the File from Sarah Ellerman; Inclusion Memo, dated February 28, 2000. Therefore, we preliminarily determine that Founder is the successor to HACO for purposes of this proceeding, and refer to the former HACO as Founder for the remainder of this notice.

Separate Rates

To establish whether a respondent operating in a state-controlled economy is sufficiently independent to be entitled to a separate rate, the Department analyzes each respondent 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*"), and further defined in 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 test, 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 export activities. Evidence supporting, though not requiring, a finding of de jure absence of government control over export activities includes the following: (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.

De facto absence of government control over 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.

With respect to the absence of de jure government control over export activities, evidence on the record indicates that both Founder and Hunan operate under the "Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People" ("*WPE Law*"). The WPE Law gives qualifying enterprises such rights as the right to act on their own behalf, adopt independent accounting methods, assume the sole responsibility for their

profits and losses, make their own managerial decisions, negotiate and set their own prices, and elect their own management. (See Exhibit 6B of Founder's July 14, 1999, questionnaire response and Exhibit 3 of Hunan's May 12, 1999, questionnaire response.)

With respect to the absence of *de facto* control over export activities, the management of both Founder and Hunan is elected by company personnel, and we found no evidence at verification that either company made operating decisions under government constraint, but substantial evidence that the two companies make operating decisions regarding prices, products, and customers independently of government interference. See Separate Rates Analysis in the Administrative Review of Hebei Animal By-Products Import and Export Corporation; Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China (Separate Rates Memorandum Founder) regarding Founder, and Separate Rates Analysis in the Administrative Review of Hunan Provincial Import and Export Corporation; Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China (Separate Rates Memorandum Hunan) regarding Hunan, both dated February 28, 2000, and public versions of the verification reports, on file in the Central Records Unit (room B-099 of the Main Commerce Building).

Because evidence on the record demonstrates an absence of government control, both in law and in fact, over respondents' export activities, the Department preliminarily grants Founder and Hunan separate rates.

Date of Sale

Hunan reported the invoice date as the date of sale. We have selected a date of sale other than the invoice date for Hunan. For more information, see Memorandum to the File from Sarah Ellerman; Analysis of Hunan Provincial Product & Animal By-Product Import & Export Corp. (Hunan) for the Preliminary Results of Review of Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China, dated February 28, 2000.

United States Price

For sales made by Founder and Hunan, we based United States price on EP, 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, and constructed export price was not otherwise warranted by the facts on the record.

We calculated export price based on the price to these unrelated purchasers. For Founder, we deducted amounts for domestic inland freight because we were unable to verify that the U.S. customer paid for this expense. For Hunan, we also deducted amounts for inland freight.

Normal Value

For companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) available 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 have applied surrogate values to factors of production to determine NV in accordance with section 773(c)(4) of the Act and section 351.408(c) of our regulations.

We have determined that Indonesia is: (1) Comparable to the PRC in terms of level of economic development; and (2) is a significant producer of comparable merchandise. See Memorandum to the File, Natural Bristle Paint Brushes from the People's Republic of China—licant Production in Indonesia of Comparable Merchandise and Memorandum to Ed Yang from Jeff May, Director, Office of Policy, Natural Bristle Paintbrushes and Brush Heads: Nonmarket Economy Status and Surrogate Country Selection, dated March 26, 1999. Therefore, for this review, we have used publicly available information relating to Indonesia to value the various factors of production.

We valued the factors of production as follows:

For brush handles, bristles, epoxy, wood, nails, tin plate, and packing materials, we used per kilogram values, given in U.S. dollars, obtained from Indonesia's Foreign Trade Statistical Bulletin (Biro Pusat Statistik). Because statistics were not available for the entire POR, we adjusted these values for inflation. We calculated surrogate freight costs for these factors using the shorter of (a) the distance between the closest PRC port and the factory, or (b) the distance between the domestic

supplier and the factory. See Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China, 62 FR 51410 (October 1, 1997) (Roofing Nails). For Founder, we used a publicly available rate for wooden core submitted in the current review. For more information, see Memorandum to Maureen Flannery from Sarah Ellerman; 1998-1999 Antidumping Administrative Review of Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China: Factors Values Memorandum, dated February 28, 2000.

For labor, we used the PRC regression-based wage rate at Import Administration's homepage, Import Library, Expected Wages of Selected NME Countries, revised on June 2, 1997. See http://www.ita.doc.gov/import_admin/records/wages. Because of the variability of wage rates in countries with similar per capita gross domestic products, section 351.408(c)(3) of the Department's regulations requires the use of a regression-based wage rate. The source of these wage rate data on the Import Administration's web page is found in the 1996 Year Book of Labour Statistics, International Labour Office (Geneva: 1996), Chapter 5B: Wages in Manufacturing.

For factory overhead, selling, general and administrative expenses (SG&A), and profit, we used data provided by respondent Hunan, in a previous review, from the Large and Medium Manufacturing Statistics: 1995, Vol. II, published by the Indonesian Bureau of Statistics. See Hunan's submission dated July 28, 1997, which was placed on the record of this review. This source provides a cost breakdown for large and medium sized manufacturers of hand tools and cutlery, and was also used in Roofing Nails. See 62 FR at 51410. We calculated factory overhead as a percentage of the total cost of manufacture. We calculated an SG&A rate by dividing SG&A expenses by the cost of manufacture. Lastly, we calculated a profit rate by dividing profit by the cost of production.

To value electricity, we used a value from A Brief Guide for Investors: 1995, published by the Indonesian Government's Investment Coordinating Board. We adjusted this value to reflect inflation through the end of the POR using the Indonesian wholesale price index (WPI) published by the International Monetary Fund (IMF). We then converted this figure to dollars using the Federal Reserve Bank's certified exchange rate on the date of sale.

To value truck freight, we used the rates reported in a September 1991 cable from the U.S. Consulate in Indonesia submitted for the Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China, 58 FR 47859 (Sep. 20, 1993), which was

placed on the record of this review. We adjusted these rates to reflect inflation through the end of the POR using Indonesian WPI published by the IMF.

Currency Conversion

We made currency conversions in accordance with section 773A of the Act

based on the rates certified by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily determine that the following dumping margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Hebei Founder Import and Export Corp., also known as: Hebei Animal By-Products Import and Export Corporation.	02/01/98–01/31/99	4.18
Hunan Provincial Native Produce & Animal By-Products I/E Corp	02/01/98–01/31/99	0.00

Parties to the proceeding may request disclosure within 10 days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 351.309(b)(2)(ii). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we calculated importer-specific duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to quantity of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer for that class or kind of merchandise made during the POR. The Department will issue appraisal instructions directly to the U.S. Customs Service.

Furthermore, the following deposit rate will be effective upon publication of the final results of this administrative review for all shipments of paintbrushes 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) The cash deposit rate for the reviewed firms will be the rates established in the final results of this review (except that no deposit will be required for firms with *de minimis* margins, *i.e.*, margins less than 0.5 percent); (2) for previously-

reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period; (3) for all other PRC exporters, the rate will be the PRC-wide rate, which is 351.92 percent; 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 also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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 section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.213 and 351.221.

Dated: February 28, 2000.

Joseph A. Spetrini,
Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[I.D. 011300C]

Extension of Public Comment Period for Draft Environmental Impact Statement and Application for an Incidental Take Permit for the Tacoma Water Department, Green River Watershed, Habitat Conservation Plan, King County, Washington

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce; Fish and Wildlife Service (FWS), Interior.

ACTION: Notice of extended public comment period.

SUMMARY: This notice announces a 17-day extension of the public comment period for the Draft Environmental Impact Statement and application for an Incidental Take Permit (Permit) for the Tacoma Water Department, Green River Watershed, Habitat Conservation Plan, King County, Washington. The Permit application includes: (1) the proposed Habitat Conservation Plan; (2) the proposed Implementing Agreement; and, (3) Draft Environmental Impact Statement. Direct mailings have been sent to affected State and local agencies, Federal agencies, Tribes, Federal and State legislators, public interest groups, and other interested parties, informing them of this extension.

DATES: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5:00pm, Pacific standard time, on March 31, 2000.

ADDRESSES: Requests for documents on CD ROM should be made by calling FWS at (360)534-9330. Hardbound