

road decommissioning, prescribed burning for wildlife habitat improvement and fuels reduction, and stream restoration activities. These proposed activities will involve Matrix (MA-14), Partial Retention (MA-13), Riparian Reserve (MA-11) and Late-Successional Reserve (MA-8) land allocations.

Projects activities associated with the Esterly Lakes Landscape Project are planned in both the East Fork and West Fork Illinois River Watersheds on BLM administered lands. These projects are being planned as a part of the implementation of the Northwest Forest Plan and the Medford District's Resource Management Plan. The Esterly Lakes Landscape Project includes a mix of forest stand thinning to promote forest health and desired forest habitat conditions, timber harvesting, prescribed burning to reduce fire hazard and manipulate stand composition, and young stand management such as thinning and/or brushing on BLM administered lands. It will also include the restoration of declining special vegetation types and habitats, stream and riparian reserve restoration, and various types of roadwork.

The Purpose and Need for the Proposed Action is to implement management direction in the Upper Illinois River planning area and specifically focus on:

- (1) A healthy and resilient ecosystem and watershed in the planning area.
- (2) Meet Visual Resource Management Objectives.
- (3) Riparian reserves for Aquatic Conservation Strategy Objectives, water quality, and fisheries within the project areas in the long-term.
- (4) Silvicultural treatments that maintain or improve forest health.
- (5) Harvest timber to meet the demand for wood products.
- (6) Unique wildlife or botanical habitats identified in the respective planning documents.

In preparing the EIS, the Forest Service will tier to the Northwest Forest Plan, the BLM Medford District's Resource Management Plan, and the Siskiyou National Forest's Land and Resource Management Plan as amended. The Forest Service will also consider issues submitted to the Proposed Action, and develop additional alternatives to the proposed action that respond to the significant issues with the Proposed Action. The no action alternative will be considered.

Public participation will be important at several times during the analysis. The first time is during the scoping period [Reviewer may wish to refer to the

Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environment Policy Act (CFR) at 40 CFR 1501.7]. The Agency will be seeking written issues with the Proposed Action from Federal, State, and local agencies, any affected Indian tribes, and other individuals who may be interested in or affected by the Proposed Action. This input will be used to develop additional alternatives. The scoping process includes:

- Identifying potential issues;
- Selecting significant issues with the Proposed Action, needing in-depth analysis;
- Eliminating insignificant issues; issues that have been analyzed and documented in a previous EIS, issues that controvert the need for the Proposed Action, or issues that are outside the authority of the Responsible Official to decide;
- Exploration of additional alternatives based on the issues identified during the scoping process; and
- Identification of potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and be available for review by July 1999. The comment period for the Draft EIS will be 45 days from the date that the EPA published the Notice of Availability appears in the **Federal Register**.

The Forest Service believes it is important to give Reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, a reviewer of a Draft EIS must structure their participation in the environmental review process of the proposal so that it is specific, meaningful, and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp v. NRDC*, 453 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage, but that are not raised until after completion of the final EIS, may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 60-day comment period so that substantive comments and objectives are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action,

comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the inadequacy of the draft EIS or the merits of the alternatives formulated and discussed in the EIS. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environment Policy Act at 40 CFR 1503.3 in addressing these points.

After the 60-day comment period ends on the draft EIS, comments will be considered and analyzed by the Agency in preparing the final EIS. The final EIS is scheduled for completion by October 1999. In the final EIS, the Forest Service is required to respond to the comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding the proposal. A final EIS is expected in November 1999.

The Forest Service Responsible Official will be Mike Lunn, Siskiyou National Forest Forest Supervisor. The Bureau of Land Management Responsible Office will be Robert C. Korfhage, Grants Pass Resource Area Field Manager. They will consider the final EIS, applicable laws, regulations, policies, and analysis files in making their decisions. The Responsible Officials will document the decision and rationale in their Record of Decision. The Forest Service decision will be subject to appeal by the general public under 36 CFR 215. The Bureau of Land Management decision will be subject to protest by the general public in accordance with 43 CFR Part 5003.

Dated: May 10, 1999.

J. Michael Lunn,

Forest Supervisor.

[FR Doc. 99-12692 Filed 5-19-99; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-501]

Natural Bristle Paintbrushes and Brush Heads From The People's Republic of China; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of the antidumping duty administrative review

of natural bristle paintbrushes and brush heads from the People's Republic of China.

SUMMARY: On January 13, 1999, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping order on natural bristle paintbrushes and brush heads (paintbrushes) from the People's Republic of China (PRC). This review covers one exporter of the subject merchandise, Hebei Animal By-Products Import and Export Corporation (HACO), during the period February 1, 1997 through January 31, 1998.

We gave interested parties an opportunity to comment on our preliminary results. After considering comments presented by both parties, we have not changed the final results from those presented in the preliminary results of review, and have determined that sales have been made below normal value (NV).

EFFECTIVE DATE: May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Andrew Nulman, Laurel LaCivita, or Maureen Flannery, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482-4052, 482-4236, or 482-3020, respectively.

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. In addition, unless otherwise indicated, all citations to the Department's regulations refer to the regulations codified at 19 CFR part 351 (April 1998).

Background

The Department published the preliminary results of this antidumping duty administrative review on January 13, 1999 (64 FR 2192). We received comments from HACO and from the Paint Applicator Division of the American Brush Manufacturers Association (the petitioner). We also received rebuttal comments from both parties. HACO requested a public hearing, which was held on February 19, 1999. The Department has now completed this administrative review in accordance with section 751(a) of the Act.

Scope of Review

Imports covered by this review are shipments of natural bristle paintbrushes and brush heads from the PRC. Excluded from the order are paintbrushes 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.

This review covers the period February 1, 1997, through January 31, 1998.

Analysis of the Comments Received

Comment #1: Application of Adverse Facts Available to HACO

HACO argues that the facts of the case do not support the Department's preliminary determination that the margin for HACO should be based on total adverse facts available (AFA). HACO primarily contends that neither HACO nor its supplier failed verification and, therefore, application of total facts available is not appropriate (see discussion below). In addition, HACO maintains that both HACO and its supplier did act to the best of their ability to comply with the Department's request for information under the circumstances, and therefore the application of adverse facts available is also inappropriate (see discussion below).

HACO contends that the Department will use AFA only when an interested party is wholly uncooperative, fails to submit sufficient or unverifiable responses to the Department's requests, or significantly impedes the proceeding, citing *Certain Cut-to-Length Carbon Steel Plate From Mexico: Final Results of Administrative Review*, 64 FR 76, 82 (January 4, 1999). HACO also cites as support *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile*, 63 FR 56613, 56616 (October 22, 1998) (*Chilean Mushrooms*), where HACO claims that the Department did not apply AFA because the respondent met the Department's five-part test to demonstrate that it acted to the best of its ability in that investigation. HACO describes the five-part test as follows: (1) submissions of information were made timely, (2) respondent substantially cooperated with the Department's information requests, (3) some successful verification of the response was made, (4) for unverifiable

information, there was alternative information available to allow appropriate adjustments to the submitted data, and (5) the Department was able to make adjustments for the identified deficiencies and was able to use the submitted information without undue difficulties.

HACO argues that, even in cases where a party may not have acted "to the best of its ability" in providing information requested by the Department, the Department will not use AFA if the party has been otherwise "cooperative," citing *Roller Chain, Other Than Bicycle, from Japan: Preliminary Results and Partial Rescission of Antidumping Administrative Review*, 63 FR 25450, 25455 (May 8, 1998).

HACO maintains that both HACO and its supplier fully cooperated with the Department at every stage of the review. HACO claims that all of its submissions in this review and information provided at verification more than substantially complied with the Department's requests, and that HACO and its supplier fully met the five part-test to avoid application of AFA, and therefore that the finding of AFA in this review is in error. HACO claims that at verification of HACO all terms of sale for this review were verified, and that HACO's supplier reported all factor inputs and promptly provided all information requested by the verifiers, causing the Department to have no basis to resort to AFA in the final results. HACO finally contends that, in this review, there is substantial evidence on the record that HACO acted "to the best of its ability" at verification.

As an alternative argument, HACO claims that where the Department could not verify a factor input, it should consider using partial facts available. HACO points out that in the case of electricity, where HACO's supplier did not report the correct figure, the Department should consider using a partial facts available figure such as the electricity charge for a prior review or the petition. HACO claims that in all other situations the factor values submitted by HACO were reasonable.

The petitioner agrees with the Department's preliminary determination that the margin for HACO should be based on AFA, due to HACO's failure of verification in this review. The petitioner states that, according to 19 U.S.C. § 1677(a)(2)(D) (section 776(a)(2)(D) of the Act), when a respondent has failed verification, the Department must base the margin on the facts otherwise available, and that the Department is authorized to make an adverse inference if it determines that

the respondent did not act to the best of its ability in responding to the Department's requests for information. Id. 19 U.S.C. § 1677e(c).

The petitioner states that in this review the Department had determined that HACO's data could not be verified and that HACO had not acted to the best of its ability, and therefore that the Department was correct in selecting the facts otherwise available rate of 351.92%, HACO's own rate from a prior review as well as its current cash deposit rate.

The petitioner further argues that the Department's determination that HACO was uncooperative, and therefore did not act to the best of its ability, is consistent with the Department's standard practice, as in *Certain Welded Carbon Steel Pipes and Tubes From India: Final Results of Antidumping Duty Administrative Review*, 63 FR 32825, 32826 (June 16, 1998) (*Steel Pipes from India*), where a respondent did not act to the best of its ability because it failed to provide information at verification essential to the establishment of the accuracy of submitted data. The petitioner further argues that even if respondent provides timely comments to all prior requests for information, a respondent that fails verification has been determined uncooperative, and therefore the Department should apply AFA, as in *Certain Welded Carbon Steel Pipes from Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53820 (October 16, 1997).

DOC Position: We agree with the petitioner. As we explained in the preliminary results of review, we were unable to verify substantial sections of the questionnaire response at the verification of HACO's supplier. Consequently, we found in our preliminary results that the discrepancies were so significant as to constitute a failure of verification. We also determined that HACO failed to provide the Department with adequate supporting documentation at verification so that a significant portion of its questionnaire response could be confirmed. (See *Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China: Preliminary Results and Partial Recession of Antidumping Duty Administrative Review*, 64 FR 2192, 2193 (January 13, 1999) (*Preliminary Results*).)

Where a party provides information requested by the Department but the information cannot be verified as required by section 782(i) of the Act, section 776(a)(2)(D) of the Act requires the Department to use facts otherwise available (FA) in reaching the applicable

determination. Therefore, in accordance with section 776(a) of the Act, the use of FA is appropriate for HACO. See *Extruded Rubber Thread from Malaysia, Final Results of Antidumping Duty Administrative Review*, 62 FR 33588 (June 9, 1997).

Section 776(b) of the Act authorizes the Department to use AFA whenever it finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's request for information. Because HACO failed to substantiate large portions of its questionnaire response, including the statutorily required factors of production information, such as number of labor hours worked and per unit quantities consumed of primary material inputs, we maintain our determination that HACO did not cooperate to the best of its ability with our requests for information. See *Preliminary Results and the Determination of Adverse Facts Available Based on Verification Failure in the Administrative Review of Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China (Facts Available Memorandum)*, dated December 30, 1998.

We disagree with HACO's characterization of the Department's reasons for not applying AFA in the *Chilean Mushrooms* case cited above. In *Chilean Mushrooms*, the Department applied the criteria established in section 782(e) of the Act, under which the Department "shall not decline to consider information that is submitted by an interested party," and found that the rejection of the responses in their entirety was inappropriate based on the facts of that proceeding. (See *Chilean Mushrooms*, 63 FR at 56617.) Section 782(e) of the Act instructs the Department to consider information if (1) the information is submitted within the established deadlines, (2) the information can be verified, (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching a determination, (4) the interested party acted to the best of its ability in providing the required information, and (5) the information can be used without undue difficulties.

Based on the facts of this proceeding, we disagree that HACO met all of the criteria established by section 782(e). *Comment 5* through *Comment 14* of this notice discuss why the information submitted by HACO could not be verified, and cannot be used as a reliable basis for calculating an antidumping duty margin. Because the information presented in the questionnaire responses differs so greatly from the information presented

at verification, and because we were unable to establish that the data presented at verification were for the relevant sizes of brushes, neither the questionnaire responses nor the data presented at verification form a reliable basis for calculating a dumping margin. Furthermore, since HACO's supplier's responses did not reflect the information contained in the books and records of the company, it cannot be construed that HACO's supplier acted to the best of its ability to provide the requested information to the Department. (See *Steel Pipes from India*, 62 FR 32826.)

We have carefully considered HACO's submitted information in the current review, but could not use it to calculate a dumping margin since we could not tie the submitted information to the records provided at verification. Therefore, pursuant to section 776(b) of the Act, we are using AFA to determine HACO's margin for these final results.

With regard to HACO's argument to use partial facts available, we disagree because HACO's supplier failed to substantiate any of its factors of production. These discrepancies, detailed in the Department's Memorandum from Mike Strollo and Laurel LaCivita to Edward Yang: *Verification of Factors of Production for HACO's Supplier in the Antidumping Administrative Review of Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China (PRC) (Supplier's Verification Report)*, were so significant as to constitute a failure of verification. Therefore, for the reasons stated above, we are continuing to apply AFA in these final results of review.

Comment #2: Selection of Adverse Facts Available Margin

The petitioner contends that the margin of 351.92% was the only reasonable selection available to the Department under the circumstances, because it was based on actual data HACO submitted in the 1994-1995 administrative review of this order; see *Natural Bristle Paintbrushes from the People's Republic of China: Final Results of Antidumping Administrative Review*, 61 FR 52917 (October 9, 1996). The petitioner also argues that, because this is HACO's current cash deposit rate, it cannot even be characterized as adverse to HACO. The petitioner cites 19 U.S.C. § 1677e(c) (section 776(c) of the Act), and claims that, because this rate is HACO's own margin it is probative and can be corroborated, and any margin lower than 351.92% would effectively reward HACO for failure of verification.

DOC Position: We agree with the petitioner. Under section 776(b) of the Act, AFA may include reliance on information derived from: (1) the petition, (2) a final determination in the investigation, (3) any previous review under Section 751 of the Act, or (4) any other information placed on the record. To corroborate secondary information (items (1)–(3)), the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. For a discussion on how the Department corroborated the secondary information applied as AFA in this review, see *Preliminary Results*, 64 FR 2193.

However, unlike other types of information, such as surrogate values, there are no independent sources for calculated antidumping margins. The only source for calculated margins is an administrative determination. In the preliminary results, we used the highest rate from any prior segment of the proceeding, 351.92%, which was the rate calculated for HACO in the review covering the period February 1, 1994 through January 31, 1995. (See *Preliminary Results*, 64 FR 2193.) Because this margin is based on the rate calculated for a relatively recent review using HACO's own price data, and because there is no information that this rate is not appropriate, we continue to determine that a margin of 351.92% is appropriate to use as AFA.

Comment #3: Sufficiency of Time Allowed for HACO to Prepare for Verification

HACO claims that the Department did not allow HACO enough time to prepare for verification since it released the verification outline on Tuesday evening, September 22, 1998, while HACO's counsel was already in transit to China. As a result, HACO claims, its counsel did not see the verification outline for the first time until arriving at HACO on Saturday, September 26, 1998, and only then prepared for the Department's verification beginning on Monday, September 28, 1998.

The petitioner notes that, although the Department issued its verification outline six days before verification, according to HACO's own account of the facts, HACO failed to obtain the outline until two days prior to verification. The petitioner further claims that the Department notified HACO seventeen days in advance of the date it intended to conduct verification and thus HACO could have begun preparation prior to receipt of the outline.

DOC Position: We agree with the petitioner. Our standard verification

outline was issued sufficiently in advance of verification to allow adequate preparation time. As the petitioner notes, HACO need not have waited for a standard verification outline to begin preparing for verification. For further details, see the *Memorandum from Laurel LaCivita to Edward Yang: Proprietary Issues in the Final Results of Review*, dated May 6, 1999 (*Proprietary Issues Memorandum*). Furthermore, whenever HACO or its supplier was unprepared for a verification element, the verifier allowed company officials time to gather documentation while the verification took place. See, for example, the *Supplier's Verification Report* at pages 4 and 5. Therefore, HACO and its supplier were not denied the appropriate amount of time to prepare for verification, and cannot attribute verification failure to the date of issuance of the standard verification outline.

Comment #4: Sufficiency of Time Allowed for HACO to Comment on Verification Reports

HACO claims that on December 31, 1998, the Department announced its preliminary results of review and provided copies of its verification reports in this review. HACO contends the Department did not allow HACO enough time to comment on the verification reports separately and to identify any errors and misstatements in them before the preliminary results of review were issued. As a result, HACO contends, the preliminary results of review were prejudiced by errors found in the verification report.

DOC Position: On December 30, 1998 the Department released the *Supplier's Verification Report*, the *Memorandum from Mike Strollo and Laurel LaCivita to Edward Yang: Verification of Sales for Hebei Animal By-Products Import and Export Corporation (HACO) in the Antidumping Administrative Review of Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China (PRC)*; (*HACO's Verification Report*) and its *Facts Available Memorandum*, dated December 30, 1998. On January 13, 1999, the Department published in the **Federal Register** its preliminary results of review. Upon publication of the preliminary results of review, interested parties were invited to comment on any aspect of the preliminary decision, including material contained in our verification reports or any other matter on the record of this review. We also held a public hearing on February 19, 1999, during which any interested party could voice comments regarding this

review. The release of the verification reports and subsequent publication of the preliminary results of review and invitation for comments is a process intended to give interested parties the opportunity to identify errors made in this review. By submitting comments and participating in the hearing held at its request, HACO availed itself of the opportunity to identify any errors or misstatements in the verification reports or preliminary results prior to publication of these final results of review. HACO's specific comments with respect to the verification are addressed below. Therefore, this review has not been prejudiced by virtue of the date on which the reports were released.

Comment #5: Whether Failure of Verification Occurred at HACO

HACO contends that, although the Department treats its verification as a single visit, it in fact conducted two separate verifications, one at HACO and one at HACO's supplier.

HACO contends that evidence on the record in this review does not support the Department's conclusion that failure of verification occurred, with either HACO or HACO's supplier. HACO further argues that neither HACO nor its supplier at any time refused to undergo verification or failed to comply with the instructions or requests of the Department.

HACO claims that the verification of HACO was successful. HACO states that although it provided complete information throughout the verification to support its prior submissions, the Department's verification at HACO went far beyond the requirements of verifying the factual information supporting HACO's antidumping submissions. HACO claims that the primary focus of the verifiers was to examine the separate rates issue, to determine the number of shipments occurring during the POR, and to determine whether there were Customs marking violations. HACO claims that despite this focus, the verification conducted at HACO did not produce any evidence that would favor the petitioner's claims. HACO also states that the verification provided evidence that HACO did not engage in any Customs fraud.

HACO further notes that during verification at HACO there was confusion over how sales of subject merchandise were transported between HACO and the United States, and points to documentation already on the record of this review in support of its position on these issues.

DOC Position: We agree that we conducted two separate verifications, one at HACO and one at HACO's

supplier. However, the cover letter to our standard questionnaire instructed HACO to send the factors of production questionnaire, Section D, to the companies responsible for the manufacture of the subject merchandise. Therefore, HACO was made aware of its responsibility to coordinate the responses of its suppliers.

We agree that the verification at HACO itself was successful, despite the minor discrepancies noted in *HACO's Verification Report* between the information provided in HACO's questionnaire response and provided at verification. However, we disagree that HACO's verification went far beyond the requirements of substantiating the factual information provided in its antidumping submissions. The Department conducted verification using standard techniques and procedures which were set forth in the verification outline.

We disagree with HACO's characterization of the Department's priorities during the verification. The primary focus of the verifiers during HACO's verification was to complete the tasks enumerated in the verification outline. These tasks include an examination of evidence of whether there is a de jure and de facto absence of PRC government control over HACO's export activities.

With respect to the Customs marking issue, HACO placed information in Exhibit 6 of its August 27, 1998 submission which justifiably led to a number of questions on the part of the petitioners concerning the circumstances surrounding the sales under review. Consequently, these documents, and others, which are normally included in the correspondence file and examined as a standard part of the verification of completeness and volume and value, were examined at verification.

Finally, as the *HACO's Verification Report* shows, HACO corrected the terms of sale reported in its questionnaire response prior to verification, so that its questionnaire response was in conformity to the evidence concerning the transportation of the subject merchandise from HACO to the United States. Consequently, we disagree with HACO's contention that any confusion whatsoever existed with respect to the matter. Furthermore, this issue was not among the problematic "findings" of the verification. (See *HACO's Verification Report* at page 2.)

Comment #6: Verification Failure at HACO's Supplier

HACO states that following the successful verification of HACO, the

Department erroneously concluded that HACO's supplier failed to cooperate to the best of its ability because of the supplier's failed verification.

HACO disagrees that discrepancies between the questionnaire response and information obtained at the verification of HACO's supplier were significant enough as to constitute a failure of verification. The sections of the questionnaire response which the Department reported it was unable to verify at HACO's supplier, HACO says, refer to factor inputs which were not at issue prior to verification. HACO claims that the factor values reported in questionnaire responses were consistent with the supplier company's records, but that the Department refused to accept these records, instead requiring that production factors be tied to a financial statement which HACO's supplier does not maintain in the regular course of business, and therefore could not provide. Thus, HACO claims, the Department acted inconsistently with the law at 19 CFR 353.307(d) which requires the person being verified to provide the information it used to prepare the data submitted in order to verify the accuracy and completeness of the submitted factual information.

HACO cites five such discrepancies regarding factor inputs, as enumerated in the *Facts Available Memorandum*, including (1) the quantity and value of the supplier's sales and production, (2) product codes and sizes, (3) the reported weights of the inputs vs. the verified weights, (4) the labor hours, and (5) energy consumption. HACO points out that a financial statement would not serve the purpose of verifying factor inputs because, while it may help determine the number of nails or bristles purchased, it would not reveal their weights or how much were used in each manufactured brush. HACO points out that, as a small factory, HACO's supplier did not maintain a detailed financial statement, and the Department should consider verification in that context. Thus, HACO states, the Department's requirement that HACO provide a financial statement which could trace factor inputs was both incorrect and inconsistent with the law.

DOC Position: We disagree with HACO that its supplier was able to substantiate its questionnaire response. We note that at no time during the verification or in the preliminary results of review, did the Department attribute the verification failure of HACO's supplier to the quality of its financial statements. For the reasons set forth in the *Supplier's Verification Report*, *Adverse Facts Available Memorandum*, and *Preliminary Results*, and reiterated

below, HACO's supplier did not successfully substantiate its questionnaire response. At verification, the Department was not able to confirm the quantity of paintbrushes produced by the factory. We could not confirm which merchandise was actually shipped to the United States, nor confirm that the paintbrushes presented for the confirmation of factor values were the same as the merchandise shipped to the United States. We found that the weights of the paintbrush components examined at verification differed significantly from the reported weights. We noted that HACO's supplier could not confirm the reported number of labor hours required to produce the subject merchandise. We noted that the energy consumption rate could not be confirmed despite the fact that HACO accurately reported its total energy consumption, because the Department could not confirm the total quantity of brushes produced. (See *Supplier's Verification Report* at pages 1, 2 and 8.) In sum, HACO's supplier was not able to substantiate a single per-unit factor quantity that it provided to the Department in its questionnaire response. Therefore, we considered the verification of HACO's supplier to be a failed verification.

Comment #7: Verification Procedures

HACO claims that the verifiers were not familiar with the subject merchandise and had unreasonable expectations regarding records kept in the ordinary course of business at HACO. HACO further argues that the Department's conclusion of AFA is unreasonable in that it imposes a requirement that HACO maintain records, in this case financial statements, to satisfy the verification methodology.

The petitioner claims that this review was conducted in accordance with the Department's standard practice, and that when the verifiers encountered problems verifying factor data they gave HACO numerous opportunities to verify data by alternative means.

DOC Position: The Department conducted HACO's verification using standard verification procedures and following the agenda provided in advance in the verification outline. See *Supplier's Verification Report*. HACO has failed to identify any verification procedure the Department used that was flawed, out of the ordinary, or inconsistent with the verification outline. HACO has failed to identify in what way the Department failed to understand the subject merchandise, which is a common household item, and what impact this alleged

misunderstanding had on the verification.

HACO has failed to identify in what way the Department had unreasonable expectations concerning the records its supplier may have kept. The Department has never questioned the reasonableness of the records kept by HACO's supplier, but, rather, it has noted that those records either do not or cannot substantiate the information provided in the questionnaire response. (*See Supplier's Verification Report, Facts Available Memorandum.*)

As the Department has previously stated in this notice, there is no evidence on the record that suggests that the Department required HACO's supplier to maintain a detailed financial statement or to use that financial statement to trace factor inputs. Therefore, the Department maintains that HACO's supplier did not fail verification as a result of flawed verification procedures.

Comment #8: Verification of Total Production Quantities

HACO claims that the Department examined production records at verification and confirmed that the number of brushes produced was similar to the figure reported in the questionnaire response. HACO further argues that although it provided its entire 1997 production records at verification and even though the reported total quantity of production at HACO's supplier was verified in terms of total quantity of orders produced, the Department rejected this data because the factory was unable to provide a reflection of this production data in a financial statement. HACO contends that the Department's conclusion that HACO's supplier was unable to demonstrate the total quantity of sales in a financial statement is unreasonable because it required HACO's supplier to provide documentation not produced in the ordinary course of business.

HACO disagrees that its supplier's inventory records were "not kept with sufficient accuracy to determine quantity sold since finished goods usually were not entered into inventory," because, it contends, the record shows that HACO's supplier produces to order. HACO points out that at HACO's supplier, the verifiers found no discrepancies between production orders and the quantities written on work orders, and claims that the production orders verified at HACO's supplier were consistent with the questionnaire responses.

HACO also claims that the Department could not identify production orders for the sales covered

by this review and that it reviewed evidence at verification as to why this was not possible. HACO further contends that the production records that it presented to the Department for its demonstration of the per-unit calculation for labor represent the production records for the merchandise that was produced, since it is the only time in 1997 when both two- and four-inch brushes were produced.

Finally, HACO claims that the verifiers concluded that, since HACO's supplier did not have production records for the actual brushes that were shipped, the information provided at verification did not confirm the information reported in the questionnaire response. HACO claims that its supplier reported, and the Department verified, the total quantity of paintbrush production during the POR, including the records for October 1997, the only month when both two- and four-inch brushes, were produced.

The petitioner notes an apparent inconsistency in HACO's comments, calling into question HACO's claim that the factory produces only to order and does not sell from stock.

DOC Position: We disagree with HACO that the best measure of the total quantity of production at HACO's supplier is the total number of paintbrushes reflected in the completed production orders during the POR. Page 5 of the *Supplier's Verification Report* notes that HACO's supplier did not have production orders for all of its purchase orders, and that the production orders for the merchandise which was shipped to the United States were specifically missing. The *Supplier's Verification Report* delineates the Department's attempt to tie the total number of paintbrushes reflected in the completed production orders to some other independent record kept in the company, such as the total quantity of paintbrushes entered into finished goods inventory, shipped, or sold during the POR. As documented in the *Supplier's Verification Report*, HACO's supplier did not have adequate inventory records to show the quantity of brushes entered into finished goods inventory, or the quantity of brushes shipped during the POR. In addition, HACO's supplier did not have picking tickets, shipping vouchers, packing lists or truck manifests that could confirm the number of brushes shipped during the POR. *See Supplier's Verification Report* at pages 4 and 5. The report further details the Department's efforts to use the daily production reports to confirm the number of brushes completed during the POR, and to trace from the purchase order to the

production order, and from the production order back to the purchase order. None of these records were kept in sufficient detail, accuracy or completeness to allow us to confirm the total number of paintbrushes produced. As a result, the Department concluded that it could not verify the total number of paintbrushes produced by HACO's supplier during the POR.

The Department did not require HACO's supplier to produce or to maintain any financial documents that it does not keep in the ordinary course of business. HACO's supplier placed a copy of its financial statements for both calendar year 1996 and calendar year 1997 in exhibit 4 of its July 20, 1998 supplemental questionnaire response. HACO's supplier presented original copies of these (unaudited) financial statements upon request at verification. Consequently, HACO's protests that the financial statements had been prepared only one time in its history contradict record evidence in this review.

Comment #9: Verification of Product Codes and Sizes

HACO disagrees that the verifiers were unable to verify product codes and sizes, and claims that although the brushes sold to the United States were distinguishable on the sales documentation between HACO and its supplier by both product code number and size, the verifiers erroneously confused the product codes that HACO used with its customer with the product codes used by its supplier. HACO further claims that because the brushes are sold not by code number, but by dimensions (*i.e.*, size), the confusion resulting from the verifiers' lack of familiarity with the product codes cannot be the basis for HACO's supplier failing verification.

DOC Position: We disagree that the product codes were a source of confusion resulting in the Department's inability to confirm which merchandise was actually shipped to the United States. All of the sales documentation presented at HACO confirmed the information reported in the questionnaire response concerning the product codes and the composition of the sales covered by this review. *See Supplier's Verification Report* at page 5. However, HACO's supplier, the manufacturer of the merchandise, claimed at verification that the merchandise shipped to the United States differed slightly from the merchandise that was reported in HACO's May 13, 1998 submission. HACO's supplier provided the codes of the brushes that were shipped and those that were originally ordered. Although

these were different, HACO's supplier claimed that the brushes were of similar product models and were somewhat interchangeable. (See *Supplier's Verification Report* at page 5.) We noted in our report that we could not substantiate the company's statement because no samples of the brushes shipped to the United States were on hand to compare to the samples given to the Department for the purpose of weighing. We noted that HACO's supplier had no existing product code list to which we could compare descriptions of the product codes noted on the invoices of the reported shipments with the product codes that HACO's supplier claimed it had sold to HACO. Finally, we note that HACO's explanation that the difference in product codes was due to the fact that HACO used different product codes with its customer and its supplier is not substantiated by record evidence. Therefore, for these final results of review, we maintain that the Department cannot ascertain the product codes and sizes of the merchandise that HACO shipped to the United States. (See *Proprietary Issues Memorandum* for additional discussion.)

Comment #10: Verification of Factor Input Values

HACO disagrees that the reported weights of brushes or individual component factors were unable to be confirmed at verification, claiming that, with the exception of some variance, the actual weights recorded at verification generally confirmed the submission data. HACO also disagrees with the verifiers' claim that problems in confirming these weights at verification were due to the absence of ongoing production, since the record shows production of brushes at the factory. HACO further argues that the record indicates verifiers did not ask to check this production. Had the verifiers checked the standard costs of brushes in assembly during verification, HACO claims, this would have corroborated the standard cost methodology.

DOC Position: There is no evidence on the record that HACO's supplier uses a standard cost system for paintbrushes produced in the factory. Rather, at HACO's supplier, "a computer accounting program produces worksheets to show costs for each order," which indicates that HACO's supplier uses a job order cost accounting system rather than a standard cost system for its own purposes. See *Supplier's Verification Report* at 3.

HACO's supplier provided a cost sheet at verification (verification exhibit 23), but this was worked out specifically for the shipments covered by this review in preparation for the verification. This worksheet does not constitute a standard cost for this product, nor does it indicate that HACO's supplier has any other standard cost system in place.

The *Supplier's Verification Report* demonstrates that there is a substantial difference between the reported weight of each input and the weight found at verification. The verifiers could not confirm whether the single two-inch and four-inch brushes presented at verification were identical to the ones that were shipped. See *Supplier's Verification Report* at 5. As noted in the *Supplier's Verification Report* at page 7, because HACO's supplier provided only one sample each of a two-inch and four-inch brush, and two samples of each of the component parts found in a two-inch and four-inch brush, the Department was precluded from using a sound methodological approach in determining the actual weight of the factor inputs. Nevertheless, the Department weighed the brushes and components presented at verification and determined that they were not the brushes or component parts that were used to prepare the questionnaire response.

HACO's argument that the standard costs of brushes could be checked during the assembly and would have corroborated the standard cost methodology of HACO's supplier contradicts the record. As we noted above, there is no evidence on the record to suggest that HACO's supplier used a standard cost system to determine its cost of production. Furthermore, the evidence on the record indicates that the subject merchandise was not in production during the verification. Consequently, an examination of any records of the brushes in assembly during the verification would not substantiate the information presented in the questionnaire response.

Comment #11: Verification of Material Factor Input Values

HACO states that although the physical dimensions of the subject merchandise were shown on the invoices and purchase orders at issue, the verifiers did not measure the physical dimensions of any sample inputs that they weighed. Thus, HACO argues, the record does not indicate how great the differences were between reported and sample inputs. HACO further states that the weights of the

sample inputs varied, and that the record does not indicate that the verifiers tested the accuracy of the scale.

HACO notes the following problems and discrepancies in the verification of each of the factor inputs below: (a) *Brushes:* HACO notes that the verifiers weighed two sample brushes, and the difference between reported and sample brush weights was negligible; HACO states that the reported weights were greater than the sample weights, indicating HACO did not underreport the weight of the brushes; (b) *Bristles:* HACO states that the verifiers weighed the bristles but did not measure the bristles for length, and states that the bristle weights varied each time they were weighed, calling into question the accuracy of the scale; (c) *Ferrule:* HACO states that the ferrule is the most important sample weight because HACO's supplier produced it, making it the only material factor over which it had control. HACO further states that the weights taken of the ferrule were consistent, and that the sample weights were less than the reported weights. HACO claims that ferrule weights suffered from the same errors as those for bristles, indicating that the scale was not precise; (d) *Handles:* HACO claims that the verifiers never measured the physical dimensions of the handles, and that the handle weights recorded at verification suffer from the same problems as the other inputs; (e) *Nails:* HACO submits that nails should be disregarded because the verifiers failed to measure them and failed to note that different brush sizes use different size nails. HACO further submits that the substantial differences between reported and sample weights render the weighed nails incomparable to those used on the subject merchandise; (f) *Epoxy:* HACO states that the verifiers did not attempt to weigh the per-unit amount of epoxy consumed, and that the amount of epoxy used on a brush would be difficult to determine by weighing. HACO notes that the purchase and consumption records of epoxy were available to the verifiers; (g) *Weighing:* HACO claims that discrepancies in the weights indicate a flawed verification methodology. HACO disagrees with the statement in the *Supplier's Verification Report* that the scale was accurate to a gram, stating that the scale was calibrated in grams, but not accurate or tested to determine accuracy. HACO claims that factory officials offered to provide a more accurate scale but the verifiers did not accept the offer. HACO also submits that variations between sample and reported weights were small and that weights varied depending on

an item's location on the scale. HACO further states that the Department's worksheet from the actual weighing was omitted from the record without explanation.

The petitioner comments that any deficiencies in either the paintbrush samples or the scale provided by HACO to weigh inputs at verification were within HACO's power to control. The petitioner states that the Department was precluded from using a sound methodological approach because it was unable to verify HACO's factors of production data, citing 19 U.S.C. § 1677m(i) (section 782(i) of the Act) where the statute precludes the Department from using data that cannot be verified, and *Extruded Rubber Thread From Malaysia, Final Results of Antidumping Administrative Review* 63 FR 33588, 33589 (June 20, 1997) (*Rubber Thread*) where the Department stated that "using [erroneous and unverified] information would require the Department to use information that it knows is incorrect, unverified, or both." Thus, the petitioner concludes, the record demonstrates that the Department conducted verification in accordance with standard procedures and treated HACO fairly.

DOC Position: HACO's claim that the Department did not measure the actual physical dimensions of the brushes presented at verification is true but irrelevant to the success of the verification, since the factor values for all components of the paintbrushes were reported in kilograms. If, for example, the brushes had identical dimensions, but different weights, based on the use of harder or softer wood in the handle, HACO's supplier would still fail the verification. HACO was free to ask the Department to measure the physical dimension of the brushes at verification, if it thought such a measurement might be relevant, but it did not do so.

The Department used HACO's supplier's scale at the verification. It was a balance type of scale, used for objects which weigh less than one kilogram and accurate to the nearest tenth of a gram. The Department had no reason to question the accuracy of the scale and no ability to calibrate it if its measurements were inaccurate. Furthermore, there is no evidence on the record to support HACO's claim that its supplier offered to provide a more accurate scale during the verification.

With respect to the problems and discrepancies outlined above, we note the following: (a) *Brushes:* HACO failed to demonstrate that the brushes presented at verification were the same product model as the brushes that were shipped to the United States. In

addition, since the weight of these brushes differed significantly from the weight reported in the questionnaire response, HACO failed to demonstrate that the brushes presented at verification were the same ones that were used to prepare the questionnaire response. If there were only one sample brush of the merchandise shipped to the United States, it should weigh just as much at verification as it did when the response was prepared. Contrary to HACO's claims, the percentage difference in the weights reported in the questionnaire response and found at verification are significant and call into question the integrity of the entire questionnaire response, regardless of whether the weights measured at verification were higher or lower than the ones reported in the questionnaire response; (b) *Bristles:* The Department did not measure the length of the bristles presented to the verifiers during verification since bristle length was not reported to the Department prior to verification, or relevant to verify the bristle weight reported. All factors of production, including the material factors for brush bristles, were reported in kilograms in the questionnaire response. Therefore, the Department did not have any reason to measure bristle length at verification. The Department weighed the sample bristles provided by HACO's supplier at verification. If these were the incorrect type of bristles, they were nevertheless presented to the Department as the same bristles that were used to make the merchandise shipped to the United States and for preparation of the questionnaire response. There is no evidence on the record to suggest that the bristles were weighed more than one time. Finally, the difference between the figures found at verification and those reported in the questionnaire response was significant and further called into question the integrity of the questionnaire response; (c) *Ferrule:* Since ferrules are made by cutting long strips of metal into ten or more shorter widths by manually pushing the strips through a guillotine-like press, they are subject to large variations in size and weight from one piece to another. Consequently, it was up to HACO's supplier to have sufficient ferrules on hand to determine an average weight, or to otherwise demonstrate that the figures reported in the questionnaire response were accurate. At verification, we found a significant difference between the figures reported in the response and the weights of the ferrules measured at verification. This difference calls into question the integrity of the preparation

of the questionnaire response, so that it is immaterial whether the weight reported in the questionnaire response is higher or lower than the weight found at verification; (d) *Handles:* Whether the Department measured the physical dimensions of the handles is irrelevant to this case. At verification, the Department examined HACO's inventory room and found a wide variation in the type of wood that is used in producing paintbrushes. Two brushes with the same dimensions could have significantly different weights, depending on whether one used a heavy-weight or light-weight wood. HACO failed to present the Department with the production orders for the merchandise under review, or to otherwise provide the technical specifications of the merchandise that was shipped to the United States. Consequently, we cannot know whether the handles presented to us at verification were the same as the ones that were shipped to the United States or which were used to prepare the questionnaire response; (e) *Nails:* We disagree that we failed to measure the nails and failed to note that different brushes use different size nails. We made separate measurement of the nails used to produce two-inch and four-inch brushes. The results are recorded in the *Supplier's Verification Report*. The difference between the reported figures and the figures found at verification is so great as to call into question whether the correct nails were measured. However, since we have no production orders telling the factory exactly which materials to use in the production of the merchandise that was shipped to the United States, we cannot further ascertain which nails should have been measured. Consequently, we weighed the nails that were presented to us at verification as representing those that were used in the production of the subject merchandise. That these weights could be so significantly different from what was reported further casts doubt on the methods that were used to prepare the questionnaire response; (f) *Epoxy:* Epoxy cannot be segregated from the brush to which it adheres for weighing purposes. Thus, the only way to verify per-unit epoxy consumption is to verify total epoxy consumed per brush type, and divide that figure by the total quantity of brushes of that type produced. HACO's supplier did not have the appropriate data available with which to support the per-unit figure reported in the questionnaire response. The Department was unable to verify the total number of brushes produced by the factory, and HACO's supplier did

not have a further breakdown of its brush production by size or product model. Therefore, even if we had reasonable figures for HACO's supplier's total factory-wide epoxy glue consumption, we would have no denominator with which to calculate a per-brush consumption rate. However, HACO's supplier did not report its total factory-wide epoxy glue consumption prior to verification and there is no evidence to suggest that such figures were presented at verification; (g) *Weighing*: HACO's supplier provided the scale that was used to weigh the paintbrushes and components at verification, and neither HACO officials nor officials from its supplier raised any concerns about the scale. HACO's claim, in its case brief, that the verifiers were offered "a more accurate" scale is not supported on the record.

For the foregoing reasons, we agree with the petitioner that the information presented at verification could not be verified and that it is the Department's practice not to use information that it knows is incorrect, unverified, or both (See *Rubber Thread*). Consequently, we have not used HACO's information in calculating a dumping margin in this review.

Comment #12: The Use of "Caps" as the Basis of Labor Factor Reporting

HACO states that labor figures provided in its August 27, 1998 submission are based on what it refers to as "caps" because they apparently represent a sufficiently accurate standard cost for HACO's supplier's accounting and production purposes. HACO notes that its supplier's workers are paid on a piece-work basis, not an hourly basis. HACO disagrees that its supplier could not show how it had obtained the reported figures, because, HACO claims, its supplier reported total labor used for total number of brushes in calendar year 1997, and provided that information at verification. HACO disagrees that the figures presented at verification were far less than reported figures, and claims that data presented at verification was just over the cap estimate. HACO further argues that brushes are produced in cumulative stages and that the verifiers failed to add the provided labor inputs data for each stage of the production process.

DOC Position: We disagree that what HACO refers to as "caps" constitute a sufficiently accurate basis to confirm the labor factor values reported in this review. HACO explained in its submission of August 27, 1998, that caps were "estimates." No further explanation of how caps were determined was provided during the

course of this review. At verification, HACO's supplier was not able to confirm any of the reported values for labor inputs.

HACO's counsel attempted to duplicate the reported figures using HACO's supplier's daily production log for each step in the production process. However, since no production records were available for the month in which production actually occurred, HACO's supplier selected October 1997, the only month for which HACO's supplier had labor records for two- and four-inch brush production, and demonstrated how such per-unit labor input figures could, in theory, be derived. As page 7 of the *Supplier's Verification Report* noted, the resulting figures differed significantly from those reported in the questionnaire response. In addition, the figures were not taken from the month in which production of the subject merchandise occurred, as evidenced by verification exhibit 25 and discussed in the *Proprietary Issues Memorandum*. As the report also noted, the Department tested the reasonableness of the labor rate provided at verification and found that it was not consistent with the labor rate required to produce the total number of paintbrushes that HACO's supplier claimed that it produced in its June 2, 1998 response.

The Department disagrees that what HACO's supplier refers to as "caps" constitute standard costs. Neither HACO's questionnaire responses information presented at verification made any reference to a standard cost system. HACO explained, in its verification response and at verification, that its supplier pays its workers on a piece-work basis, and all records presented to the Department were based on the actual number of pieces produced during a given shift. Hence, by definition, actual and not standard costs were used to prepare the questionnaire response. Furthermore, contrary to HACO's claims, the Department evaluated at great length and in great detail all of the labor data presented for each step in the production process. Since the figures presented at verification did not match the information provided in HACO's questionnaire responses, the labor factor value was not verified.

Finally, HACO's proposal that the Department test the labor time required to produce brushes in production at the time of verification would not satisfy the Department's need to verify the questionnaire response since none of the sizes of the merchandise sold to the United States during the POR were under production at the time of the verification.

Comment #13: The Department's Acceptance of Caps

HACO claims that the verifiers' unfamiliarity with the use of "caps" as a standard cost for labor should not serve as a basis for failure of verification, and that the Department has accepted caps in the past, citing *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews* 63 FR 16758 16761 (April 6, 1998), where, HACO argues, the Department recognized that discrepancies between reported and actual figures are acceptable as long as the verified weights are reasonable.

DOC Position: We disagree that "caps" have been regularly accepted in the past. HACO provided only one case as a reference. In this one case, the Department found discrepancies between the reported and actual figures. The Department, in that one case, found the actual figures to be acceptable and reasonable. In the current case, the Department found discrepancies between the reported figures and the figures presented at verification. The Department examined the information, considered its reasonableness, and concluded that it varied so greatly from the information presented in the questionnaire response that it could not infer or deduce how the information presented in the questionnaire response was derived. Consequently, the Department did not consider the information presented in the questionnaire response as verified. (See *Supplier's Verification Report* at pages 7 and 8.)

Comment #14: Verification of Energy Values

HACO disagrees that the Department could not verify the energy figure provided by HACO's supplier, claiming that the electricity rate was reasonable and verified because the Department verified the total amount of brushes produced in calendar year 1997 and verified the amount of electricity used during that time, allowing a per unit calculation. HACO notes that the verifiers understood the brush operation to be the only process involving use of electricity other than factory overhead.

DOC Position: We disagree that HACO's energy rate was verified. We examined all of HACO's supplier's electricity bills for the POR and were able to confirm the total consumption for the POR. See *Supplier's Verification Report* at 8. However, the determination of the per-unit rate of electricity consumption requires an accurate

determination of the number of brushes produced during the POR. The Department was unable to confirm the number of brushes produced during the POR; consequently, it could not confirm the accuracy of the reported per-unit electricity consumption figures. Therefore, this item was not verified. For further explanation, see *Supplier's Verification Report* at page 8 and *Facts Available Memorandum*.

Comment #15: Disregarding HACO's U.S. Sales as Non-Bona Fide

The petitioner raised an alternative argument in the event that the Department were to reconsider its use of AFA and use HACO's data to calculate HACO's margin for this review, that the Department should disregard any U.S. sales that are not the result of bona fide arm's-length transactions, as it did in

Certain Cut-To-Length Carbon Steel Plate from Romania: Notice of Rescission of Antidumping Duty Administrative Review, 63 FR 47232 (September 4, 1998) (*Romanian Plate*). The petitioner asserts that evidence on the record of this review is substantially similar to that in *Romanian Plate*, which demonstrated that the sales were not commercially reasonable, and therefore not bona fide. As a result, the petitioner argues, the sales of the subject merchandise cannot be used to calculate a new cash deposit rate for HACO, and should therefore lead the Department to rescind this administrative review.

HACO claims that the basis for determining that the transaction was not bona fide in *Romanian Plate* was that the subject merchandise was resold at a substantial loss, making the sale commercially unreasonable, and that

the exporter and importer were affiliated parties. In the instant review, HACO contends, there is no evidence to show that sales were atypical or not commercially reasonable. On the contrary, HACO claims, the sales were made at arm's-length, and that the record in this review clearly demonstrates the transaction at issue was bona fide.

DOC Position: We continue to find that the use of AFA is appropriate for these final results of review. Therefore, the Department did not find it necessary to consider petitioner's alternative argument to disregard HACO's U.S. sales for the purpose of this review.

Final Results of Review

As a result of our review, we determine that the following dumping margin exists:

Manufacturer/exporter	Time period	Margin (percent)
Hebei Animal By-Products I/E Corp.	02/01/97–01/31/98	351.92

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement 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 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) For HACO, which has a separate rate, the cash deposit rate will be 351.92 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 country-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 final reminder to importers of their responsibility under 19 CFR 351.401(f) of the Department's regulations 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.

Notification to Interested Parties

This notice also 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 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 published in accordance with Sections 751(a)(1) and 777(i)(1) of the Act and Sections 351.213 and 351.221 of the Department's Regulations.

Dated: May 11, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99-12785 Filed 5-19-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC.

Docket Number: 99-006. **Applicant:** Harvard University, 12 Oxford Street, Cambridge, MA 02138. **Instrument:** Electron Microscope, Model JEM-2010F. **Manufacturer:** JEOL Ltd., Japan. **Intended Use:** The instrument will be used to study mesoscale structure and chemical composition of novel materials such as semi-conducting nanowires, carbon nanotubes and nanometallic catalyst and polymers. The objectives of the investigations are to increase the