

recur if the order were revoked.<sup>37</sup> The SAA relating to this very provision states that it is not intended to provide for the treatment of AD duties as a cost in AD calculations.<sup>38</sup>

A related argument is that producers must be forced to cover their full costs of production in the United States, and that the extent to which that cost of production has been lowered by subsidies must be accounted for by deducting CVDs on those subsidies from initial U.S. prices. This argument is mistaken—the AD law does not direct the Department to add foreign government subsidies to foreign producers' costs of production. Presumably, Congress did not intend for the Department to effectively accomplish the same thing by subtracting CVDs from initial U.S. prices.

*Conclusion.* The Department will continue not to deduct CVDs from U.S. prices in calculating dumping margins because CVDs are not "United States import duties" within the meaning of the statute, and to make such a deduction effectively would collect the CVDs a second time. Accordingly, to the extent that CVDs may reduce dumping margins, this is not a distortion of any margin to be eliminated, but a legitimate reduction in the level of dumping.

## Appendix II—Issues in Decision Memorandum

Comment 1: Application of the Major Inputs

Rule to Eurodif's Purchases of Electricity

Comment 2: General and Administrative (G&A) expenses

Comment 3: Financial Expenses

Comment 4: Constructed Value (CV) Profit

Comment 5: Goodwill Expenses

Comment 6: Tails Defluorination and Plant Decommissioning

Comment 7: Attribution of Subject Merchandise

Comment 8: Circumstance of Sale (COS) Adjustment

Comment 9: Constructed Export Price (CEP) Offset

Comment 10: Indirect Selling Expenses

Comment 11: CV Selling Expenses

Comment 12: Treatment of Countervailing Duties

[FR Doc. 04–17565 Filed 8–2–04; 8:45 am]

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<sup>37</sup> The Department finds that the duties have been absorbed if the seller pays them, which is consistent with the approach to CVDs taken the 1979 amendments to the AD law. See, e.g., *Stainless Steel Wire Rod from the Republic of Korea; Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 57,879, 57,880 (Oct. 7, 2003); *Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 19,504, 19,505 (Apr. 21, 2003).

<sup>38</sup> Uruguay Round Agreements Act, Statement of Administrative Action at 885.

## DEPARTMENT OF COMMERCE

### International Trade Administration

(A–570–501)

#### Natural Bristle Paintbrushes and Brush Heads From the People's Republic of China: Preliminary Determination To Rescind the Antidumping New Shipper Review of Shanghai R&R Import/Export Co., Ltd.

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

**SUMMARY:** On September 30, 2003 the Department of Commerce (the Department) initiated new shipper reviews of the antidumping duty order on natural bristle paintbrushes and brush heads from the People's Republic of China (PRC) covering the period February 1, 2003, through July 31, 2003. See *Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews*, 68 FR 57875 (October 7, 2004) (*Initiation Notice*). These new shipper reviews covered two exporters: Shanghai R&R Imp./Exp. Co., Ltd. (Shanghai R&R) and Changshan Import/Export Co., Ltd (Changshan). For the reasons discussed below, we preliminarily intend to rescind the new shipper review of Shanghai R&R. The Department is addressing the preliminary determination for Changshan in a separate notice.

**EFFECTIVE DATE:** August 3, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Scott Lindsay or Dana Mermelstein at (202) 482–0780 and (202) 482–1391, respectively; Office of AD/CVD Enforcement 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 14, 1986, the Department issued an antidumping duty order on natural bristle paintbrushes and brush heads from the PRC. See *Amended Antidumping Duty Order: Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China*, 51 FR 8342 (February 14, 1986). On August 14, 2003, the Department received from Shanghai R&R, an exporter of subject merchandise to the United States, a timely request for a new shipper review under this order. Pursuant to section 351.214(b)(2)(iv) of the Department's regulations, this request included documentation establishing the volume of Shanghai R&R's first shipment to the

United States and the date of the first sale to an unaffiliated customer in the United States. On September 30, 2003, the Department initiated this new shipper review covering the period February 1, 2003, through July 31, 2003. See *Initiation Notice*. On January 8, 2004, we received Shanghai R&R's response to the Department's initial questionnaire. On April 29, 2004, the Department received Shanghai R&R's response to the Department's supplemental questionnaire. On June 10, 2004, we received Shanghai R&R's response to the Department's second supplemental questionnaire.

On March 18, 2004, the Department extended the time limit for the completion of the preliminary results to July 26, 2004, in accordance with section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), and section 351.214(i)(2) of the Department's regulations. See *Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Reviews: Natural Bristle Paintbrushes from the People's Republic of China*, 69 FR 12831 (March 18, 2004).

##### Verification

As provided in section 782(i) of the Act, we conducted verification of the questionnaire responses of Shanghai R&R. We used standard verification procedures, including on-site inspection of the production and sales facilities, and an examination of relevant sales and financial records. Our verification results are outlined in the *New Shipper Review of Natural Bristle Paintbrushes from the People's Republic of China: Sales Verification Report for Shanghai R&R Import/Export Co., Ltd.*, dated July 21, 2004. A public version of this report is on file in the Central Records Unit located in room B–099 of the Main Commerce Building.

##### Intent to Rescind Review

With every new shipper review request, the Department has an obligation to analyze the documentation and certifications to establish that they meet the conditions of section 351.214(b)(2)(iv) of the Department's regulations. At the time Shanghai R&R requested this new shipper review, we determined that the regulatory requirements were met and we initiated the new shipper review. At verification, the Department found documentation which brings into question that this sale was in fact made to the importer identified in Shanghai R&R's initial request for review and in all subsequent questionnaire responses. Shanghai R&R's explanation, that mistakes were made in identifying the importer in

certain sales and accounting records, do not persuade us to find that the importer documented in the initial request was correctly identified. Moreover, the discrepancies between Shanghai R&R's submissions and the documents reviewed at verification undermine the accuracy and completeness of Shanghai R&R's claim that it made an entry and a sale to an unaffiliated customer in the United States. As such, we find that our initiation of this new shipper review was based on documents that failed to establish the date of the first sale to an unaffiliated customer in the United States. Therefore, pursuant to section 351.214(b)(2)(iv)(C) of the Department's regulations, the requirements for initiation have not been satisfied.

Accordingly, The Department intends to rescind this new shipper review. Because much of the information pertinent to our preliminary decision to rescind this review is business proprietary, we have set forth our complete analysis in a separate memorandum. See Memorandum from Scott Lindsay, Case Analyst, through Barbara E. Tillman, Director of Office of AD/CVD Enforcement VII, to Gary Taverman, Acting Deputy Assistant Secretary for Import Administration, Group I, "Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China (PRC): Intent to Rescind the New Shipper Review for Shanghai R&R Import/Export Co., Ltd. (2/1/03 - 7/31/03)," dated July 23, 2004. A public version of this report is on file in the Central Records Unit located in room B-099 of the Main Commerce Building.

#### Notification

At the completion of this new shipper review, either with a final rescission or a notice of final results, the Department will notify U.S. of Customs and Border Protection that bonding is no longer permitted to fulfill security requirements of shipments with the exporter/producer combination of Shanghai R&R/Zhejiang Linan Maxiao Brush Factory of natural bristle paintbrushes and brush heads from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of the final rescission or results notice in the **Federal Register**. After the publication of the final rescission notice, a cash deposit of 351.92 percent *ad valorem* shall be collected for any entries exported by Shanghai R&R. Should the Department reach a final result other than a rescission, an appropriate antidumping duty rate will be calculated for both assessment and cash deposit purposes.

#### Schedule for Final Results of Review

Pursuant to section 351.309 of the Department's regulations, interested parties may submit written comments in response to this preliminary determination to rescind the review. Normally, case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) a statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.

Also, pursuant to section 351.310 of the Department's regulations, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location. The Department will issue the final results of this new shipper review, which will include the results of its analysis of issues raised in the briefs, within 90 days from the date of the preliminary results, unless the time limit is extended.

We are issuing and publishing this determination in accordance with sections 751(a)(2)(B) and 777(i) of the Act.

Dated: July 26, 2004.

**Jeffrey A. May,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 04-17563 Filed 8-2-04; 8:45 am]

**BILLING CODE 3510-DS-S**

#### DEPARTMENT OF COMMERCE

##### International Trade Administration (A-570-504)

##### **Petroleum Wax Candles From the People's Republic of China: Preliminary Intent To Rescind the Antidumping New Shipper Review of Shanghai R&R Import/Export Co. Ltd.**

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

**SUMMARY:** On September 30, 2003 the Department of Commerce (the Department) initiated three new shipper

reviews of the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC) covering the period August 1, 2002, through July 31, 2003. See *Petroleum Wax Candles from the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews*, 68 FR 57876 (October 7, 2004) (*Initiation Notice*). These new shipper reviews covered three exporters: Shanghai R&R Imp./Exp. Co., Ltd. (Shanghai R&R); Changshan Import/Export Co., Ltd. (Changshan); and Shandong Huihe., Ltd (Shandong). For the reasons discussed below, we preliminarily intend to rescind the new shipper review of Shanghai R&R. The Department is addressing the preliminary determination for Changshan and Shandong in separate notices.

**EFFECTIVE DATE:** August 3, 2004.

#### **FOR FURTHER INFORMATION CONTACT:**

Scott Lindsay or Dana Mermelstein at (202) 482-0780 and (202) 482-1391, respectively; Office of AD/CVD Enforcement 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On August 28, 1986, the Department issued an antidumping duty order on petroleum wax candles from the PRC. See *Antidumping Duty Order: Petroleum Wax Candles From the People's Republic of China*, 51 FR 30686 (February 14, 1986) On August 14, 2003, the Department received a timely request for a new shipper review of the antidumping duty order on petroleum wax candles from the PRC from Shanghai R&R, an exporter of subject merchandise to the United States. Pursuant to section 351.214(b)(2)(iv) of the Department's regulations, this request included documentation establishing the volume of Shanghai R&R's first shipment to the United States and the date of the first sale to an unaffiliated customer in the United States. On September 30, 2003, the Department initiated this new shipper review covering the period August 1, 2002, through July 31, 2003. See *Initiation Notice*. On January 7, 2004, we received Shanghai R&R's response to the Department's initial questionnaire. On April 26, 2004, the Department received Shanghai R&R's response to the Department's supplemental questionnaire. On June 14, 2004, we received Shanghai R&R's response to the Department's second supplemental questionnaire.