

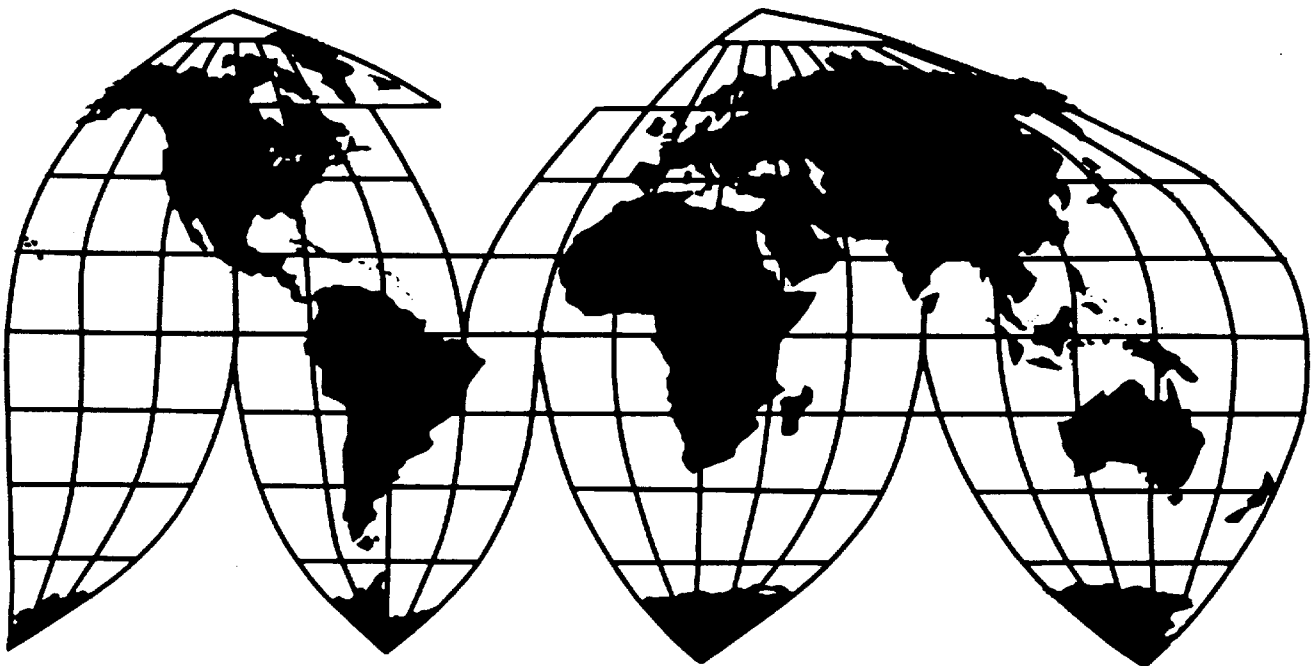
Natural Bristle Paint Brushes From China

Investigation No. 731-TA-244 (Second Review)

Publication 3733

November 2004

U.S. International Trade Commission



U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-244 (Second Review)

NATURAL BRISTLE PAINT BRUSHES FROM CHINA

DETERMINATION

On the basis of the record¹ developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on natural bristle paint brushes from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted this review on May 3, 2004 (69 F.R. 24191) and determined on August 6, 2004 that it would conduct an expedited review (69 F.R. 51474, August 19, 2004).

The Commission transmitted its determination in this review to the Secretary of Commerce on November 9, 2004.

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (the Act), that revocation of the antidumping order on natural bristle paint brushes from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

The subject imported product in this review is natural bristle paint brushes, but the domestic product has been defined to include all paint brushes, both natural bristle and synthetic filament. Paint brushes are generally used to apply paint, stain or varnish.¹ Natural bristle paint brushes are preferred for use with oil-based paint rather than latex paint. When used with water-based latex paint, natural bristles tend to absorb water, leading to a loss of resiliency and paint remaining on the brush rather than transferring to the surface being painted.²

Apparent U.S. consumption, a proxy for demand, has increased since the first review in 1999. Apparent U.S. consumption of all paint brushes increased from 286.2 million paint brushes in 1998 to 345.3 million paint brushes in 2003.³

I. BACKGROUND

In January 1986, the Commission determined that an industry in the United States was threatened with material injury by reason of imports of natural bristle paint brushes from China that were being sold at less than fair value.⁴ The Department of Commerce (“Commerce”) issued an antidumping duty order on February 14, 1986.⁵ In June 1999, the Commission completed an expedited review in its first five-year review, and, on the basis of facts available, determined that revocation of the antidumping duty order on natural bristle paint brushes from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁶

In five-year reviews, the Commission initially determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review. In order to make this decision, the Commission first determines whether individual responses to the notice of institution are adequate. Next, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties – domestic interested parties (such as producers, unions, trade associations, or worker groups) and respondent interested parties (such as importers, exporters, foreign producers, trade associations, or subject country governments) – demonstrate a sufficient willingness among each group to participate and provide information requested in a full review. If the Commission finds the responses from both groups of interested parties adequate, or if other circumstances warrant, it will determine to conduct a full review.⁷

¹ INV-BB-110 (Sept. 1, 2004) Confidential Report (“CR”) at I-8, Public Report (“PR”) at I-7.

² CR at I-8 to I-9, PR at I-8.

³ CR/PR at Table I-6.

⁴ Natural Bristle Paint Brushes from the People’s Republic of China, Inv. No. 731-TA-244 (Final), USITC Pub. 1805 (Jan. 1986) (“Original Determination”).

⁵ 51 Fed. Reg. 5580 (Feb. 14, 1986).

⁶ Natural Bristle Paint Brushes from China, Inv. No. 731-TA-244 (Review), USITC Pub. 3199 (June 1999) (“First Five-Year Review Determination”).

⁷ See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

The Commission instituted the present review on May 3, 2004.⁸ The Commission received one submission in response to its notice of institution. It was filed on behalf of the Paint Applicator Division of the American Brush Manufacturers Association and the following member companies: Shure-Line, Bestt Liebco, Wooster Brush Co., Purdy Corp., True Value Manufacturing, and Elder & Jenks, Inc. (“domestic parties”). As occurred in the first review, no foreign producer or importer responded to the Commission’s notice of institution.⁹ On August 6, 2004, the Commission determined that the domestic interested party response was adequate, and that the respondent interested party response was inadequate. It unanimously determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930, as amended.^{10 11}

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the “domestic like product” and the “industry.”¹² The Act defines the “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”¹³

The scope of the investigation is unchanged from the previous review of the antidumping duty order. According to Commerce, the merchandise covered by this review are natural bristle paint brushes and brush heads from China. Excluded from the review are paint brushes and brush heads with a blend of 40 percent natural bristles and 60 percent synthetic filaments.¹⁴ The subject merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item number 9603.40.40.40.

In its original determination, the Commission defined the domestic like product as all paint brushes, both natural bristle and synthetic filament brushes.¹⁵ In the Commission’s first review of the order, the Commission found that there was no new information that warranted changing the definition of the domestic like product. Similarly in this review, none of the additional information warrants a departure from the original definition. Accordingly, we define the domestic like product as all paint brushes, whether composed of natural bristles, synthetic filaments, or a blend of the two.

⁸ 69 Fed. Reg. 24191 (May 3, 2004).

⁹ First Five-Year Review Determination at 3.

¹⁰ 19 U.S.C. § 1675(c)(3).

¹¹ Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 69 Fed. Reg. 51474 (Aug. 19, 2004); see also Explanation of Determination on Adequacy, CR/PR at Appendix B.

¹² 19 U.S.C. § 1677(4)(A).

¹³ 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

¹⁴ 69 Fed. Reg. 61795 (Oct. 21, 2004).

¹⁵ Natural Bristle Paint Brushes From the People’s Republic of China, Inv. No. 731-TA-244 (Final), USITC Pub. 1805 at 7 (Jan. 1986) (“Original Determination”).

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”¹⁶ Consistent with our domestic like product finding, we define the domestic industry as all domestic producers of natural and synthetic bristle paint brushes.¹⁷

III. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING ORDER IS REVOKED

A. Legal Standard In A Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of the antidumping duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”¹⁸ The SAA states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”¹⁹ Thus, the likelihood standard is prospective in nature.²⁰ The U.S. Court of International Trade has found that “likely,” as used in the sunset review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.^{21 22 23}

¹⁶ 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

¹⁷ The related parties provision, 19 U.S.C. § 1677(4)(B), allows for the exclusion of certain domestic producers from the domestic industry for the purposes of an injury determination. The record does not indicate that any domestic producer is a related party. No members of the domestic industry import the subject merchandise. Domestic Industry’s Comments, September 7, 2004, at 4.

¹⁸ 19 U.S.C. § 1675a(a).

¹⁹ SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” SAA at 883.

²⁰ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

²¹ See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int’l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int’l Trade Dec. 20, 2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a

(continued...)

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”²⁴ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis [in antidumping investigations].”^{25 26}

Although the standard in a five-year review is not the same as the standard applied in an original antidumping investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated.”²⁷ It directs the Commission to take into account its prior injury determinations, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).²⁸

Section 751(c)(3) of the Act and the Commission’s regulations provide that in an expedited five-year review the Commission may issue a final determination “based on the facts available, in accordance

²¹ (...continued)

likelihood of continuation or recurrence of injury, not a certainty”); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int’l Trade July 19, 2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

²² Vice Chairman Okun and Commissioners Lane and Pearson refer to their dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 at 15-17 (June 2004).

²³ Commissioner Hillman interprets the statute as setting out a standard of whether it is “more likely than not” that material injury would continue or recur upon revocation. She assumes that this is the type of meaning of “probable” that the Court intended when the Court concluded that “likely” means “probable”. See Separate Views of Vice Chairman Jennifer A. Hillman Regarding the Interpretation of the Term “Likely,” in Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, The Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom (Views on Remand), Invs. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review) (Remand), USITC Pub. 3526 (July 2002) at 30-31.

²⁴ 19 U.S.C. § 1675a(a)(5).

²⁵ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” Id.

²⁶ In analyzing what constitutes a reasonably foreseeable time, Chairman Koplán examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

²⁷ 19 U.S.C. § 1675a(a)(1).

²⁸ 19 U.S.C. § 1675a(a)(1). Commerce has made no duty absorption findings for natural bristle paint brushes. The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

with section 776 of the Act.”²⁹ ³⁰ We have relied on the facts available in this review which consist primarily of information from the original investigation and first review, information collected by the Commission since the institution of this second five-year review, information submitted by the domestic producers, and official Commerce statistics.

For the reasons stated below, we determine that revocation of the antidumping order on natural bristle paint brushes from China would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”³¹ The following conditions of competition in the paint brush market are relevant to our determination.

Apparent U.S. consumption of all paint brushes increased from 167.2 million brushes to 345.3 million brushes from 1984 to 2003.³² The domestic industry’s share of the market has declined from 59.6 percent in 1984 to 21.4 percent in 2003 as imports, particularly nonsubject imports, have accounted for an increasing share of the market.³³

Apparent U.S. consumption of natural bristle paint brushes likewise increased, by 43.9 percent from 1984 to 2003, but at a lesser rate than consumption of all paint brushes. Consumption of natural bristle paint brushes therefore has decreased relative to consumption of synthetic filament paint brushes. Natural bristle paint brushes represented 27.7 percent of the U.S. market in 2003, down from 39.7 percent in 1984.³⁴ The increasing use of water-based paints for which natural bristle brushes are not suited, as well as improvements in synthetic filament technology, are responsible for the relative decline in the use

²⁹ 19 U.S.C. § 1675(c)(3)(B); 19 C.F.R. § 207.62(e). Section 776 of the Act, in turn, authorizes the Commission to “use the facts otherwise available” in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a).

³⁰ Chairman Koplan notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but emphasizes that such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. “[T]he Commission balances all record evidence and draws reasonable inferences in reaching its determinations.” SAA at 869 (emphasis added). Practically speaking, when only one side has participated in a five-year review, much of the record evidence is supplied by that side, though that data is supplemented with publicly available information. We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties’ suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.” *Id.*

³¹ 19 U.S.C. § 1675a(a)(4).

³² CR/PR at Table I-5.

³³ CR/PR at Table I-6.

³⁴ CR at I-25. PR at I-18.

of natural bristle paint brushes.³⁵ Nonetheless, the growth in natural bristle brush consumption, from 66.3 million paint brushes in 1984 to 95.5 million paint brushes in 2003,³⁶ indicates that even though synthetic filament brushes can be used in many of the same applications as natural bristle brushes, there remains a stable and significant market for natural bristle paint brushes.³⁷

Both natural bristle and synthetic filament brushes are divided into three quality levels. The consumer segment is the largest portion of the paint brush market and represents approximately 60 percent of total U.S. paint brush sales.³⁸ These paint brushes are made from synthetic filaments, natural bristles, or a blend of both and are typically sold in superstores to what is described as the “do-it-yourself” segment of the market.³⁹ The smallest part of the market is the professional segment, which only accounted for 5 percent to 10 percent of sales at the time of the original investigation.⁴⁰ Professional paint brushes contain more natural bristles or synthetic filaments and have finished wood handles.⁴¹

At the low end of the market are utility or “chip” brushes, which are natural bristle.⁴² Chip brushes are used to remove chips and other debris from equipment during machining operations and to apply glue or lubricants.⁴³ They also may be used to apply paint when the quality of finish is not important.⁴⁴ Chip brushes accounted for 20 percent of the market during the original investigation.⁴⁵

Both domestic producers and importers sell directly to distributors and large retailers.⁴⁶ However, some large retailers, such as Wal-Mart and Home Depot, directly import paint brushes.⁴⁷ More than half of all paint brushes are sold at these large retailers (discounters and mass merchandisers).⁴⁸

Price is an important factor in purchasing decisions. In the original investigation, purchasers rated price as the third most important factor in the decision to buy domestic paint brushes and the single most important factor in the decision to buy Chinese paint brushes.⁴⁹ As noted in the first review of this order, the significance of price in purchasing decisions has increased since the imposition of the antidumping duty order due to the increasing importance of price-sensitive discount retailers and mass merchandisers, who account for a majority of domestic sales.⁵⁰ Purchasers in the large consumer segment of the market are reported to focus on price rather than quality and are reported to not be brand-conscious.⁵¹

³⁵ CR at I-25, PR at I-18, I-20.

³⁶ CR/PR at Table I-7.

³⁷ CR at I-25, PR at I-20.

³⁸ CR at I-10, PR at I-8.

³⁹ CR at I-10, PR at I-8.

⁴⁰ CR at I-10, PR at I-8.

⁴¹ CR at I-10, PR at I-8.

⁴² CR at I-9, PR at I-8.

⁴³ CR at I-9, PR at I-8.

⁴⁴ CR at I-9, PR at I-8..

⁴⁵ CR at I-9, PR at I-8.

⁴⁶ CR at I-12, PR at I-10.

⁴⁷ CR at I-18 n.49.

⁴⁸ CR at I-13, PR at I-10.

⁴⁹ Original Determination, Report at A-42.

⁵⁰ CR at I-12 to I-13, PR at I-10.

⁵¹ CR at I-13, PR at I-10.

In the original investigation, paint brush imports from China were principally lower quality chip brushes, but the subject imports were beginning to enter the consumer segment of the market.⁵² Nonsubject imports of synthetic filament paint brushes from China have more than doubled in quantity since 1998.⁵³ While these nonsubject imports have started to penetrate the consumer segment and compete in the low and middle segments,⁵⁴ they still primarily serve the low-end of the market.⁵⁵ The record indicates that the Chinese exporters can switch production from synthetic filament paint brushes to natural bristle paint brushes because they are both made on the same equipment.⁵⁶

Since the original investigation, domestic industry consolidation reduced the number of domestic producers from nearly 30 in 1984 to 12 in 1998.⁵⁷ There have been no known changes to the composition of the industry since that time.⁵⁸ U.S. producers manufacture both natural bristle and synthetic filament paint brushes.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping duty order is revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.⁵⁹ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁶⁰

In the original investigation, the volume of subject imports from China nearly quadrupled from 1982 to 1984, and their market penetration increased from 7.9 percent of apparent U.S. consumption in 1982 to 22.8 percent in 1984.⁶¹ Subject imports accounted for over 90 percent of all natural bristle paint brush imports in 1984.⁶² However, after the order was imposed, the volume of natural bristle paint brushes imported from China declined sharply and has remained at much lower levels.⁶³

In its first five-year review, the Commission found several factors that supported a finding that subject imports likely would increase if the order were revoked. The Commission noted that Chinese exporters increased their shipments of synthetic brushes to the United States and could switch back to

⁵² Original Determination at 12.

⁵³ CR at I-27, PR at I-21.

⁵⁴ See CR at I-26, PR at I-18.

⁵⁵ Domestic Industry’s Response to Notice of Institution, June 22, 2004, at 11; Domestic Industry’s Comments, September 7, 2004, at 17-18.

⁵⁶ CR at I-11 n.29, PR at I-9 n.29; Domestic Industry’s Comments, September 7, 2004, at 14, 17 n.5.

⁵⁷ CR at I-13, PR at I-10, I-11.

⁵⁸ CR at I-13, PR at I-10, I-11.

⁵⁹ 19 U.S.C. § 1675a(a)(2).

⁶⁰ 19 U.S.C. § 1675a(a)(2)(A-D).

⁶¹ CR/PR at Tables I-5 and I-6.

⁶² CR/PR at Table I-5.

⁶³ CR at I-27, PR at I-21.

natural bristle brushes if the order were revoked.⁶⁴ The Commission noted a likely increase in Chinese capacity from the original investigation. Finally, the Commission stated that the Chinese industry was export-oriented and had dramatically increased its exports to Europe and Canada during the period of review.⁶⁵

In this review, several factors lead us to again conclude that revocation of the antidumping order likely would lead to a significant volume of subject imports. The antidumping duty order has had a significant restraining effect on the volume of subject imports. After imposition of the order, the volume of subject imports fell and generally remained below the level of the original investigation.⁶⁶ Subject imports have increased recently, from 3.0 million units in 1998 to 10.9 million units in 2003, but we attribute this increase to lower cash deposit rates assessed by Commerce for two Chinese exporters during that time.⁶⁷

The current conditions of competition are generally similar to those prevailing at the time of the first five-year review. While natural bristle brushes are a smaller segment of the market than they were at the time of the original investigation, they represent a stable and significant portion of the market.⁶⁸ As described above, price appears to be even more important in purchasing decisions given the increasing importance of price-sensitive discount retailers and mass merchandisers, who account for a majority of domestic sales.⁶⁹ Accordingly, low-priced subject imports would be able to rapidly gain market share if the order were revoked, as occurred during the original investigation. It also now appears that the Chinese producers are able to better compete in the middle or consumer segment of the paint brush market as demonstrated by the improved quality of their synthetic filament paint brushes.⁷⁰ Because consumer paint brushes command a higher price than chip brushes which largely comprised the subject imports in the original investigation, the U.S. market would be more attractive to the Chinese exporters.

The capacity of Chinese exporters appears to have increased since the first five-year review. There are currently an estimated 63 Chinese producers, up from about 48 producers that existed at the time of the first review.⁷¹ At the time of the first review, U.S. producers estimated that the 7 largest of the 48 producers had a capacity of 130 million paint brushes and could easily supply the entire U.S. market.⁷² Information from the domestic industry also indicates Chinese exporters can shift production from synthetic filament paint brushes to natural bristle paint brushes.⁷³ Synthetic and natural bristle paint brushes generally are made on the same equipment with the same manufacturing processes.⁷⁴

The Chinese producers remain export-oriented and home market demand for natural bristle paint brushes appears not to be significant.⁷⁵ At the time of the original investigation, other important export markets besides the United States were Southeast Asia, the Middle East, the EU, Canada, Australia, and Eastern Europe. Chinese producers have demonstrated their ability to shift exports among their various

⁶⁴ First Five-Year Review Determination at 10.

⁶⁵ First Five-Year Review Determination at 10.

⁶⁶ See CR/PR at Table I-5, I-27.

⁶⁷ CR/PR at Tables I-1 and I-5; Domestic Industry's Comments, September 7, 2004, at 12.

⁶⁸ CR at I-25, PR at I-20.

⁶⁹ CR at I-12 to I-13, PR at I-10.

⁷⁰ Domestic Industry's Comments, September 7, 2004, at 18.

⁷¹ CR at I-25 to I-26, PR at I-21.

⁷² First Five Year Review Determination at 10.

⁷³ Domestic Industry's Comments, September 7, 2004, at 13.

⁷⁴ CR at I-11 n.29, PR at I-9 n.29; Original Determination at 6-7. Petitioners report that this observation remains true today. Domestic Producers' Response at 24.

⁷⁵ Domestic Industry's Comments, September 7, 2004, at 15.

markets. Chinese exports of paint brushes to Canada increased significantly after Canada revoked an antidumping order in 1999,⁷⁶ and Chinese exports to the EU have increased significantly as well.⁷⁷

Available information indicates that the United States remains an attractive market for the Chinese exporters. Chinese producers continue to increase their exports to the United States of nonsubject synthetic filament paint brushes, which amounted to 164.2 million units in 2003.⁷⁸ Chinese exporters also have requested new shipper reviews from Commerce, suggesting continued interest in the U.S. market.⁷⁹

Accordingly, based on the available information in this review, we conclude that the likely volume of imports of the subject merchandise, both in absolute terms and relative to production and consumption in the United States, would be significant absent the restraining effect of the antidumping duty order.⁸⁰

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.⁸¹

In the original determination, the Commission found that natural bristle paint brushes from China generally undersold the domestic like product by substantial margins.⁸² The average unit values of natural bristle paint brushes imported from China fell during the period, from \$0.23 per brush in 1982 to \$0.17 per brush in 1984.⁸³

The available evidence is largely unchanged from the time of the previous review of the order. The record indicates that price is increasingly important as price-sensitive discount retailers and mass merchandisers account for an increasing share of domestic sales.⁸⁴ These retailers directly import paint brushes, thereby partially eliminating distribution costs.⁸⁵ The Chinese producers also have increased the quality of their paint brushes and would be able to compete effectively in the consumer segment of the paint brush market.⁸⁶ Thus, they likely would adversely affect prices in the largest segment of the market.

⁷⁶ CR at I-27, PR at I-22. Chinese exports of paint brushes to Canada increased from 5.6 million in 1999 to 18.5 million in 2003. Id.

⁷⁷ CR at I-28, PR at I-22. Chinese exports of paint brushes to the EU increased from 28.8 million units in 1999 to 45.2 million units in 2002. Id.

⁷⁸ CR at I-27, PR at I-21.

⁷⁹ Domestic Industry's Comments, September 7, 2004, at 15.

⁸⁰ We note that, as was the case in the 1999 review, there is no information on the record regarding the level of inventories of subject merchandise in China or the United States.

⁸¹ 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

⁸² Original Determination at 13.

⁸³ Original Determination, Report at A-30.

⁸⁴ CR at I-12 to I-13, PR at I-10.

⁸⁵ CR at I-18 n.49, PR at I-15 n.49.

⁸⁶ Domestic Industry's Comments, September 7, 2004, at 17-18.

While not directly comparable to the unit values for subject imports, the unit values for domestic paint brushes (natural bristle and synthetic filament) have increased since the time of the original investigation.⁸⁷ By contrast, the landed duty-paid unit values for the subject imports are lower than at the time of the original investigation and the period of the 1999 review, despite the antidumping duty order and the effects of inflation.⁸⁸ These facts, as well as the findings in the original investigation, indicate that subject imports would be likely to significantly undersell the domestic paint brushes if the antidumping order were revoked.

Given that the conditions of competition are similar to those that prevailed during the original investigation, we find it likely that Chinese producers would resume exporting to the United States significant volumes of natural bristle paint brushes that would significantly undersell the domestic like product in order to gain market share. Therefore, the subject imports would likely have significant depressing or suppressing effects on prices for domestic paint brushes.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping duty order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.⁸⁹ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.⁹⁰ As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the order at issue and whether the industry is vulnerable to material injury if the order is revoked.⁹¹

In the original investigation, the Commission found that the domestic industry's condition was "fairly healthy."⁹² While the Commission found that the domestic industry was not yet experiencing material injury by reason of the subject imports, it noted that both the total volume and market share of subject imports had increased by large amounts during the investigation period. The Commission found that the domestic industry was threatened with material injury by reason of increasing volumes of low-

⁸⁷ See CR/PR at Table I-4.

⁸⁸ See CR/PR at Table I-5.

⁸⁹ 19 U.S.C. § 1675a(a)(4).

⁹⁰ 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In the final results of its expedited sunset review of the antidumping order on natural bristle paint brushes from China, Commerce determined that revocation of the order would likely lead to a continuation or recurrence of dumping at a China-wide weighted-average margin of 351.92 percent. 69 Fed. Reg. 61795, 61796 (October 21, 2004).

⁹¹ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

⁹² Original Determination at 9.

priced subject imports that were gaining an increasing share of the market in which the domestic product directly competed.⁹³

In the 1999 review, the Commission stated that there had been “a material improvement in the domestic industry” as “shipments, sales, and unit values have increased.”⁹⁴ However, the Commission found that if the order were revoked, the likely volume of subject imports would be significant and that these imports would have significant adverse price effects, particularly because of the substitutable nature of the product.⁹⁵

Information on the record in this review is again limited with respect to the condition of the domestic industry due to the expedited nature of the review, and the available information is mixed.⁹⁶ The industry has further increased its net sales values, yet its production and shipments are lower than they were during the original investigation even though apparent domestic consumption has more than doubled.⁹⁷ Indeed, the industry’s shipments accounted for less than one-quarter of the U.S. market for all paint brushes in 2003.⁹⁸ While the natural bristle portion of the paint brush market is smaller, it remains a stable and important part of the consumer segment of the market.⁹⁹

The domestic industry argues that it is vulnerable to material injury if the order were revoked. It notes that nonsubject imports consisting of synthetic filament paint brushes from China have doubled since 1999, and the industry’s domestic shipments are below the level of the original investigation.¹⁰⁰ While these factors may indicate that the industry is facing difficulties, given the limited available evidence in this review and the lack of financial data on the industry, the basis for finding the industry vulnerable is insufficient.

However, as described above, the antidumping order clearly has had a restraining effect on the volume and market share of subject imports. Revocation of the order would likely lead to a significant increase in the volume of subject imports that would undersell the domestic like product and significantly suppress or depress U.S. prices. We also find that the volume and price effects of the subject imports would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. These reductions, in turn, would have a direct adverse impact on the industry’s profitability as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, we conclude that, if the antidumping order on subject imports from China were revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the above-stated reasons, we determine that revocation of the antidumping order on natural bristle paint brushes from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

⁹³ Original Determination at 11-12.

⁹⁴ First Five-Year Review Determination at 13.

⁹⁵ First Five-Year Review Determination at 13.

⁹⁶ See CR/PR at Table I-4.

⁹⁷ See CR/PR at Tables I-4 and I-6.

⁹⁸ CR /PR at Table I-6.

⁹⁹ CR at I-25, PR at I-20.

¹⁰⁰ Domestic Industry’s Comments, September 7, 2004, at 22. See also CR/PR at Table I-6.

INFORMATION OBTAINED IN THE SECOND REVIEW

INTRODUCTION

Background

On May 3, 2004, in accordance with section 751(c) of the Tariff Act of 1930, as amended,¹ the U.S. International Trade Commission (Commission) gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on natural bristle paint brushes from China would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.² On August 6, 2004, the Commission determined that the domestic interested party response to its notice of institution was adequate;³ the Commission also determined that the respondent interested party response was inadequate.⁴ The Commission found no other circumstances that would warrant conducting a full review.⁵ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930.⁶ The Commission voted on this review on October 28, 2004, and notified the U.S. Department of Commerce (Commerce) of its determination on November 9, 2004. Information relating to the background of the review is presented below:⁷

¹ 19 U.S.C. 1675(c).

² 69 FR 24191, May 3, 2004. All interested parties were requested to respond to this notice by submitting the information requested by the Commission. The Commission's notice of institution is presented in app. A.

³ The Commission received one submission in response to its notice of institution for the subject review (hereinafter "*Response*"). It was filed on behalf of the Paint Applicator Division of the American Brush Manufacturers Association (Paint Applicator Division) and the following six participating member companies: Bestt Liebco Corp.; Elder & Jenks, Inc.; Purdy Corp.; Shur-Line Co.; True Value Manufacturing; and Wooster Brush Co. (collectively, "domestic interested parties"). The domestic interested parties are represented by the law firm of King & Spalding LLP. The Paint Applicator Division is a U.S. trade association comprised of 11 members, seven of which are domestic manufacturers of paint brushes. The seventh manufacturing firm, Maryland Brush Co., did not provide data on their U.S. production. The six participating member companies are believed to represent approximately 75 percent of total U.S. production of paint brushes in 2003. The estimate was calculated as the quantity of reported production (48.5 million units) divided by the domestic interested parties' estimate of total U.S. production (64.7 million units). *Response* of the domestic interested parties, pp. 1-3 and att. 1, and *Supplemental Response* (dated July 8, 2004) of the domestic interested parties, att. 1. See also the Commission's memorandum of July 27, 2004, INV-BB-095–*Recommendation on Adequacy of Responses to Notice of Institution*.

⁴ The Commission did not receive a response from any respondent interested party.

⁵ The Commission's statement on adequacy is presented in app. B.

⁶ 19 U.S.C. § 1675(c)(3).

⁷ Cited *Federal Register* notices beginning with the Commission's institution of a second five-year sunset review are presented in app. A.

Effective date	Action	Federal Register citation
February 14, 1986	Commerce's antidumping duty order issued	51 FR 5580
June 10, 1999	Commerce's continuation of antidumping duty order after first five-year review	64 FR 42911, August 6, 1999
May 3, 2004	Commission's institution of second five-year review	69 FR 24191
August 6, 2004	Commission's determination to conduct expedited second five-year review	69 FR 51474, August 19, 2004
September 17, 2004	Commission's revised schedule	69 FR 57082
October 28, 2004	Commission's vote	Not applicable
November 9, 2004	Commission's determination sent to Commerce	Not applicable

The Original Investigation and First Five-Year Review

The Commission completed the original investigation⁸ in January 1986, determining that an industry in the United States was threatened with material injury by reason of imports from China of natural bristle paint brushes (except artists' brushes).⁹ After receipt of the Commission's determination, Commerce issued an antidumping duty order on imports of natural bristle paint brushes from China.¹⁰ In June 1999, the Commission completed an expedited five-year review of the antidumping duty order, and, on the basis of facts available, determined that revocation of the order on natural bristle paint brushes from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹¹

⁸ The investigation resulted from a petition filed on February 19, 1985 on behalf of the U.S. Paint Brush Manufacturers and Suppliers Ad Hoc Import Action Coalition. Petitioner alleged injury to a U.S. industry from imports from China of natural bristle paint brushes, except artist's brushes, with or without handles. *Staff Report of January 16, 1986*, (INV-J-011), p. A-2.

⁹ *Natural Bristle Paint Brushes from the People's Republic of China: Inv. No. 731-TA-244 (Final)*, USITC Pub. 1805, January 1986, p. 1. The Commission stated that its affirmative determination was based on "a number of factors including: a rapid increase in volume and market penetration of natural bristle brushes imported from {China} during the period of investigation; indications that the import volume will continue to increase; evidence that the imports have undersold domestic paint brushes by substantial margins; and, most importantly, a substantial increase in importers' inventories of brushes from {China} during the first half of 1985 which will affect future domestic industry sales." *Id.*, p. 3.

¹⁰ 51 FR 5580, February 14, 1986. The order required the posting of a cash deposit equal to the estimated weighted-average dumping margin, which was 127.07 percent China-wide. In determining the weighted-average dumping margin, Commerce used a comparison between U.S. price (that was based on packed CIF prices to unrelated purchasers in the United States, as adjusted) and foreign market value (that was based on prices of similar merchandise sold to unrelated purchasers in Sri Lanka and the weighted-average price of imports of similar merchandise into the United States).

¹¹ *Natural Bristle Paint Brushes from China: Inv. No. 731-TA-244 (Review)*, USITC Pub. 3199, June 1999, p. 1.

Commerce's Administrative and Five-Year Reviews

Between 1986, when the antidumping duty order was imposed, and 2003, Commerce conducted numerous administrative reviews and one five-year review with respect to imports of natural bristle paint brushes from China (table I-1).

Table I-1
Natural bristle paint brushes: Commerce's administrative and five-year reviews

Action	Date of action	Federal Register citation	Period of review	Antidumping duty margins	
				Firm specific	China-wide
				<i>Percent ad valorem</i>	
Final determination	12/26/85	50 FR 52812	9/84-2/85	--	127.07
Order (A-570-501)	2/14/86	51 FR 5580	(1)	--	127.07
Administrative review	10/22/90	55 FR 42599	1989-90	47.1 ²	--
Administrative review	10/9/96	61 FR 52917	1994-95	351.92 ³	351.92
Administrative review	3/13/98	63 FR 12449	1995-96	0.01 ⁴	--
First five-year review	6/3/99	64 FR 29885	(1)	(1)	(1)
Continuation of order	6/10/99	64 FR 42911	(1)	351.92 ³	351.92
Administrative review	9/15/00	65 FR 55941	1998-99	32.74 (amended) ³ 0.00 ⁴	351.92
Administrative review	5/28/03	68 FR 31683	2001-02	0.00 ⁴	351.92

¹ Not applicable.

² Peace Target, Ltd., a Hong Kong reseller of Chinese natural bristle paint brushes to the United States.

³ Hebei (Hebei Animal By-Products Import/Export (I/E) Corp. a/k/a Hebei Founder I/E Co.).

⁴ Hunan (Hunan Provincial Native Produce & Animal By-Products I/E Corp.).

Note 1.—The following administrative reviews were rescinded:

(1) Review covering 1999-2000 (65 FR 63058, October 20, 2000); there were no U.S. exports from either Hebei or Hunan.

(2) Review covering 2000-01 for Hebei (66 FR 47450, September 12, 2001); there were no U.S. exports from Hebei.

(3) Review covering 2000-01 for Hunan (67 FR 566, January 4, 2002) per petitioner's withdrawal of its request.

(4) Review covering 2001-02 for Hebei (68 FR 58018, September 13, 2003); there were no U.S. exports from Hebei.

Note 2.—The following new shipper reviews were rescinded:

(1) Review covering an exporter Changshan (Changshan I/E Co., Ltd.) per its request (69 FR 45675, July 30, 2004).

(2) Review covering an exporter Shanghai (Shanghai R&R I/E Co., Ltd.) per Commerce's determination that its requirements for initiation of the review have not been met (69 FR 63361, November 1, 2004).

Source: Cited *Federal Register* notices. *See also* <http://web.ita.doc.gov/ia/SunCase.nsf/>.

Commerce's Final Results of Second Expedited Sunset Review

On October 21, 2004, the Commission received notification of Commerce's "Final Results of Expedited Sunset Review" concerning natural bristle paint brushes from China (69 FR 61795). The review covered all manufacturers and exporters of the subject product from China. Commerce determined that dumping is likely to continue or recur if the antidumping duty order is revoked, with the following margins of dumping in percent *ad valorem*: Hebei Animal By-Products Import/Export Corp. (351.92 percent); Hunan Provincial Native Produce and Animal By-Products Import/Export Corp. (351.92 percent); Peace Target, Inc. (351.92 percent); and PRC-wide (351.92 percent).

Distribution of Continued Dumping and Subsidy Offset Funds to Affected Domestic Producers

Since September 21, 2001, qualified U.S. producers of paint brushes have been eligible to receive disbursements from U.S. Bureau of Customs and Border Protection (Customs) under the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA), also known as the Byrd Amendment.¹² Table I-2 presents CDSOA claims and disbursements for federal fiscal years 2001-03.

Table I-2
Natural bristle paint brushes from China: CDSOA claims and disbursements, federal fiscal years 2001-03

Claimant	Share of allocation	Amount of claim filed ¹	Amount disbursed
	<i>Percent</i>	<i>Dollars</i>	
FY 2001: Wooster Brush Co.	100.0	194,956,282	56,863
FY 2002: Elder & Jenks, Inc.	7.574	45,040,490	52,208
Purdy Corp.	52.807	314,042,700	364,018
True Value Manufacturing	0.955	5,679,608	6,583
Wooster Brush Co.	38.664	229,936,839	266,528
Total	100.0	594,699,637	689,338
FY 2003: Elder & Jenks, Inc.	4.3919	48,244,350	17,700
Wooster Brush Co.	22.7671	250,095,189	91,753
Total	--	298,339,538	109,453

¹ Qualifying expenditures incurred by domestic producers since the issuance of the order.

Source: Customs' CDSOA Annual Reports at http://www.customs.treas.gov/linkhandler/cgov/import/add_cvd/cont_dump, retrieved August 24, 2004.

¹² 19 CFR 159.64(g).

THE PRODUCT

Scope

The imported product covered by this review is natural bristle paint brushes and brush heads from China, excluding paint brushes with a blend of 40 percent natural bristles and 60 percent synthetic filaments.¹³ The merchandise under review is classifiable under Harmonized Tariff Schedule of the United States (HTS) subheading 9603.40.40 (statistical reporting number 9603.40.4040) and is dutiable at a general rate of 4 percent *ad valorem*. The HTS classification is provided for convenience and for Customs purposes; the written description remains dispositive as to the scope of the product coverage.

Domestic Like Product and Domestic Industry

In its original determination and in its first expedited five-year review determination, the Commission defined the like product as all domestically produced paint brushes (including natural bristle and synthetic filament paint brushes) and it defined the domestic industry as all domestic producers of paint brushes.¹⁴ For purposes of this second five-year review, the domestic interested parties indicated that they have no objection to the Commission's original like product definition.¹⁵

Description and Uses¹⁶

Paint brushes are implements used to apply paint, stain, or varnish, but may also be used for other purposes. The brush filler can be made with natural (hog) bristle,¹⁷ synthetic filament (nylon, polyester, or polyolefin), or a combination of fillings (referred to as blended paint brushes).¹⁸ Each type of filling is fastened with a metal ferrule (band) to some type of handle, usually made of wood, plastic, or metal.¹⁹

¹³ Subsequent to the imposition of the antidumping order, Commerce determined that paint brushes with a blend of 60 percent synthetic and 40 percent natural fibers were outside the scope. 59 FR 25615, May 17, 1994. *See* <http://web.ita.doc.gov/ia/SunCase.nsf/>. It also specified in its final determination for the first five-year review that natural bristle packs, which are groups of bristles held together at the base with glue that closely resemble a traditional paint brush head, are within the scope of the order. 64 FR 25011, May 10, 1999.

¹⁴ The Commission stated in its original views that “the differences between natural bristle paint brushes and synthetic paint brushes are minor, and any definition of the like product which does not include both types of brushes would be artificial.” It indicated that, with the exception of preparing the fibers, the manufacturing process was the same for both types of brushes and that natural fiber and synthetic brushes have similar channels of distribution. While the Commission noted that the paint industry recommends using specific brush types for certain paints, the Commission stated that the distinction is “frequently blurred.” *Natural Bristle Paint Brushes from the People's Republic of China* (Final), pp. 6-7.

¹⁵ *Response* of the domestic interested parties, pp. 3 (n. 5) and 26.

¹⁶ All of the discussion in this section is from the original investigation, unless otherwise noted. *Staff Report of January 16, 1986*, pp. A-2 through A-5 and p. A-51.

¹⁷ Natural bristle paint brushes can be made with other types of animal hair although hog hair is preferred. *See* “Guide to Paint Applicators” at www.lowes.com, retrieved August 18, 2004.

¹⁸ *Response* of the domestic interested parties, p. 7. Questionnaire responses during the original investigation showed that mixed-fiber brushes accounted for approximately 1 percent of the U.S. paint brush market. *Natural Bristle Paint Brushes from the People's Republic of China* (Final), p. A-2, n. 3.

¹⁹ Paint brush heads, which are paint brushes without the handle, are covered within the product scope. There were no known imports of paint brush heads from China during the original investigation. *Staff Report of January 16, 1986* (continued...)

Natural bristle paint brushes are generally recommended by the industry for use with oil base paints, stains, varnishes, and shellac. They are usually not used with water-based paint due to the tendency of the natural bristle to absorb water and lose resiliency, which leaves paint on the brush rather than on the surface being painted. Synthetic filament paint brushes, on the other hand, do not absorb water and are generally recommended for use with water-based paint, but may also be used with oil-based paint, and other solvent-soluble coatings.²⁰ Natural bristle paint brushes generally provide a smoother finish than synthetic filament paint brushes; in contrast, synthetic filament paint brushes are typically more durable and easier to clean.²¹ A market website reports DuPont's "Chinex filament" to be an important innovation to the brush industry in recent years. The filament is described as "synthetically manufactured to have the same properties as China hog bristle, yet it will work well in both oil and latex paints."²²

Paint brushes come in several quality ranges and in a wide variety of widths and lengths. The general quality categories are identified as utility, good, better, and best or, alternatively, as economy or "throw-away," consumer or "do-it-yourself" (DIY), and professional brushes.²³ At the lower end of the market, in terms of quality, are brushes referred to by the industry as "chip" brushes. Chip brushes are also known in the trade as "utility" or "throw-away" brushes. Chip brushes are generally 2 inches or less in width and are usually thin, and like other lower quality brushes are composed of filler of the same lengths. These brushes are used extensively in the industrial market to remove chips and other scrap generated during machining operations, to apply lubricants, glue or adhesives, and so forth. Chip brushes may also be used to apply paint by users seeking an economical applicator and willing to accept a less than quality finish. Because synthetic fibers melt or otherwise deteriorate from heat during use on machinery, they are not generally used in chip brushes. At the time of the original investigation, chip brushes accounted for an estimated 20 percent of the U.S. paint brush market, in terms of value.

Medium-priced brushes used by the general consumer or DIY market are produced in a variety of styles and sizes with either plastic or wood handles. These brushes are made from either natural bristle or synthetic filament and, occasionally, from a blend of both. Generally, the amount of bristle or filament used in a brush increases as quality increases. At the time of the original investigation, consumer brushes produced for the DIY market segment accounted for 70 to 75 percent of total U.S. paint brush sales. By the time of the first review (1999), consumer brushes accounted for 60 percent of the market,²⁴ and they hold about the same market share today.²⁵

The best brushes are those manufactured for the professional market; this is also the smallest segment of the industry, accounting for approximately 5 to 10 percent of total U.S. paint brush sales at the time of the original investigation. These brushes are made of the highest quality natural bristle or synthetic filament. Professional brushes require the largest amount of filler and generally have nicely finished wood handles.

¹⁹ (...continued)

16, 1986, p. A-3, n. 2. The Commission noted in its original views that paint brush heads are "not produced separately by any domestic producers; they exist only as one stage in the manufacturing process." *Natural Bristle Paint Brushes from the People's Republic of China* (Final), p. 5, n. 4.

²⁰ The domestic industry states that this characterization still applies today. *Response of the domestic interested parties*, pp. 7-8.

²¹ *Response of the domestic interested parties*, p. 8.

²² See "'Brushing Up' on Paint Applications" at www.painterpages.com, retrieved August 18, 2004.

²³ *Response of the domestic interested parties*, p. 8.

²⁴ *Staff Report of May 6, 1999*, p. I-6, citing *Response of the domestic producers* (first review), p. 9.

²⁵ Domestic interested parties state that 60 percent of total U.S. paint brush sales are to the consumer market segment. *Response of the domestic interested parties*, p. 8.

As indicated above, only natural bristle paint brushes are subject to the antidumping order. Chip brushes represented the bulk of subject U.S. brush imports from China at the time of the original investigation. Such brushes were made of natural bristle attached to an unfinished wooden handle. Comparable brushes were also manufactured by U.S. producers. However, some higher quality brushes were imported from China during the period examined in the original investigation. In its original views, the Commission noted that “the total number of imports of {Chinese} brushes which are not chip brushes increased dramatically. These higher quality brushes rose from 1.3 million brushes in 1982 to 5.4 million brushes in 1984. The trend appears to be towards the importing of more higher-quality brushes into the United States, thus, threatening penetration of a segment of the domestic market which offers greater profits.”²⁶ According to the domestic industry, subject imports today can compete even “more effectively” in the higher quality consumer or DIY market segment than in 1986.²⁷

Manufacturing Process²⁸

The manufacture of paint brushes involves a series of steps that can be performed by hand or with highly automated machinery.²⁹ At the time of the original investigation, the domestic industry was already highly automated although certain production steps could be done with hand labor, particularly for more expensive, higher quality brushes or for small production runs when it was more cost effective. Paint brush manufacture in China, in contrast, was reported at that time to be highly labor intensive in vertical manufacturing operations that included the manufacture of the handles (almost exclusively wooden) and ferrules and, frequently, the processing of the crude bristle. U.S. manufacturers, in contrast, were basically assemblers that purchased the bristle and filament, ferrules, and handles (primarily plastic, although frequently treated to look like wood) from suppliers.

During the period examined in the original investigation practically all of the bristle used for brush making in the United States came from China. China’s climate, the type of hog raised, and experience in dressing the bristle were repeatedly cited as reasons why China was the sole supplier of bristle.³⁰ China remains the sole world source of hog bristles.³¹ The domestic interested parties indicate that “many” Chinese subject paint brush manufacturers are today affiliated with hog bristle suppliers and receive favorable pricing that, according to the domestic industry, would enable them to undersell natural bristle paint brush producers in the United States.³²

²⁶ *Natural Bristle Paint Brushes from the People’s Republic of China* (Final), p. 12.

²⁷ *Response* of the domestic interested parties, pp. 6-7.

²⁸ All of the discussion in this section is from the original investigation, unless otherwise noted. *Staff Report of January 16, 1986*, pp. A-5 through A-7.

²⁹ For the most part the same machinery is used to make a paint brush regardless of whether its head contains natural bristle, synthetic filament, or a mixture of both.

³⁰ U.S. manufacturers reported in 1986 that they purchased natural bristle from importers or directly imported bristle from China.

³¹ *Response* of the domestic interested parties, p. 22. According to the review finding of the Canadian antidumping order concerning natural bristle paint brushes from China (Review No.: RR-98-002), over 90 percent of the natural bristle paint brushes in the world are manufactured using Chinese hog bristles. *See* www.citt-tcce.gc.ca/dumping/reviews/orders/rr98002_e.asp, retrieved August 19, 2004.

³² *Response* of the domestic interested parties, p. 22.

Marketing³³

Domestic paint brush producers and U.S. importers sell paint brushes (both natural bristle and synthetic filament) on a nationwide basis both to distributors (industrial supplies distributors and wholesale hardware distributors) and directly to retailers (discounters and mass merchandisers). U.S. importers reported that a significant lead time (usually a minimum of 12 weeks) was required for all brush orders from China; frequently during the period examined in the original investigation, an order was placed for an entire year's requirement, with shipments to be made at specified times during that year.

Industry sources described the market for paint brushes as highly competitive in 1982-85 with price being an important factor in purchasers' decisions to buy one brand over another. A number of non-price factors affecting sales were also identified during the original investigation, such as product quality, reliability of vendor, and packaging and sales techniques. Most domestic producers and importers reported issuing annual price lists. Discounts off the list prices for large orders were allowed, with the amount of the discount frequently depending on the competitive situation rather than on standard formulas. Paint brush prices varied with the width, length, and thickness of the bristles. Wider, longer, and thicker bristles are of higher quality and were relatively higher priced. Handle material (wood or plastic) and finish (bare wood or varnished wood) also determined pricing.

The domestic interested parties state that price is "still the most important factor in paint brush purchasers decision-making, particularly in the consumer segment of the market." They also argue that the current dominance of the discounter and mass merchandiser (hardware superstores) marketing channel in the United States "amplifies further the importance of price in this market."³⁴ Discounters and mass merchandisers accounted for approximately 50 percent of the U.S. market in 1986 (during the original investigation) and about 60 percent in 1999 (at the time of the first review). The domestic interested parties report that discounters and mass merchandisers have continued to expand their share of the U.S. market and that they are the main source of DIY purchases of paint brushes. The domestic interested parties argue that this market structure, for several reasons, "increases the vulnerability of the domestic industry to material injury by reason of dumped imports." Specifically, they state: (1) paint brushes are not sold on the basis of brand to DIY consumers, (2) paint brushes are ordered by buyers at discount and mass merchandise chains that have little knowledge and experience with the product category and who therefore focus on price rather than quality, (3) paint brushes are sold on the basis of price to the DIY consumer who views them as a fungible commodity, and (4) discounters and mass merchandisers have established buying offices in China to lower their acquisition costs. The domestic interested parties argue that the discount and mass merchandise market segment "could shift their sourcing of most—if not all—DIY natural bristle paint brushes to Chinese suppliers if the order were revoked."³⁵

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

In 1984, an estimated 30 domestic firms produced paint brushes; 22 of these firms were listed as "principal" manufacturers in the original staff report. Virtually all firms manufactured both natural bristle and synthetic filament paint brushes. By the time of the first five-year review, in 1999, 12 U.S. firms manufactured paint brushes. There have been no known entrances or exits from the U.S. paint brush

³³ All of the discussion in this section is from the original investigation, unless otherwise noted. *Staff Report of January 16, 1986*, pp. A-8, A-11, A-13, and A-50 through A-53.

³⁴ *Response of the domestic interested parties*, p. 7.

³⁵ *Response of the domestic interested parties*, pp. 13-14.

industry in the period since the first sunset review. The current U.S. paint brush manufacturers are listed in table I-3. As shown in the notes to table I-3, Linzer participated in the first five-year review but not in the current review while Elder & Jenks is now participating in this second five-year review but did not participate in 1999. Five of the current member companies of the Paint Applicator Division were members of the original group of petitioning companies,³⁶ the five firms accounted for *** percent of reported U.S. paint brush production during the period examined in the original investigation.³⁷

Table I-3

All paint brushes: U.S. manufacturers in 2003, their locations, and their shares of reported U.S. paint brush production during the original investigation and in 2003

Firm name	Location	Share of U.S. paint brush production	
		Original investigation ¹	2003 ¹
		Percent	
Bestt Leibco Corp. ² (Bestt Leibco)	Philadelphia, PA	***	***
Condon Bros. Co. (Condon)	Pittsburgh, PA	*** ³	(4)
Corona Brushes, Inc. (Corona)	Tampa, FL	*** ⁵	(4)
Elder & Jenks, Inc. (Elder & Jenks)	Bayonne, NJ	***	***
Linzer Products Corp. ⁶ (Linzer)	Flushing, NY	***	(4)
Maryland Brush Co. (Maryland Brush) ⁷	Baltimore, MD	***	(4)
Paint Brush Corp. (Paint Brush)	Vermillion, SD ⁸	*** ⁹	(4)
Purdy Corp. (Purdy)	Portland, OR	***	***
Shur-Line Co. ¹⁰ (Shur-Line)	St. Francis, WI	***	***
Rubberset Co. (Rubberset)	Crisfeld, MD ¹¹	***	(4)
True Value Manufacturing ¹² (True Value)	Cary, IL	***	***
Wooster Brush Co. (Wooster Brush)	Wooster, OH	***	***
Total	--	75.0	74.9 ¹³
<i>Notes on next page.</i>			

³⁶ The five firms are Bestt Liebco, Purdy, Shur-Line, True Value, and Wooster Brush. As indicated in the notes to table I-3, Bestt Liebco is the successor company to Joseph Liberman; Shur-Line's name was changed from EZ Painter; and True Value's parent company is Tru*Serv, the successor company to Baltimore Brushes.

³⁷ Calculated from table 1 of the *Staff Report of January 16, 1986*, p. A-12.

Continuation.

¹ Shares listed for the original investigation and for 2003 are not directly comparable. Figures for the original investigation are the shares accounted for of reported U.S. production; reporting domestic manufacturers during the original investigation were estimated to account for approximately 80 percent of total U.S. paint brush production. Figures for 2003 are the estimated shares of total U.S. production.

² Bestt Liebco is the successor company to Joseph Lieberman & Sons, Inc. (Joseph Liberman), a petitioner in the original investigation.

³ ***

⁴ Not available.

⁵ ***

⁶ Linzer was in opposition to the original petition. It accounted for *** percent of reported U.S. paint brush production during the original investigation. The domestic interested parties report that Linzer now supports continuation of the order.

⁷ Maryland Brush is the successor firm to PPG Industries. See www.marylandbrush.com/about.htm, retrieved August 18, 2004.

⁸ "Paint Brush" was listed as located in Atlanta, GA, during the original investigation.

⁹ ***

¹⁰ EZ Painter, a petitioner in the original investigation, has changed its name to Shur-Line. "EZ Paintr Corp." (EZ Paintr) was listed as located in Milwaukee, WI, during the original investigation.

¹¹ "Rubberset" was listed as located in Cleveland, OH, during the original investigation.

¹² True Value's parent company is Tru*Serv, the successor firm to Baltimore Brushes, Inc. (Baltimore Brushes). "Baltimore Brush" was listed as located in Brockton, MA during the original investigation.

¹³ The participating companies were estimated to account for 74.9 percent and 74.8 percent of U.S. production of natural bristle and synthetic filament paint brushes, respectively, during 2003.

Note 1.—Petitioners in the original investigation consisted of 9 firms that were members of the United States Paint Brush Manufacturers and Suppliers Ad Hoc Import Action Coalition, i.e.,: Baltimore Brush, Elder & Jenks, EZ Paintr, H & G Industries, Joseph Lieberman, Purdy, Rubberset, Thomas Paint Applications, and Wooster Brush.

Note 2.—Each of the companies listed in table I-3 (with the exception of Rubberset) were members in 1999 of the Paint Applicator Division and together accounted for approximately 75 percent of domestic production. *Staff Report of May 6, 1999*, citing *Response* of the domestic producers (first review), att. 11. The following members of the Paint Applicator Division participated in the first sunset review: Bestt Leibco, EZ Paintr, Linzer, Purdy, Tru*Serv, and Wooster Brush.

Note 3.—The current participating members of the Paint Applicator Division are as follows: Bestt Leibco, Elder & Jenks, Shur-Line, Purdy, True Value, and Wooster Brush.

Source: *Staff Report of January 16, 1986*, p. A-12, and *Response* of the domestic interested parties, pp. 1-2, 24, 25, and att 5. See also *Supplemental Response* of the domestic interested parties, att. 1.

U.S. Production, Capacity, and Shipments

Data reported by the U.S. paint brush industry in the Commission's original investigation and first five-year review and in response to its second review institution notice are presented in table I-4. During the original investigation, domestic paint brush capacity and production rose from 1982 to 1984 while capacity utilization remained generally level.³⁸ In contrast, U.S. production of natural bristle paint brushes consistently fell during the period examined and capacity utilization declined. U.S. shipments of all paint brushes increased from 1982 to 1983 and then declined in the next year while U.S. shipments of natural bristle brushes fell steadily throughout 1982-84. The unit value of domestic

³⁸ The reported expansion in productive capacity for paint brushes was due to implementation of more efficient manufacturing techniques. Capacity to manufacture all paint brushes continued to rise sharply in January-September 1985 compared to January-September 1984. *Staff Report of January 16, 1986*, pp. A-15 and A-16.

Table I-4

Paint brushes: U.S. producers' capacity, production, and U.S. shipments, 1982-84, 1998, and 2003

Item	1982	1983	1984	1998	2003
All paint brushes:					
Capacity (1,000 units)	194,075	197,788	203,508	(1)	(1)
Production (1,000 units)	95,312	98,278	100,531	100,000	48,536 ²
Capacity utilization (percent)	49.1	49.7	49.4	(1)	(1)
U.S. shipments: ³					
Quantity (1,000 units)	96,610	101,078	99,624	105,151 ⁴	74,021
Value (1,000 dollars)	(1)	(1)	(1)	(1)	146,610
Unit value (dollars per unit)	\$1.12 ⁵	\$1.13 ⁵	\$1.22 ⁵	(1)	\$1.98
Natural bristle paint brushes:					
Capacity (1,000 units)	60,391	61,475	63,702	(1)	(1)
Production (1,000 units)	27,259	26,265	24,766	21,979	12,781
Capacity utilization (percent)	45.1	42.7	38.9	(1)	(1)
U.S. shipments: ³					
Quantity (1,000 units)	27,762	27,406	25,125	22,721 ⁴	21,936
Value (1,000 dollars)	(1)	(1)	(1)	(1)	32,834
Unit value (dollars per unit)	\$1.13 ⁵	\$1.22 ⁵	\$1.39 ⁵	(1)	\$1.50

Note.—Reporting domestic manufacturers during the original investigation were estimated to account for approximately 80 percent of total U.S. paint brush production and more than 60 percent of all U.S. natural bristle paint brush production. The precise comparability of the figures for 1998 to those for 1982-84 and 2003 cannot be determined. The response to the Commission's notice of institution for the first five-year review was filed on behalf of six of the same five firms that comprise the domestic interested parties for the current review. However, one firm (Elder & Jenks) did not provide data for 1998 but did for the current review while another firm (Linzer) provided data for 1998 but did not do so for this review. Figures for 1982-84 paint brush production and shipments are believed to be comparable to those for 2003 in that non-response by U.S. producers during the period examined in the original investigation (roughly 20 percent for all paint brushes) is about the same as the percentage of U.S. production not accounted for by the Paint Applicator Division and its participating member companies (estimated to be 25 percent). Figures for natural bristle paint brush production and shipments may be somewhat less comparable but, due to the degree of estimation in the data, no attempt has been made in this staff report to further adjust them.

¹ Not available.

² Domestic interested parties estimate total U.S. production of all paint brushes at 64.7 million units in 2003.

³ Includes intracompany and intercompany transfers for 1982-84. In 1984, such transfers amounted to 6.8 million units of (all) paint brushes and 1.6 million units of natural bristle paint brushes. Compare table 4 to table 2 (*Staff Report of January 16, 1986*, pp. A-14 and A-17). Data for 2003 are for "commercial shipments"; the participating members indicated, however, that they did not internally consume or transfer paint brushes produced in their plants. *Supplemental Response* of the domestic interested parties, p. 4.

⁴ Estimated by Commission staff during the first review.

⁵ Calculated from domestic shipments (i.e., excluding intracompany and intercompany transfers). The unit values are calculated from rounded figures.

Source: *Staff Report of January 16, 1986*, pp. A-14 through A-17; *Staff Report of May 6, 1999*, p. I-8, citing *Response* of domestic producers (first review), att. 11; and *Response* of the domestic interested parties, att. 7.

paint brush shipments from \$1.12 per unit in 1982 to \$1.22 per unit in 1984 and the unit values of domestic natural bristle paint brush shipments likewise increased from \$1.13 in 1982 to \$1.39 in 1984.³⁹ For both (all) paint brushes and for natural bristle paint brushes, domestic production in 2003 and, to a lesser extent, U.S. producers' U.S. shipments appear to be significantly lower than reported during 1982-84.⁴⁰ The unit value of domestically produced paint brushes was \$1.98 per unit in 2003. By product category, the 2003 unit values of natural bristle paint brushes and synthetic filament paint brushes were \$1.50 and \$2.18, respectively.⁴¹ As shown in table I-4, the unit value of natural bristle paint brushes in 1984 was higher than that reported for all paint brushes (\$1.39 for natural bristle paint brushes compared to \$1.22 for all paint brushes) but is today lower (\$1.50 for natural bristle paint brushes in 2003 compared to \$1.98 for all paint brushes).⁴² As the data show, sales of natural bristle paint brushes during the original investigation were declining as a share of U.S. producers' total paint brush sales but appear to have since stabilized. The share of total sales of U.S.-produced paint brushes accounted for by natural bristle paint brushes fell from 28.7 percent in 1982 to 25.2 percent in 1984 and is today 29.6 percent.

There are no current financial or pricing data available for the subject product. The Commission stated in its views during the original investigation that the domestic paint brush industry was generally "fairly healthy."⁴³ With reference to pricing for the original investigation, the Commission indicated that "in general ... the prices of natural bristle paint brushes produced in the United States rose. However, {Chinese-manufactured} brushes generally undersold the comparable domestic brushes by substantial margins during that period."⁴⁴ In its response to the notice of institution for this second five-year review, the domestic industry maintains that the high country-wide cash deposit rate (of 351.92 percent) is a "strong indication" that there would be underselling by imported Chinese natural bristle paint brushes if the order were revoked. They further point out that the paint brushes are non-branded commodity products that are highly price sensitive and typically sold in large volumes through the discounter and mass merchandiser channel of distribution.⁴⁵

³⁹ The sharp rise in unit values for bristle brushes, especially in 1984, reflected a shift in the product mix toward the production and sale of better quality brushes by U.S. producers. *Staff Report of January 16, 1986*, p. A-17.

⁴⁰ Note, however, the discrepancies in 2003 between reported production and shipment figures for all paint brushes and for natural bristle paint brushes. The U.S. industry reported producing 48.5 million paint brushes (12.8 million of which were natural bristle) in 2003 but shipping 74.0 million paint brushes (21.9 million of which were natural bristle). Such discrepancies could be due to large inventory adjustments or to the inclusion of purchased paint brushes in the U.S. shipment figures.

⁴¹ *Response of the domestic interested parties*, att. 7.

⁴² Paint brush unit values differed somewhat by reporting firm (specifically for Bestt Liebco (\$*** for all paint brushes); Elder & Jenks (\$***); Purdy (\$***); Shur-Line (\$***); Tru Value Manufacturing (\$***) and Wooster (\$***)). *Response of the domestic interested parties*, att. 7.

⁴³ *Natural Bristle Paint Brushes from the People's Republic of China* (Final), p. 9. As noted earlier, the Commission made its affirmative determination on the basis of threat.

⁴⁴ *Natural Bristle Paint Brushes from the People's Republic of China* (Final), p. 13.

⁴⁵ *Response of the domestic interested parties*, pp. 21-22.

U.S. IMPORTS AND CONSUMPTION

U.S. Importers

During the original investigation, the Commission identified approximately 20 firms that imported natural bristle paint brushes from China.⁴⁶ U.S. producers reported in 1999 that there were “currently” 14 known U.S. importers of subject merchandise from China.⁴⁷ In their response to the Commission’s notice of institution in this review, the domestic interested parties identified 27 importers of the subject merchandise, including certain entities that import synthetic filament paint brushes from China but that, according to the parties, would likely also import natural bristle paint brushes from China if the order were revoked.⁴⁸

U.S. mass merchandisers directly imported paint brushes during the period examined in the original investigation and continue to do so today.⁴⁹ In addition, a growing number of U.S. producers had begun to import paint brushes both from China and from other sources during 1982-84, particularly lower quality brushes such as chip brushes.⁵⁰ However, no U.S. paint brush producers are shown on the importer list submitted by the domestic interested parties as currently importing subject merchandise.⁵¹ The domestic interested parties also state that there are no known related parties, as defined in Section 771(4)(B) of the Act, as amended, 19 U.S.C. § 1677(4)(B).⁵²

U.S. Imports

As shown in figure I-1 and table I-5, the quantity of U.S. imports of natural bristle paint brushes from China more than tripled during the original investigation but (as indicated in the source note to figure I-1) fell to negligible levels following the imposition of the antidumping order in February 1986.⁵³ There was an increase in imports from 1994 to 1995, which was reported by the domestic industry during the first five-year review to have coincided with the administrative review period in which Commerce determined that imports were being dumped and raised the country-wide rate from 127.07 percent *ad*

⁴⁶ *Staff Report of January 16, 1986*, p. A-11.

⁴⁷ *Staff Report of May 6, 1999*, p. I-9, citing *Response* of domestic producers (first review), att. 16.

⁴⁸ *Response* of the domestic interested parties, pp. 24-25. *See also* att. 6 of the *Response*.

⁴⁹ *Staff Report of January 16, 1986*, p. A-11. Retailers such as Home Depot, K-Mart, Lowes, Sears Roebuck, and Wal-Mart are listed as U.S. importers of the subject merchandise by the domestic interested parties. *Response* of the domestic interested parties, att. 6.

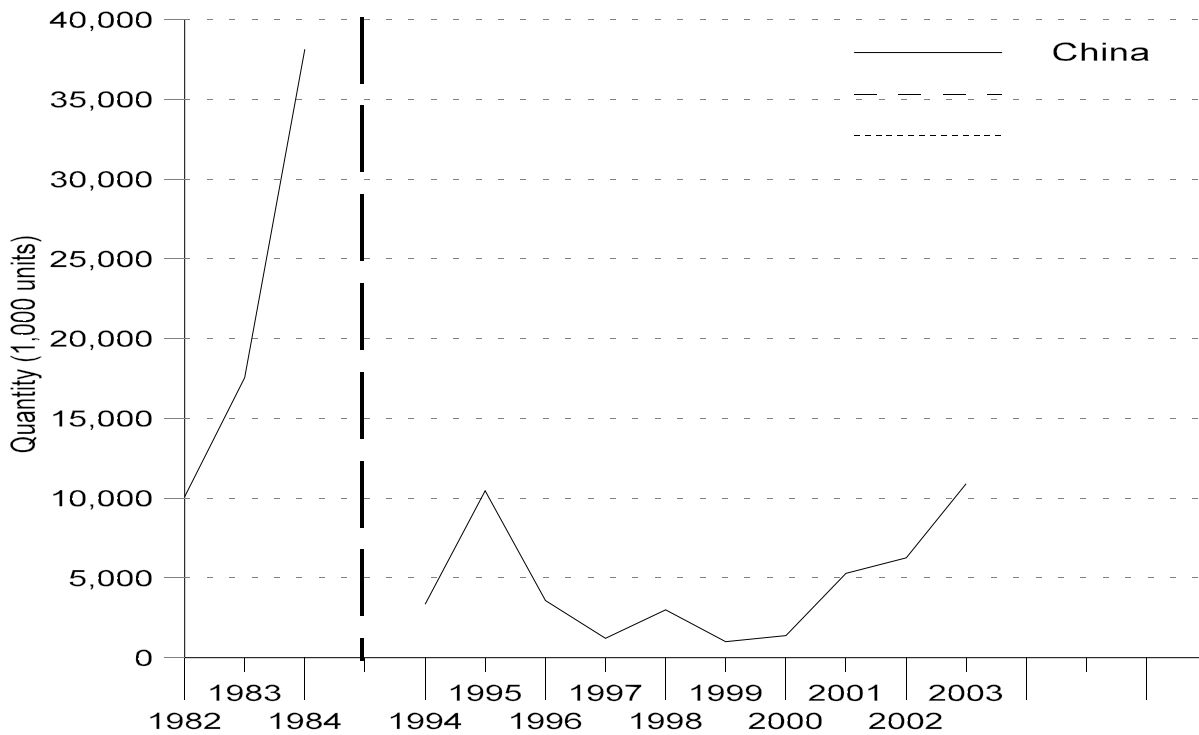
⁵⁰ *Staff Report of January 16, 1986*, pp. A-10 and A-11. *See* pp. A-11 (n. 1) and A-38 of the *Staff Report of January 16, 1986* for reasons given by domestic firms for importing subject paint brushes. With respect to the related parties provision, 19 U.S.C. § 1677(4)(B), the Commission did not during its original investigation exclude any domestic producer from the domestic industry. *Natural Bristle Paint Brushes from the People’s Republic of China* (Final), p. 8, n. 15.

⁵¹ *Response* of the domestic interested parties, att. 6.

⁵² *Response* of the domestic interested parties, p. 24.

⁵³ Limited data on the value of annual imports reviewed by Customs that are subject to the antidumping duty order are as follows for certain fiscal years (FY): \$315,745 for FY 1993; \$341,502 for FY 1994; \$820,246 for FY 1995; \$579,061 for FY 1996; \$39,840 for FY 1997; and \$259,588 for FY 1999. Data for FY 1998 are business proprietary and not available to the Commission .

Figure I-1
Natural bristle paint brushes: U.S. imports from China, by quantity, 1982-84 and 1994-2003



Source: *Staff Report of January 16, 1986*, p. A-44, for 1982-84 data (which were from official Commerce statistics). Natural bristle paintbrushes did not receive a separate HTS classification until 1994 but were instead classified with synthetic filament paintbrushes. Testimony at the public conference held during the preliminary (original) investigation, however, supported petitioner's contention that only natural bristle paintbrushes were being imported from China. *Id.*, p. A-45. Data on subject imports are not available for 1985-93; however, almost no subject merchandise was believed to be imported in the period immediately following the imposition of the antidumping duty order (i.e., 1986-88). *Staff Report of May 6, 1999*, p. I-9 (see figure I-1).

Table I-5**Natural bristle paint brushes: U.S. imports from all sources, 1982-84, 1998, and 2003**

Item	1982	1983	1984	1998	2003
	Quantity (1,000 units)				
China	10,098	17,557	38,153	3,005	10,896
Other sources ¹	1,614	2,452	3,068	55,716	62,661
Total	11,712	20,009	41,221	58,721	73,557
	Landed duty-paid value (1,000 dollars)				
China	2,277	3,958	6,537	579	1,641
Other sources ¹	683	1,547	908	11,084	9,419
Total	2,960	5,505	7,445	11,663	11,060
	Landed duty-paid unit value				
China	\$0.23	\$0.23	\$0.17	0.19	0.15
Other sources ¹	0.42	0.63	0.30	0.20	0.15
Total	0.25	0.28	0.18	0.20	0.15
<p>¹ Other sources during 1982-84 included Hungary as well as Taiwan, South Korea, Brazil, and Jamaica. The primary other sources in 1998 were Indonesia followed by Taiwan and, in 2003, the primary other source was Indonesia.</p> <p>Source: <i>Staff Report of January 16, 1986</i>, p. A-46, for 1982-84 data (which, for China and one other nonsubject source, are from official Commerce statistics) while imports from the remaining nonsubject sources are from questionnaire data) and official Commerce statistics for 1998 and 2003 data (HTS statistical reporting number 9603.40.4040).</p>					

valorem to 351.92 percent *ad valorem* (61 FR 52917, October 9, 1996).⁵⁴ Subject imports returned to relatively low levels in 1997 and then rose slightly in 1998 following Commerce's administrative review in March 1998 where one U.S. exporter (Hunan) was assigned a 0.01 percent dumping margin (63 FR 12449, March 13, 1998). Subject imports again declined in 1999 but then have consistently increased since 2000. Hunan's most recent antidumping margin was calculated at 0.00 percent (68 FR 31683, May 28, 2003). U.S. imports of Chinese-manufactured natural bristle paint brushes in 2003 amounted to less than one-third of the quantity imported in 1984 (table I-5). Subject imports accounted for 92.6 percent, in terms of quantity, of total natural bristle paint brush imports in 1984; their share of imports fell to 5.1 percent in 1999, and 14.8 percent in 2003. The unit value of subject merchandise in 2003 (\$0.15) was less than that reported in 1984 (\$0.17). Natural bristle imports from nonsubject sources in 2003 were also valued at \$0.15 per unit.

Most of the natural bristle brushes reported as being imported from China during the period examined in the original investigation were chip brushes. There was, however, evidence noted by the Commission in its original views of a trend towards importing greater quantities of higher quality

⁵⁴ *Staff Report of May 6, 1999*, p. I-7, citing *Response* of the domestic producers (first review), p. 20.

paint brushes.⁵⁵ The domestic industry states that, if the order were revoked, U.S. imports of Chinese-produced natural bristle paint brushes would be “concentrated” in the consumer market segment and would soon enter the professional quality segment of the U.S. market.⁵⁶ In support of their assertion, domestic interested parties cite the rise in U.S. imports of synthetic filament paint brushes from China, which they attribute to the “very low prices” of the brushes coupled with their “significant improvements in quality and appearance.” Chinese-manufactured synthetic paint brushes began to be imported for the consumer segment of the U.S. market in the late 1980s.⁵⁷ See the section of this report entitled “The Foreign Industry” for data on the quantity of U.S. imports of synthetic filament paint brushes from China.

There are no pricing data available for U.S. imports of subject merchandise since the antidumping duty order was imposed. The following tabulation lists landed duty-paid unit values for natural bristle paint brushes from China for 1994 to 2003:⁵⁸

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
\$0.19	\$0.16	\$0.26	\$0.27	\$0.19	\$0.27	\$0.28	\$0.17	\$0.12	\$0.15

Apparent U.S. Consumption and Market Shares

Apparent U.S. consumption of all paint brushes and of natural bristle paint brushes has risen since the time of the original investigation (tables I-6 and I-7), with the consumption of all paint brushes more than doubling from 1984 to 2003 and the natural bristle product increasing by a lesser 43.9 percent. Demand for all paint brushes is closely tied to trends in the overall economy. During economic downturns both industries and other consumers tend to curtail maintenance jobs such as those performed with paint brushes.⁵⁹ The paint applicator industry was reported by a market participant to be mature at the time of the original investigation so that imports do not expand the market but rather replace market share formerly held by domestic manufacturers.⁶⁰ The domestic industry indicated in its response to the Commission’s notice of institution for the current review that it projects stable demand within the overall paint brush market.⁶¹

U.S. consumption of natural bristle paint brushes has decreased, however, relative to synthetic filament paint brushes since the period of the original investigation. Natural bristle paint brushes accounted for 39.7 percent of the U.S. market in 1984 but only 27.7 percent in 2003 (*compare* table I-6 with table I-7).⁶² The U.S. industry indicates the shift is due to a move towards faster drying water-based

⁵⁵ *Natural Bristle Paint Brushes from the People’s Republic of China* (Final), p. 12.

⁵⁶ *Response* of the domestic interested parties, p. 9.

⁵⁷ *Response* of the domestic interested parties, pp. 11-12. See also att. 2.

⁵⁸ Official Commerce statistics (HTS statistical reporting number 9603.40.4040).

⁵⁹ *Staff Report of January 16, 1986*, p. A-13.

⁶⁰ *Staff Report of January 16, 1986*, p. A-38, citing response by ***.

⁶¹ *Response* of the domestic interested parties, p. 9.

⁶² The domestic industry indicated in its *Response* that the current U.S. market is approximately 24 percent natural bristle and approximately 76 percent synthetic filament and synthetic/natural blend. *Response* of the domestic interested parties, pp. 8-9.

Table I-6

All paint brushes: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, on the basis of quantity, 1982-84, 1998, and 2003¹

Item	1982	1983	1984	1998	2003
	Quantity (1,000 units)				
U.S. producers' U.S. shipments	96,610	101,078	99,624	105,151	74,021
U.S. imports:					
China (subject imports)	10,098	17,557	38,153	3,005	10,896
Other sources	20,943	25,975	29,471	178,045 ²	260,365 ²
Total	31,041	43,532	67,624	181,050	271,261
Apparent U.S. consumption	127,651	144,610	167,248	286,201	345,282
	Share of consumption (percent)				
U.S. producers' U.S. shipments	75.7	69.9	59.6	36.7	21.4
U.S. imports:					
China (subject imports)	7.9	12.1	22.8	1.0	3.2
Other sources	16.4	18.0	17.6	62.2	75.4
Total	24.3	30.1	40.4	63.3	78.6

¹ As described earlier (see note to table I-4), the figures for U.S. producers' U.S. shipments are believed to account for approximately 80 percent of the total U.S. paint brush industry during 1982-84 and 75 percent in 2003. Accordingly, the quantities of U.S. producers' shipments, apparent U.S. consumption, and U.S. producers' market share are understated.

² Includes 68.4 million units of synthetic paint brushes imported from China in 1998 and 164.2 million units imported in 2003.

Source: *Staff Report of January 16, 1986*, pp. A-14, A-44, and A-49, for 1982-84 data; *Staff Report of May 6, 1999*, p. I-10 (revised per *memorandum* INV-W-110), for 1998 data; and tables I-4 and I-5 of this staff report and official Commerce statistics (HTS statistical reporting numbers 9603.40.4040 and 9603.40.4060) for 2003 data.

Table I-7

Natural bristle paint brushes: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, on the basis of quantity, 1982-84, 1998, and 2003¹

Item	1982	1983	1984	1998	2003
	Quantity (1,000 units)				
U.S. producers' U.S. shipments	27,762	27,406	25,125	22,721	21,936
U.S. imports: China	10,098	17,557	38,153	3,005	10,896
Other sources	1,614	2,452	3,068	55,718	62,661
Total	11,712	20,009	41,221	58,723	73,557
Apparent U.S. consumption	39,474	47,415	66,346	81,444 ²	95,493
	Share of consumption (percent)				
U.S. producers' U.S. shipments	70.3	57.8	37.9	27.9	23.0
U.S. imports: China	25.6	37.0	57.5	3.7	11.4
Other sources	4.1	5.2	4.7	68.4	65.6
Total	29.7	42.2	62.1	72.1	77.0
<p>¹ As described earlier (see note to table I-4), the figures for U.S. producers' U.S. shipments are believed to account for approximately 60 percent of the total U.S. natural bristle paint brush industry during 1982-84 and 75 percent in 2003. Accordingly, the quantities of U.S. producers' shipments, apparent U.S. consumption, and U.S. producers' market share are understated.</p> <p>² U.S. producers estimated U.S. consumption of natural bristle paint brushes to be *** units in 1998. <i>Staff Report of May 6, 1999</i>, p. I-11, citing <i>Response of domestic producers (first review)</i>, p. 12, n. 5.</p> <p>Source: <i>Staff Report of January 16, 1986</i>, pp. A-14, A-46, and A-49, for 1982-84 data; <i>Staff Report of May 6, 1999</i>, p. I-11, for 1998 data; and tables I-4 and I-5 of this staff report for 2003 data.</p>					

paints and away from oil-based paints.⁶³ Changes in synthetic filament technology during the period since the original investigation have also improved the painting performance of the synthetic brushes.⁶⁴ According to the industry, however, there remains “a stable and significant market for natural bristle paint brushes.”⁶⁵

As shown in table I-6, U.S. producers' U.S. shipments of all paint brushes and their market shares fell from 1984 to 2003. Subject imports of natural bristle paint brushes from China and their market shares increased during the original investigation period and then both indicators fell from 1984

⁶³ *Response of the domestic interested parties*, pp. 8-9. *See also Staff Report of May 6, 1999*, p. I-10, citing *Response of domestic producers (first review)*, p. 33. Latex and water-soluble coatings are also considered to be less damaging to the environment. *See* “‘Brushing Up’ on Paint Applications” at www.painterpages.com, retrieved August 18, 2004.

⁶⁴ *Response of the domestic interested parties*, p. 8.

⁶⁵ *Response of the domestic interested parties*, p. 6. The industry expects the current shares of consumption for natural and synthetic bristle brushes to remain generally stable in the near future. *Id.*, p. 9.

to 2003.⁶⁶ The antidumping duty order for natural bristle paint brushes from China was, as discussed earlier, issued in February 1986. The market share of U.S. imports of nonsubject paint brushes (including synthetic filament paint brushes from China) was 75.4 percent in 2003 compared to 17.6 percent in 1984.

THE FOREIGN INDUSTRY

The Commission reported that the brush industry in China was “fairly large” in 1986 with at least one paint brush plant in nearly every one of China’s 25 provinces and with several plants in the four provinces that supplied bristle to the industry. By the time of the first five-year review, in 1999, about 48 plants produced natural bristle paint brushes in China.⁶⁷ In their response to the Commission’s notice of institution in this second review, the domestic interested parties stated that there are now at least 63 known producers in China.⁶⁸

At the time of the original investigation, brush plants were segmented to produce specific brush designs and styles. Also, some plants manufactured brushes for export to the United States and Canada while others manufactured for export to other markets. Commerce, after its verification trip during its original investigation, characterized the Chinese production process as labor-intensive and able to adapt to manufacturing an array of paint brushes in addition to producing such nonsubject products as wire brushes and personal grooming brushes. Commerce concluded that the capacity to produce natural bristle paint brushes in China could expand or contract, within limits, to meet changes in demand and that, once ordered by the Government, such re-allocations of productive resources could be effected with relative ease.^{69 70} The domestic industry states that, since the order was imposed, Chinese producers now use “sophisticated” brush-making equipment in their factories and can mass-produce good quality brushes for the consumer market.⁷¹ Further, according to the domestic industry, there remains “an extremely high potential” for product-shifting if the antidumping duty order is revoked.⁷² The following tabulation lists the quantity of U.S. imports of both Chinese-manufactured natural bristle and synthetic filament brushes (in 1,000 units):⁷³

Item	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Natural	3,347	10,466	3,577	1,225	3,005	1,000	1,390	5,286	6,264	10,896
Synthetic	26,699	35,940	39,427	57,147	68,398	81,402	87,404	105,724	136,836	164,210
Total	30,046	46,406	43,004	58,372	71,403	82,402	88,794	111,010	143,100	175,106

⁶⁶ Subject market shares have risen somewhat, however, from 1998 to 2003.

⁶⁷ *Staff Report of May 6, 1999*, p. I-12, citing *Response* of the domestic producers (first review), att. 17.

⁶⁸ *Response* of the domestic interested parties, p. 18. See att. 3 of the *Response* for the names and addresses of known Chinese manufacturers.

⁶⁹ *Staff Report of January 16, 1986*, pp. A-40 and A-41.

⁷⁰ The Commission stated in its original views that “{t}he PRC’s capacity to produce natural bristle paint brushes could expand, within limits, to meet changes in demand. We also note that all natural bristle used in domestically produced natural bristle brushes originates in the PRC, so that the PRC has the capability of switching from exporting bristles to exporting finished paint brushes.” *Natural Bristle Paint Brushes from the People’s Republic of China* (Final), p. 12.

⁷¹ *Response* of the domestic interested parties, pp. 11-12.

⁷² *Response* of the domestic interested parties, p. 19.

⁷³ Official Commerce statistics (HTS reporting numbers 9603.40.4040 and 9603.40.4060).

U.S. imports of synthetic filament brushes from China have consistently increased since a separate HTS reporting number was first established for such brushes in 1994. Synthetic filament brushes are sold with natural bristle paint brushes through similar channels of distribution.⁷⁴ The average landed-paid unit values of Chinese-manufactured synthetic filament brushes imported to the United States are shown below:⁷⁵

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
\$0.20	\$0.27	\$0.26	\$0.29	\$0.25	\$0.28	\$0.23	\$0.23	\$0.22	\$0.26

Records on production and capacity were not maintained by the brush industry in China in 1986 and are not currently available. The domestic industry states, however, that “Chinese producers still clearly have the capacity to easily supply the U.S. market.”⁷⁶ The domestic industry further maintains that the potential of the Chinese manufacturers to increase exports of paint brushes is demonstrated by the volume changes in such exports to Canada and the European Union. Canada revoked its antidumping order for natural bristle paint brushes from China in 1999.⁷⁷ ⁷⁸ Subsequently, exports of paint brushes (both natural and synthetic) from China to Canada rose from 5.6 million units in 1999 to 18.5 million units in 2003. Also, exports of Chinese-manufactured paint brushes to the European Union rose from 28.8 million units in 1999 to 45.2 million units in 2002.⁷⁹

⁷⁴ *Natural Bristle Paint Brushes From the People’s Republic of China* (Final), p. 7. See also company listings, retrieved August 19, 2004, that show both types of brushes for sale (for example, Elder & Jenks at www.abma.org/products/companyDetails.cfm, Maryland Brush at www.abma.org/products/companyDetails.cfm, Rubberset at www.rubberset.com/whats_new/whats_new.cfm, and Wooster at www.epaintstore.com/brushes/).

⁷⁵ Official Commerce statistics (HTS reporting number 9603.40.4060). See the section of this report entitled “U.S. Imports” for unit values of the subject merchandise.

⁷⁶ *Response* of the domestic interested parties, p. 18.

⁷⁷ *Response* of the domestic interested parties, p. 19.

⁷⁸ The Canadian International Trade Tribunal rescinded the order during its last review (Review No.:RR-98-002, January 1999) after concluding that there was a likelihood of resumed dumping, but that such dumping was not likely to cause material injury to the Canadian domestic industry. See www.citt-tcce.gc.ca/dumping/reviews/orders/rr98002_e.asp, retrieved August 19, 2004.

⁷⁹ *Response* of the domestic interested parties, p. 19. See also att. 4 of the *Response*.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2003 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each of the Subject Countries accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each of the Subject Countries; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each of the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2003 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each of the Subject Countries accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of

Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each of the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in each of the Subject Countries since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in each of the Subject Countries, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: April 23, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04-9992 Filed 4-30-04; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-244 (Second Review)]

Natural Bristle Paint Brushes from China

AGENCY: International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on natural bristle paint brushes from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on natural bristle paint brushes from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is June 22, 2004. Comments on the adequacy of responses may be filed with the Commission by July 16, 2004. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* May 3, 2004.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202) 205-3193, Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On February 14, 1986, the Department of Commerce issued an antidumping duty order on imports of natural bristle paint brushes from China (51 FR 5580). Following five-year reviews by Commerce and the

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 04-5-089, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Commission, effective June 10, 1999, Commerce issued a continuation of the antidumping duty order on imports of natural bristle paint brushes from China (64 FR 42911). The Commission is now conducting a second review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination and its expedited five-year review determination, the Commission defined the Domestic Like Product as all domestically produced paint brushes (including natural bristle and synthetic filament paint brushes).

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination and its expedited five-year review determination, the Commission defined the Domestic Like Product as all domestic producers of paint brushes.

(5) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21

days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission is seeking guidance as to whether a second transition five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at (202) 205-3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under title VII of the Act, or in internal audits and

investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is June 22, 2004. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is July 16, 2004. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response To This Notice of Institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name,

telephone number, fax number, and e-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 1998.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2003 (report quantity data in units and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company

transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2003 (report quantity data in units and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2003 (report quantity data in units and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country after 1998, and significant changes, if any, that are

likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: April 23, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04-9991 Filed 4-30-04; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-493]

Certain Zero-Mercury-Added Alkaline Batteries, Parts Thereof, and Products Containing Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation With Respect To One Respondent on the Basis of a Consent Order; Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") of the presiding administrative law judge ("ALJ") granting the joint motion of complainants Energizer Holdings, Inc. and Eveready Battery Co., Inc., and respondent Atico International USA,

SUPPLEMENTARY INFORMATION:**Background**

On April 1, 2004, the Department published the notice of initiation of the sunset review of the antidumping duty order on FCOJ from Brazil.¹ On April 16, 2004, the Department received a Notice of Intent to Participate from Florida Citrus Mutual; Citrus Belle; Citrus World, Inc.; Peace River Citrus Products, Inc.; and Southern Gardens Citrus Processors Corporation (collectively "domestic interested parties") within the deadline specified in section 315.218(d)(1)(i) of the Department's regulations. The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as U.S. producers of FCOJ. On May 3, 2004, the Department received complete substantive responses from the domestic interested parties within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. We did not receive responses from any respondent interested parties to this proceeding, except a participation waiver from Citrovita Agro Industrial, Ltda., a respondent interested party. See response of Citrovita Agro Industrial, Ltda., "FCOJ from Brazil Sunset Review: Clarification" (May 10, 2004). As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department determined to conduct an expedited review of this order.

Scope of the Order

The merchandise covered by this order is FCOJ from Brazil. The merchandise is currently classifiable under subheading 2009.11.00 of the Harmonized Tariff Schedule United States ("HTS"). The HTS subheading is provided for convenience and customs purposes. The written description remains dispositive.

Analysis of Comments Received

All issues raised in these reviews are addressed in the "Issues and Decision Memorandum" ("Decision Memo") from Ronald K. Lorentzen, Acting Director, Office of Policy, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated August 30, 2004, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely

to prevail if the order were to be revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B-099 of the main Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>, under the heading "September 2004." The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Reviews

We determine that revocation of the antidumping duty order on FCOJ from Brazil would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average percentage margins:

Manufacturers/exporters/producers	Weighted average margin (percent)
Citrovita	15.98
All Others	1.96

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E4-2082 Filed 9-3-04; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-501, A-588-846]

Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China and Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan; Extension of Final Results of Expedited Sunset Reviews

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

ACTION: Notice of extension of time limit for final results of expedited sunset reviews: natural bristle paint brushes and brush heads from the People's Republic of China and certain hot-rolled flat-rolled carbon-quality steel products from Japan.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for its final results in the

expedited sunset reviews of the antidumping duty orders on natural bristle paint brushes and brush heads from the People's Republic of China ("PRC") and certain hot-rolled flat-rolled carbon-quality steel products ("hot-rolled steel") from Japan. Based on adequate responses from the domestic interested parties and inadequate responses from respondent interested parties, the Department is conducting expedited sunset reviews to determine whether revocation of the antidumping duty orders would lead to the continuation or recurrence of dumping. As a result of this extension, the Department intends to issue final results of these sunset reviews on or about October 15, 2004.

EFFECTIVE DATE: September 7, 2004.

FOR FURTHER INFORMATION CONTACT: Hilary E. Sadler, Esq. (PRC) or Martha Douthit (Japan), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4340 or 482-5050.

Extension of Final Results

In accordance with section 751(c)(5)(C)(ii) of the Tariff Act of 1930, as amended ("the Act"), the Department may treat sunset reviews as extraordinarily complicated if the issues are complex in order to extend the period of time under section 751(c)(5)(B) of the Act for making a sunset determination. As discussed below, the Department has determined that these reviews are extraordinarily complicated. On May 3, 2004, the Department published its notice of initiation of sunset reviews of the antidumping duty orders on natural bristle paint brushes and brush heads from the PRC and hot-rolled steel from Japan. See *Initiation of Five-Year (Sunset) Reviews*, 69 FR 24118 (May 3, 2004). The Department determined that it would conduct expedited sunset reviews of these antidumping duty orders based on responses from the domestic interested parties and no responses from the respondent interested parties to the notice of initiation. The Department's final results of these reviews were scheduled for August 31, 2004; however, the Department needs additional time for its analysis to examine certain complex issues. Specifically in the natural bristle paint brushes and brush heads case, the Department is analyzing issues surrounding import volumes. Concerning hot-rolled steel, the Department needs additional time to analyze the issues raised by the parties.

¹ See *Initiation of Five-Year ("Sunset") Reviews*, 69 FR 17129 (April 1, 2004) ("Initiation Notice").

Therefore, Department needs additional time for its analysis in making its final determinations.

Because of the complex issues in these proceedings, the Department will extend the deadline for issuance of the final results. Thus, the Department intends to issue the final results on or about October 15, 2004, in accordance with sections 751(c)(5)(B) and (C)(ii) of the Act.

Dated: August 31, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E4-2083 Filed 9-3-04; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-485-805]

Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Romania: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Preliminary Determination Not To Revoke in Part

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by S.C. Silcotub S.A. (Silcotub), a producer/exporter of subject merchandise, and in response to a request by United States Steel Corporation (the petitioner), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain small diameter carbon and alloy seamless standard, line, and pressure pipe (seamless pipe) from Romania. The period of review (POR) is August 1, 2002, through July 31, 2003.

We preliminarily find that sales have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on the subject merchandise that was exported by Silcotub and entered during the POR. Because the preliminary margin for Silcotub in this review is above *de minimis*, we also preliminarily determine not to revoke the order in part with respect to that company. Finally, we are rescinding the review of

S.C. Petrotub S.A. (Petrotub) because the petitioner withdrew its request for a review of that company.

EFFECTIVE DATE: September 7, 2004.

FOR FURTHER INFORMATION CONTACT: David Layton at (202) 482-0371 or Erin Begnal at (202) 482-1442, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 2000, the Department published an antidumping duty order on certain small diameter carbon and alloy seamless standard, line, and pressure pipe from Romania. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Romania*, 65 FR 48963 (August 10, 2000). On August 1, 2003, the Department published a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 68 FR 45218. On August 29, 2003, in accordance with 19 CFR 351.213(b)(2), Silcotub requested a review. In addition, in accordance with 19 CFR 351.222(e), Silcotub requested that the Department revoke the order with regard to Silcotub, pursuant to 19 CFR 351.222(b)(2). On September 2, 2003, the petitioner requested reviews of Silcotub and Petrotub, producers/exporters of certain small diameter carbon and alloy seamless standard, line, and pressure pipe from Romania.

On September 30, 2003, the Department published a notice of initiation of administrative review of the antidumping duty order on certain small diameter carbon and alloy seamless standard, line, and pressure pipe from Romania, covering the period August 1, 2002, through July 31, 2003.

Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part and Deferral of Administrative Review, 68 FR 56262. On March 31, 2004, the Department published a notice of *Extension of the Time Limit for the Preliminary Results of Antidumping Duty Administrative Review* (69 FR 16893), extending the deadline for the issuance of the preliminary results by 90 days. On July 2, 2004, the Department published a second notice of *Extension of the Time Limit for the Preliminary*

Results of Antidumping Duty Administrative Review (69 FR 16893), extending the deadline for the issuance of the preliminary results until no later than August 30, 2004. We are conducting this review under Section 751(a) of the Tariff Act of 1930, as amended (the Act).

Romania's designation as a non-market-economy (NME) country remained in effect until January 1, 2003.¹ Since the first five months of the period of review (POR) fell before Romania's graduation to market-economy status and the last seven months of this POR came after its graduation, in its antidumping questionnaire to Silcotub, dated November 14, 2003, the Department determined that it would treat Romania as an NME country from August 1, 2002, through December 31, 2002, and a market-economy (ME) country from January 1, 2003, through July 31, 2003. The first part of this notice refers to the NME portion of the POR (NME POR) and the Department's NME methodology, and the second part of this notice refers to the ME portion of the POR (ME POR) and the Department's ME methodology. In the section of this notice entitled *Preliminary Results of the Review*, we have calculated a weighted-average dumping margin reflecting the margin we calculated for the NME POR and the dumping margin we calculated for the ME POR. This weighted-average figure reflects the margin of dumping for the entire POR.

Partial Rescission of Antidumping Duty Administrative Review

On November 12, 2003, the petitioner withdrew its request for a review of Petrotub. Because there was no other request for a review of Petrotub and because the letter withdrawing its request for a review was timely filed, we are rescinding the review with respect to Petrotub in accordance with 19 CFR 351.213(d)(1).

¹ In *Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Romania: Final Results of Antidumping Duty Administrative Review*, 68 FR 12672, 12673 (March 17, 2003), the Department reviewed the non-market-economy status of Romania and determined to reclassify Romania as a market economy for purposes of antidumping and countervailing duty proceedings, pursuant to section 771(18)(A) of the Act, effective January 1, 2003. *See Memorandum from Lawrence Norton, Import Policy Analyst, to Joseph Spetrini, Acting Assistant Secretary for Import Administration: Antidumping Duty Administrative Review of Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Romania—Non-Market Economy Status Review* (March 10, 2003).

Using New Mexico State Plane Grid bearings, and ground distances; Beginning at the quarter corner between secs. 23 and 24, T. 16 S., R. 5 W., thence N 70°40'44" E, a distance of 2615.17 feet to the point and place of beginning; thence N 03°38'12" E, a distance of 50.00 feet; thence N 35°36'12" E, a distance of 147.31 feet; thence S 00°28'36" W, a distance of 172.43 feet; thence N 88°12'02" W, a distance of 87.54 feet to the point of beginning.

The area described contains 0.22 acres, in Sierra County.

5. The lands described in Paragraphs 1, 2, 3, and 4 are hereby made available for conveyance in accordance with Public Law 107-335.

Dated: September 10, 2004.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 04-21360 Filed 9-22-04; 8:45 am]

BILLING CODE 4310-FB-P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Dam Adaptive Management Work Group (AMWG), Notice of Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Adaptive Management Program (AMP) was implemented as a result of the Record of Decision on the Operation of Glen Canyon Dam Final Environmental Impact Statement to comply with consultation requirements of the Grand Canyon Protection Act (Pub. L. 102-575) of 1992. The AMP includes a federal advisory committee (AMWG), a technical work group (TWG), a monitoring and research center, and independent review panels. The AMWG makes recommendations to the Secretary of the Interior concerning Glen Canyon Dam operations and other management actions to protect resources downstream of Glen Canyon Dam consistent with the Grand Canyon Protection Act. The TWG is a subcommittee of the AMWG and provides technical advice and recommendations to the AMWG.

Date and Location

The AMWG will conduct the following public meeting:

Phoenix, Arizona—October 25-26, 2004. The meeting will begin at 10 a.m. and conclude at 5 p.m. on October 25, 2004, and will begin at 8 a.m. and conclude at 3 p.m. on October 26, 2004. The meeting will be held at the Arizona Department of Water Resources, 500 N.

Third Street, Conference Rooms A&B, Phoenix, Arizona.

Agenda: The purpose of the meeting will be to discuss feedback on previous AMWG recommendations, effects of Modified Low Fluctuating Flows (MLFF) under the Record of Decision, status of the Colorado River Basin Fund, status of Programmatic Agreement membership, Glen Canyon Dam maintenance schedule, review of AMWG Operating Procedures, development of FY06-07 Budget and work plan, review of planning documents, environmental compliance progress on proposed actions, research and monitoring reports, basin hydrology, public outreach, as well as other administrative and resource issues pertaining to the AMP.

Time will be allowed for any individual or organization wishing to make formal oral comments (limited to 5 minutes) at the meeting. To allow full consideration of information by the AMWG members, written notice must be provided to Dennis Kubly, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah, 84138; telephone (801) 524-3715; faxogram (801) 524-3858; e-mail at dkubly@uc.usbr.gov at least five (5) days prior to the meeting. Any written comments received will be provided to the AMWG and TWG members.

FOR FURTHER INFORMATION CONTACT: Dennis Kubly, telephone (801) 524-3715; faxogram (801) 524-3858; or via e-mail at dkubly@uc.usbr.gov.

Dated: September 13, 2004.

Randall V. Peterson,

Manager, Environmental Resources Division, Upper Colorado Regional Office.

[FR Doc. 04-21376 Filed 9-22-04; 8:45 am]

BILLING CODE 4310-MN-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-244 (Second Review)]

Natural Bristle Paintbrushes From China

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject review.

EFFECTIVE DATE: September 17, 2004.

FOR FURTHER INFORMATION CONTACT: Debra Baker ((202) 205-3180 or Debra.Baker@usitc.gov), Office of Investigations, U.S. International Trade Commission, 500 E Street SW.,

Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION: On August 6, 2004, the Commission established a schedule for the conduct of the subject expedited five-year review (69 FR 51474, August 19, 2004). Subsequently, on September 7, 2004, the Department of Commerce (Commerce) determined that its review is extraordinarily complicated and extended the time limit for its final results in the expedited five-year review from August 31, 2004, to not later than October 15, 2004 (69 FR 54118). The Commission, therefore, has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B)¹ and is revising its schedule to reflect Commerce's extension of the time limit for the final results of its expedited sunset review.

As provided for in the Commission's original scheduling notice (69 FR 51474, August 19, 2004), final party comments concerning Commerce's final results of its expedited sunset review are due three business days after the issuance of Commerce's results.

For further information concerning this expedited review see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: September 20, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04-21392 Filed 9-22-04; 8:45 am]

BILLING CODE 7020-02-P

¹ As a transition order five-year review, the Commission determines that the subject review is extraordinarily complicated pursuant to section 751(c)(5)(C) of the Tariff Act of 1930.

to each party listed on the Department's most current service list for this proceeding to inform them of the automatic initiation of a sunset review of this finding. We received no response from the domestic industry by the deadline date. See 19 CFR 351.218(d)(1)(i). As a result, the Department determined that no domestic party intends to participate in the sunset review. On August 23, 2004, the Department notified the International Trade Commission ("ITC") in writing that we intended to issue a final determination revoking this antidumping duty finding. See 19 CFR 351.218(d)(1)(iii)(B).

Scope

This Treasury Finding covers melamine in crystal form, which is a fine white crystalline powder used to manufacture melamine formaldehyde resins, and is currently classifiable under item 2933.61.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description remains dispositive.

Determination To Revoke

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.218(d)(1)(iii)(B)(3), if no domestic interested party responds to the notice of initiation, the Department shall issue a final determination, within 90 days after the initiation of the review, revoking the finding. Because no domestic interested party filed a notice of intent to participate or a substantive response, the Department finds that no domestic interested party is participating in this review. Therefore, we are revoking this antidumping duty finding effective September 1, 2004, the fifth anniversary of the date of the determination to continue the finding, consistent with 19 CFR 351.222(i)(2)(i) and section 751(c)(6)(A)(iii) of the Act.

Effective Date of Revocation

Pursuant to sections 751(c)(3)(A) and 751(c)(6)(A)(iii) of the Act, and 19 CFR 351.222(i)(2)(i), the Department will instruct U.S. Customs and Border Protection to terminate the suspension of liquidation of the merchandise subject to this finding entered, or withdrawn from warehouse, on or after September 1, 2004. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of this finding and will conduct administrative

reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

This five-year ("sunset") review and notice are in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: October 15, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

[FR Doc. E4-2791 Filed 10-20-04; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-501]

Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Final Results of the Expedited Sunset Review of the Antidumping Duty Order

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

ACTION: Notice of final results of expedited sunset review of the antidumping duty order on natural bristle paint brushes and brush heads from the People's Republic of China.

SUMMARY: On May 3, 2004, the Department of Commerce ("the Department") initiated a sunset review of the antidumping duty order on natural bristle paint brushes and brush heads ("natural paint brushes") from the People's Republic of China ("PRC") pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of domestic interested parties and inadequate response from respondent interested parties, the Department conducted an expedited (120-day) sunset review. As a result of this sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: October 21, 2004.

FOR FURTHER INFORMATION CONTACT: Hilary E. Sadler, Esq., Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4340.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 2004, the Department published the notice of initiation of the second sunset review of the antidumping duty order on natural paint brushes from the PRC pursuant to section 751(c) of the Act. See *Initiation of Five-Year ("Sunset") Reviews*, 69 FR 24118 (May 3, 2004). The Department received the Notice of Intent to Participate from the domestic interested parties, the Paint Applicator Division of the American Brush Manufacturers Association and its participating member companies: Shur-Line, Bestt Liebco, Wooster Brush Company, Purdy Corporation, True Value Manufacturing, and Elder & Jenks, Inc. (collectively "the domestic interested parties"), within the deadline specified in section 351.218(d)(1)(i) of the Department's Regulations ("Sunset Regulations"). The domestic interested parties claimed interested party status under sections 771(9)(C) and (E) of the Act, as domestic manufacturers of paint brushes and a trade association whose majority of members manufacture, produce, or wholesale a domestic-like product in the United States. We received complete substantive responses only from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no responses from the respondent interested parties. As a result, pursuant to section 751(c)(5)(A) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of this order.

Scope of the Order

The products covered by the order are natural bristle paintbrushes and brush heads from the PRC. Excluded from the order are paintbrushes and brush heads with a blend of 40 percent natural bristles and 60 percent 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.

Analysis of Comments Received

All issues raised in these reviews are addressed in the "Issues and Decision Memorandum" ("Decision Memo") from Ronald K. Lorentzen, Acting Director, Office of Policy, Import Administration, to Jeffrey A. May, Acting Assistant Secretary for Import Administration, dated October 15, 2004, which is hereby adopted by this notice.

The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were to be revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B-099 of the main Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>, under the heading "October 2004." The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Reviews

We determine that revocation of the antidumping duty order on natural paint brushes from the PRC would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted average margin (percent)
Hebei Animal By-Products Import/Export Corp.	351.92
Hunan Provincial Native Produce and Animal By-Products Import/Export Corp.	351.92
Peace Target, Inc.	351.92
PRC-wide	351.92

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 15, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

[FR Doc. E4-2788 Filed 10-20-04; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-046]

Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Polychloroprene Rubber From Japan

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

ACTION: Notice of preliminary results of antidumping duty changed circumstances review.

SUMMARY: On March 1, 2004, the Department of Commerce (the Department) published a notice of initiation of changed circumstances review of the antidumping duty finding on polychloroprene rubber (PR) from Japan to determine whether Showa Denko K.K. (SDK) is the successor-in-interest company to the joint venture of Showa DDE Manufacturing K.K. (SDEM) and DDE Japan Kabushiki Kaisha (DDE Japan) (collectively, SDEM/DDE Japan joint venture). See *Notice of Initiation of Antidumping Duty Changed Circumstances Review: Polychloroprene Rubber from Japan*, 69 FR 9586 (March 1, 2004) (*Notice of Initiation*). We have preliminarily determined that SDK is not the successor-in-interest to the SDEM/DDE Japan joint venture, for purposes of determining antidumping liability in this proceeding. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 21, 2004.

FOR FURTHER INFORMATION CONTACT: Zev Primor, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4114.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 1973, the Department of Treasury published in the **Federal Register** (38 FR 33593) the antidumping finding on PR from Japan. On January 14, 2004, SDK submitted a letter stating that it is the successor-in-interest to the SDEM/DDE Japan joint venture and, as such, entitled to receive the same antidumping duty treatment previously accorded to the joint venture (*i.e.*, zero cash deposit). See *Notice of Final Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber from Japan*, 67 FR 58 (January 2, 2002), (*Changed Circumstances*). In that same letter, SDK explained that on November 1, 2002, the SDEM/DDE Japan joint venture was dissolved. Prior to the joint venture's dissolution, SDK and DuPont Dow Elastomers L.L.C. (DuPont) each owned 50 percent of the joint venture. SDK, therefore, requested that the Department conduct an expedited changed circumstances review of the antidumping duty finding on PR from Japan pursuant to section 751(b)(1) of the Tariff Act (the Act), as amended, and 19 CFR 351.221(c)(3)(ii). However, because the submitted record supporting SDK's claims was deficient, the Department found that an expedited review was impracticable and, on March

1, 2004, issued a *Notice of Initiation* without the preliminary results.

In response to the Department's supplemental questionnaire, on March 10 and 19, 2004, SDK provided the Department with supplemental questionnaire responses. Additionally, on February 4 and May 3, 2004, DuPont, a U.S. producer of PR and the petitioner in this proceeding, notified the Department that it opposes SDK's request to be considered the successor-in-interest to the SDEM/DDE Japan joint venture. In particular, DuPont argued that differences between the corporate structures, distribution channels, price structure, and customer base preclude SDK from being considered the successor-in-interest to the SDEM/DDE Japan joint venture.

From August 25 through August 27, 2004, the Department conducted a verification of information in connection with this changed circumstances review at SDK's offices in Kawasaki, Japan. On September 20, 2004, the Department issued its Verification Report. See Memorandum from Zev Primor to the File "Antidumping Duty Changed Circumstances Review of Polychloroprene Rubber (PR) from Japan: Verification Report for Showa Denko K.K. (SDK) Regarding Successorship," September 20, 2004, (Verification Report).

Scope of Review

Imports covered by this review are shipments of PR, an oil resistant synthetic rubber also known as polymerized chlorobutadiene or neoprene, currently classifiable under items 4002.42.00, 4002.49.00, 4003.00.00, 4462.15.21, and 4462.00.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). HTSUS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Preliminary Results of Changed Circumstances Review

In submissions to the Department dated January 14, 2004, and March 10 and March 19, 2004, SDK advised the Department that on November 1, 2002, the SDEM/DDE Japan joint venture was dissolved. SDEM was the manufacturing arm of the joint venture, while DDE Japan was its marketing and selling arm. When the joint venture was dissolved, DuPont sold its interest in SDEM to SDK. SDK, in turn, sold its interest in DDE Japan to DuPont. As a result of those interest transfers, SDK became the sole owner of SDEM and DuPont became the sole owner of DDE Japan. On the same date, November 1, 2002,

APPENDIX B
STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Natural Bristle Paintbrushes from China, Inv. No. 731-TA-244 (Review)

On August 6, 2004, the Commission unanimously determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission received responses from the Paint Applicator Division of the American Brush Manufacturers Association (“Paint Applicator Division”), a trade association a majority of whose members manufacture, produce, or wholesale paintbrushes in the United States, and from the following six domestic producers: Bestt Liebco Corporation, Elder & Jenks, Inc., Purdy Corporation, Shur-Line, True Value Manufacturing, and Wooster Brush Company. The Commission determined that the responses were individually adequate. The Commission also determined that the responses were an adequate domestic interested party group response because both the Paint Applicator Division and the six producers collectively account for a significant share of domestic production of the like product.

The Commission did not receive a response from any respondent interested party. Consequently, the Commission determined that the respondent interested party group response was inadequate. The Commission did not find any circumstances that would warrant conducting a full review. The Commission therefore determined to conduct an expedited review. A record of the Commissioners’ votes is available from the Office of the Secretary and the Commission’s web site (<http://www.usitc.gov>).