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U.S. DEPARTMENT OF COMMERCE
IMPORT ADMINISTRATION
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Response to Request for Comments

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BY HAND

James J. Jochum
Assistant Secretary for Import Administration
U.S. Department of Commerce
Central Records Unit, Room 1870
Pennsylvania Avenue and 14th Street, N.W.
Washington, D.C. 20230

Re: Separate Rates Practice in Antidumping Proceedings
Involving Non-Market Economy Countries;
Request for Comments

Dear Assistant Secretary Jochum:

We are writing on behalf of our client, California Cedar Products Company ("CCPC"), pursuant to the request for comments in 69 Federal Register 24119 (May 3, 2004) regarding the Department's proposed options to change certain aspects of its current separate rates policy and practice in antidumping proceedings involving non-market economy countries.

CCPC is a wholly U.S.-owned company headquartered in Stockton, California. CCPC owns Tianjin Custom Wood Processing Co., Ltd., a pencil manufacturer located in the People's Republic of China. China is currently treated by the Department as a non-market economy, and certain cased pencils from China are subject to an antidumping duty order. Thus,

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CCPC is interested in the Department's handling of antidumping duty proceedings involving non-market economy countries.

CCPC is particularly concerned about one aspect of the points raised in the Appendix of the May 3, 2004 Federal Register notice. Specifically, CCPC is concerned about item 8 in the Appendix, which addresses whether "[o]nce a separate rate has been awarded, should the Department apply it only to merchandise from producers that supplied the exporter when the rate was granted?" The Department also raises the question of what rate should apply to merchandise from all other suppliers shipped through an exporter that previously received a separate rate using a particular supplier.

In considering these issues, CCPC requests that the Department consider that importers cannot control or often even know the source of the merchandise being supplied by an exporter. Importers only have control over their dealings with the exporters; they are not a party to the transactions between the exporters and their suppliers. Because importers cannot predict the suppliers to the exporters from which they are purchasing goods, importers must be able to rely on the certainty of the separate rate awarded to the exporter, at least for purposes of making antidumping duty deposits at the time of entry.

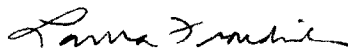
Thus, the Department should not change the deposit rate, or the assessment rate if no administrative review is requested, of a particular exporter for which a separate rate has been granted, merely because it might learn that the merchandise shipped is from a different supplier than that previously investigated. If the U.S. industry believes that there has been a change in

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supplier that would impact the margin, the U.S. industry always has the opportunity to request an administrative review of the shipments under 19 U.S.C. § 1675 and 19 C.F.R. § 351.213.

In sum, once a separate rate is calculated for a particular exporter, an importer must be able to rely on that rate to structure its business dealings unless and until a new rate is calculated in an administrative review. The Department should not change any practices regarding non-market economy countries that would affect the deposit rates for imported merchandise subject to a dumping order unless that merchandise is subject to an administrative review.

Sincerely yours,



HUGHES HUBBARD & REED LLP
Catherine Curtiss
Laura Fraedrich

Counsel for California Cedar Products Co.