

UNITED STATES INTERNATIONAL TRADE COMMISSION

NATURAL BRISTLE PAINT BRUSHES FROM CHINA

Investigation No.731-TA-244 (Review)

DETERMINATION AND VIEWS OF THE COMMISSION

(USITC Publication No. 3199, June 1999)

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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 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 January 4, 1999 (64 F.R. 374) and determined on April 8, 1999, that it would conduct an expedited review (64 F.R. 19197, April 19, 1999).

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 duty order covering 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.

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.¹ On February 14, 1986, Commerce issued an antidumping duty order on imports of natural bristle paint brushes.² The Commission instituted this five-year review on January 4, 1999.³

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, as follows. First, the Commission determines whether individual responses to the notice of institution are adequate. Second, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties -- domestic interested parties (producers, unions, trade associations, or worker groups) and respondent interested parties (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.⁴ If the Commission finds the responses from either group of interested parties to be inadequate, the Commission may determine, pursuant to section 751(c)(3)(B) of the Act, to conduct an expedited review unless it finds that other circumstances warrant a full review.

In this review, the Paint Applicator Division (“Division”) of the American Brush Manufacturers Association, a trade association in which a majority of the members produce paint brushes (“domestic producers”), filed a response to the notice of institution.⁵ No foreign producer, U.S. importer, or other interested party filed a response to the notice of institution.

On April 8, 1999, the Commission determined that the domestic interested party group response to the Commission’s notice of institution was adequate.⁶ The Commission further determined that the respondent interested party group response was inadequate because no foreign producers or U.S. importers of subject merchandise responded to the Commission’s notice of institution. Pursuant to section 751(c)(3)(B) of the Act, the Commission voted to conduct an expedited review.⁷

¹ Natural Bristle Paint Brushes From the People’s Republic of China, 51 Fed. Reg. 4662 (Feb. 6, 1986).

² Natural Bristle Paint Brushes and Brush Heads From the People’s Republic of China (PRC), 51 Fed. Reg. 5580 (Feb. 14, 1986).

³ Natural Bristle Paint Brushes From China, Inv. No. 731-TA-244 (Review), 64 Fed. Reg. 374 (Jan. 4, 1999).

⁴ See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

⁵ The response provided company-specific and aggregate data for EZ Paint Corp., Wooster Brush Co., Linzer Products Corp., Tru*Serv Manufacturing, Purdy Corp., and Bestt Liebco, who represented 74.3 percent of apparent domestic production in 1998. See Paint Applicator Division, Response to the Notice of Institution, Att. 11 (“Domestic Producers’ Response”).

⁶ See Explanation of Commission Determination on Adequacy in Natural Bristle Paint Brushes from China, CR & PR, App. B. See also 64 Fed. Reg. 19197 (Apr. 19, 1999).

⁷ 19 U.S.C. § 1675(c)(3)(B).

On May 11, 1999, the Division filed comments pursuant to 19 C.F.R. § 207.62(d), arguing 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 within a reasonably foreseeable time.⁸

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.”⁹ The Act defines “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.”¹⁰ In its final five-year review determination, Commerce defined the subject merchandise as “natural bristle paint brushes and brush heads from the People’s Republic of China.”¹¹ Commerce specified that “[n]atural bristle ‘bristle packs,’ which are groups of natural bristles held together at the base with glue that closely resemble a traditional paintbrush head,” are within the scope of the order.¹² Commerce also indicated that “paintbrushes with a blend of 60 percent synthetic and 40 percent of natural fibers” are excluded from the scope of the order.¹³ The subject merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item number 9603.40.40.40.¹⁴

In its original determination, the Commission defined the domestic like product as all paint brushes, both natural bristle and synthetic filament brushes.¹⁵ None of the additional information developed in this review warrants a departure from that definition. Accordingly, based on the facts available, we define the domestic like product as all paint brushes, whether composed of natural bristles, synthetic filaments, or a blend of the two.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the “domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.”¹⁶ In this review, we find that the domestic industry includes all domestic producers of paint brushes.¹⁷

⁸ Letter from Paint Applicator Division to Commission (May 11, 1999) at 2 (“Domestic Producers’ Comments”).

⁹ 19 U.S.C. § 1677(4)(A).

¹⁰ 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. 96-249 at 90-91 (1979).

¹¹ Natural Bristle Paintbrushes and Brush Heads From the People’s Republic of China, 64 Fed. Reg. 25011 (May 10, 1999).

¹² Id.

¹³ Id.

¹⁴ Id.

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”).

¹⁶ 19 U.S.C. § 1677(4)(A).

¹⁷ In the original determination, the Commission noted that Linzer Products, American Brush, and Edy Brush imported brushes from China. Original Determination at 8, n. 15. Edy and American Brush no longer

(continued...)

III. REVOCATION OF THE ORDER ON NATURAL BRISTLE PAINT BRUSHES IS LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Legal Standard

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 an order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”¹⁸ The Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“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 [of the order] . . . and the elimination of its restraining effects on volumes and prices of imports.”¹⁹ Thus, the likelihood standard is prospective in nature.²⁰ The statute states that “the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time.”²¹ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ time frame applicable in a threat of injury analysis [in antidumping and countervailing duty investigations].”^{22 23}

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same elements. The statute

¹⁷ (...continued)

manufacture paint brushes in the United States, and Linzer, which is a domestic producer, does not appear on the list of importers of subject merchandise provided by the domestic producers. Compare Domestic Producers’ Response, Atts. 15 & 16.

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).” 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 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 19 U.S.C. § 1675a(a)(5).

²² 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.

²³ In analyzing what constitutes a reasonably foreseeable time, Commissioners Crawford and Koplan examine all the current and likely conditions of competition in the relevant industry. They define “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation. In making this assessment, they consider 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, their 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.

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.” It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order under review, and whether the industry is vulnerable to material injury if the order is revoked.^{24 25}

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 with section 776.”^{26 27} As noted above, no respondent interested parties responded to the Commission’s notice of institution. Accordingly, we have relied on the facts available in this review, which consist primarily of the record in the original investigation, limited information collected by Commission staff since the institution of this review, and information submitted by the Division.

For the reasons stated below, we determine that revocation of the antidumping duty order on natural bristle paint brushes would be likely to lead to continuation or recurrence of material injury to the domestic paint brush industry within a reasonably foreseeable time.²⁸

²⁴ 19 U.S.C. § 1675a(a)(1). 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.

²⁵ Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. § 1675a(a)(1)(D). To date, Commerce has not issued any duty absorption findings in this case. Natural Bristle Paintbrushes and Brush Heads From the People’s Republic of China, 64 Fed. Reg. at 25013.

²⁶ 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). The statute permits the Commission to use adverse inferences in selecting from among the facts otherwise available when an interested party has failed to cooperate by acting to the best of its ability to comply with a request for information. 19 U.S.C. § 1677e(b). Such adverse inferences may include selecting from information from the record of our original determination and any other information placed on the record. Id.

²⁷ Chairman Bragg and Commissioners Koplman and Askey note that the statute authorizes the Commission to take adverse inferences in five-year reviews, but emphasize 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.

²⁸ Vice Chairman Miller and Commissioner Hillman emphasize that they have reached this conclusion in the absence of contrary evidence or argument from respondent interested parties.

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry if the order is revoked, the statute directs the Commission to evaluate all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”²⁹ In performing our analysis under the statute, we have taken into account the following conditions of competition in the U.S. market for paint brushes.

Apparent U.S. consumption of paint brushes increased from 167 million brushes to 286 million brushes from 1984 to 1998, while subject imports fell from 38 million to 3 million brushes and nonsubject imports increased from 30 million brushes to 178 million brushes.³⁰ The decline in subject imports occurred almost immediately upon issuance of the antidumping duty order in 1986.³¹ The market share for subject imports fell to less than 1.0 percent.³² Domestic producers maintained their volume of shipments, with domestic shipments growing from roughly 100 million brushes in 1984 to 105 million brushes in 1998,³³ but their market share fell from 59.6 percent to 36.7 percent as nonsubject imports captured the bulk of the increased consumption. During this period, domestic industry consolidation reduced the number of domestic producers from nearly 30 in 1984 to 12 in 1998.³⁴

Both domestic and imported natural bristle brushes are used primarily to apply oil-based paints and other coatings.³⁵ Apparent domestic consumption of natural bristle brushes increased by 24 percent from 1984 to 1998,³⁶ while synthetic filament brush consumption increased at an even greater rate, apparently because of increased usage of water-based paints and other coatings for which they are well-suited.³⁷ As a result, natural bristle brushes’ share of total paint brush consumption fell from 39 percent to 28 percent between 1984 and 1998.³⁸ However, the absolute growth in natural bristle brush consumption indicates that even though synthetic filament brushes can be used in many of the same applications as natural bristle brushes,³⁹ there remains a sizable group of purchasers who prefer natural bristle brushes. Nothing in the record suggests that this situation will change. Therefore, the volume of natural bristle paint brushes sold in the United States is likely to be significant in the foreseeable future.⁴⁰

Both natural bristle and synthetic filament brushes are divided into three quality levels: (1) economy, (2) consumer, and (3) professional.⁴¹ The consumer segment is the largest, representing approximately 60 percent of total U.S. paint brush sales.⁴²

²⁹ 19 U.S.C. § 1675a(a)(4).

³⁰ CR & PR, Table I-3. These changes represent an increase of 71 percent in apparent domestic consumption, a decrease of 92 percent in the volume of subject imports, and an increase of 495 percent in the volume of nonsubject imports.

³¹ Domestic Producers’ Response, Att. 4.

³² Compare Domestic Producers’ Response, Att. 4 with CR & PR, Table I-3.

³³ CR & PR, Table I-3.

³⁴ CR at I-6, PR at I-5.

³⁵ CR at I-6, PR at I-5.

³⁶ CR & PR, Table I-4.

³⁷ CR & PR, Tables I-3 & I-4; Domestic Producers’ Response at 10.

³⁸ CR & PR, Tables I-3 and I-4.

³⁹ Original Determination at 6.

⁴⁰ See also Domestic Producers’ Response at 10.

⁴¹ Domestic Producers’ Response at 9.

⁴² Id.

Price is an important factor in competition between brushes within each segment. 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 brushes.⁴³ Price continues to play a major role in paint brush sales, especially in the consumer segment where paint brushes are essentially sold as non-branded commodity products.⁴⁴ The significance of price in purchasing decisions has increased since the imposition of the antidumping duty order due to the increasing prevalence of price-sensitive discount retailers and mass merchandisers, who account for a majority of domestic sales.⁴⁵ In addition, the increase over time of the unit values of synthetic filament brushes imported from China and Chinese producers' use of synthetic filaments made by U.S. companies suggest that the Chinese producers have improved the quality of their synthetic filament paint brushes since the 1980s.⁴⁶ The expertise developed in this process is likely to improve the quality of natural bristle brushes from China, which are produced in much the same way as synthetic filament brushes.⁴⁷ The narrowing of the quality gap between U.S. and Chinese brushes is likely to make price even more important in purchasing decisions.

Finally, synthetic and natural bristle paint brushes are generally made on the same equipment with the same manufacturing processes.⁴⁸ The sole difference lies in the preparatory steps – natural fibers may be boiled prior to assembly of the brush, while synthetic filaments may be flagged or tipped to improve paint holding ability.⁴⁹ Therefore, producers can shift production rapidly between production of synthetic and natural brushes.⁵⁰

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the order under review 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.⁵¹ 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.⁵²

The record from the original investigation indicates that the Chinese natural bristle paint brush industry had the ability and incentive to establish a significant presence in the U.S. market in a short period of time. The volume of Chinese imports nearly quadrupled from 1982 to 1984, and their market penetration

⁴³ Original Determination, Report at A-42.

⁴⁴ Domestic Producers' Response at 27.

⁴⁵ Domestic Producers' Response at 15.

⁴⁶ See Domestic Producers' Response at 13 and Att. 4.

⁴⁷ See Domestic Producers' Response at 13-14.

⁴⁸ Original Determination at 6-7. Petitioners report that this observation remains true today. Domestic Producers' Response at 24.

⁴⁹ Original Determination at 7, n.10.

⁵⁰ Domestic Producers' Response at 23-24.

⁵¹ 19 U.S.C. § 1675a(a)(2).

⁵² 19 U.S.C. § 1675a(a)(2)(A)-(D).

increased from 7.9 percent of apparent U.S. consumption in 1982 to 22.5 percent in 1984.⁵³ The Chinese producers began by penetrating the economy segment,⁵⁴ and moved into higher quality brushes for the consumer market toward the end of the period.⁵⁵ From 1982 to 1984, imports from China accounted for between 86 and 92 percent of the total volume of U.S. imports of natural bristle paint brushes.⁵⁶ The Chinese producers did not maintain production and capacity data at that time, but did report that sales to the United States accounted for 25 percent of their total exports.⁵⁷

The volume of natural bristle paint brushes imported from China declined sharply after the order was imposed, and fluctuated at much lower levels thereafter.⁵⁸ In the late 1980s, Chinese producers began to export synthetic filament brushes to the United States. Since that time, they have improved the quality of their synthetic filament brushes by purchasing better production equipment and adopting production techniques recommended by U.S. producers of synthetic filament.⁵⁹ Chinese producers used this expertise to make substantial inroads into the consumer segment of the market for synthetic filament brushes.⁶⁰

Several factors support the conclusion that subject (natural bristle brushes) import volume is likely to be significant if the order is revoked. First, the current conditions of competition are similar to those in existence prior to issuance of the order.⁶¹ We find it likely in these circumstances that the exporters who have ceased or reduced shipping natural bristle paint brushes to the United States would upon revocation of the order reenter the U.S. market and that the import volume would rise significantly if the discipline of the order were removed.⁶² In this regard, we note that Commerce's determination of a zero cash deposit rate for Hunan Provincial Native Produce & Animal By-Products I/E Corp. ("Hunan") in 1998 occasioned a marketing campaign by U.S. importers to increase natural fiber brush sales to U.S. customers.⁶³ Although this effort did not begin until May 1998, the volume of natural bristle paint brush imports from China for the full year increased by 146 percent (albeit from a low initial level).⁶⁴ This evidence indicates that there is a direct correlation between the volume of subject imports and the elimination of dumping duty deposits. It is therefore reasonable to infer that revocation of the order would be likely to lead to an increase in the volume of subject imports.

Second, there is a potential for product shifting. As Chinese producers began to produce synthetic filament brushes that met U.S. quality standards in the late 1980s and early 1990s, they rapidly increased

⁵³ CR & PR, Table I-3.

⁵⁴ At that time, the domestic producers called the lower end of the market the "utility brush" or "chip brush" market. Original Determination, Report at A-2. They now refer to it as the economy segment. Domestic Producers' Response at 9.

⁵⁵ Original Determination at 12.

⁵⁶ CR & PR, Table I-4.

⁵⁷ CR at I-11 - I-12, PR at I-8.

⁵⁸ Domestic Producers' Response, Att. 4. Separate data on natural bristle paint brushes are not available for the 1986-94 period. However, from 1986 to 1990, imports of all paint brushes were less than 3.5 million units, as opposed to 38 million units of natural bristle brushes at the peak of import volume in 1984. Id.

⁵⁹ Domestic Producers' Response at 13.

⁶⁰ Id.

⁶¹ Chairman Bragg notes in this regard that the SAA states that "[i]f the Commission finds that pre-order conditions are likely to recur, it is reasonable to conclude that there is likelihood of continuation or recurrence of injury." SAA at 884.

⁶² See SAA at 890.

⁶³ See Domestic Producers' Response, Att. 8.

⁶⁴ Id., Att. 4.

their shipments of synthetic filament brushes to the U.S. market.⁶⁵ We find that Chinese producers would have little trouble translating this expertise into the production of natural bristle brushes for export to customers in the economy and consumer segments of the U.S. market. Moreover, Chinese producers may have an incentive for switching their production to natural bristle paint brushes because the record suggests that natural bristle brushes command higher prices than synthetic filament brushes. For example, on average, U.S. producers' natural bristle brush prices in 1998 were 26 percent higher than their synthetic filament brush prices.⁶⁶ Because the manufacturing processes for the two types of brushes are nearly identical, the higher price for natural bristle brushes is likely to attract more production of natural bristle brushes upon revocation of the order, especially in light of Chinese producers' ready access to a large supply of natural bristles.⁶⁷

Third, although Chinese producers did not maintain capacity or production statistics during the original investigation period, the information available on the record in this review indicates that they have substantial paint brush production capacity. At the time of the original investigation, Chinese paint brush manufacturing was highly labor intensive, with few production machines. Each factory made many different types of brushes and individual workers might shift between vastly different types of brushes.⁶⁸ Chinese producers now employ several types of equipment that have mechanized important segments of the production process.⁶⁹ The investment in capital equipment and the increased level of specialization that it would allow are likely to have increased output substantially. There are also more paint brush producers, at least 48 independent producers as of 1998, compared with a smaller number in 1984.⁷⁰ While we do not have specific data on capacity levels, the record shows that seven of these companies have a collective capacity of 130 million brushes,⁷¹ which suggests that the total capacity for all producers may be substantially greater. In that case, the Chinese producers could easily supply the entire current U.S. market.⁷²

Finally, in the original investigation period, the volume of subject imports grew steadily from 10 million brushes in 1982 to 18 million brushes in 1983 to 38 million brushes in 1984.⁷³ During the period covered by the original investigation, Chinese paint brushes were subject to antidumping duty orders issued by Australia, Canada, and the European Community. At a later date, New Zealand also imposed an antidumping duty order, which remains in effect.⁷⁴ China exported 101 million brushes to the European Union in 1996, and increased its exports to Canada by 544 percent from 1989 to 1997.⁷⁵ As noted, U.S. importers of Chinese merchandise actively courted sales when one Chinese producer had its antidumping

⁶⁵ See Domestic Producers' Response, Att. 4.

⁶⁶ Domestic Producers' Response, Att. 11. U.S. shipments of natural bristle brushes in 1998 had an average unit value of \$2.54, while synthetic filament paint brushes had an average unit value of \$2.01.

⁶⁷ See Original Determination, Report at A-3. At the time of the original investigation, China was the world's sole supplier of hog bristles, which are the major input for natural bristle brushes.

⁶⁸ Original Determination, Report at A-27 - A-28.

⁶⁹ See, e.g., Domestic Producers' Response at 13 and Att. 5.

⁷⁰ Domestic Producers' Response, Att. 17; Original Determination, Report at A-27; Domestic Producers' Comments at 10.

⁷¹ Domestic Producers' Response at 22.

⁷² See CR & PR, Table I-4.

⁷³ CR & PR, Table I-2.

⁷⁴ CR at I-12, PR at I-8.

⁷⁵ Domestic Producers' Response, Atts. 9 and 10.

duty deposit rate reduced to zero.⁷⁶ The foregoing record evidence indicates that the Chinese paint brush industry continues to be oriented toward exports.⁷⁷

Thus, based on the record in this review, we find that significant volumes of natural bristle paint brushes from China are likely to be exported to the United States within a reasonably foreseeable time if the antidumping duty order is revoked. Consequently, we conclude that subject imports would likely increase to a significant level, and would regain significant U.S. market share, absent the restraining effect of the order.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with domestic like products and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of domestic like products.⁷⁸

The record in this expedited review contains a limited amount of pricing data for the U.S. market. In the original determination, the Commission found that natural bristle paint brush imports from China generally undersold the domestic like product by substantial margins.⁷⁹ The average unit values of natural bristle paint brushes imported from China fell during the investigation period, from \$0.23 per brush in 1982 to \$0.17 per brush in 1984.⁸⁰

The limited information in the record regarding current pricing indicates that imports from China would undersell the domestic product and have significant adverse price effects if the order is revoked. In 1998, the average unit value of natural bristle paint brushes exported to the United States from China was \$0.19 per brush, which is roughly equivalent to the price of Chinese natural bristle brushes in 1984, the year of greatest subject import penetration into the United States.^{81 82} In addition, the importers of Hunan brushes labeled their Chinese natural bristle brushes “the least expensive chip brushes available” when they began their marketing campaign in 1998.⁸³

As we have found, the subject merchandise and the domestic like product are substitutable products within the economy and consumer segments of the market, where price is an important criterion in the

⁷⁶ Domestic Producers’ Response, Att. 8. We nevertheless do not find that there are currently significant barriers to importation of the subject merchandise into other countries. New Zealand is the only country that still maintains antidumping duties against paint brushes from China. CR at I-12, PR at I-8; Domestic Producers’ Response at 24-25.

⁷⁷ Based upon the facts available on the record in this review, Chairman Bragg infers that, in the absence of the order, Chinese producers would revert to their historical emphasis on exporting to the United States evidenced in the Commission’s original determination.

⁷⁸ 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.

⁷⁹ Original Determination at 13.

⁸⁰ Original Determination, Report at A-30.

⁸¹ CR & PR, Table I-2; Domestic Producers’ Response, Att. 4.

⁸² Vice Chairman Miller and Commissioners Koplán and Hillman note that in 1998, synthetic filament brushes from China were sold to particular U.S. retailers for substantially less than comparable domestic products. Domestic Producers’ Response at 13-17 & Att. 13. Because of the similarities in the production process and uses of natural bristle and synthetic filament brushes, this evidence suggests that imports from China of natural bristle brushes would likewise undersell comparable domestic products.

⁸³ See Domestic Producers’ Response, Att. 8.

purchasing decision for customers. Therefore, the reduction in prices and the likely significant increase in the volume of imports of natural bristle paint brushes from China would likely suppress and depress domestic producers' prices to a significant degree if the order is revoked.

Accordingly, we find that revocation of the antidumping duty order would be likely to lead to significant price effects,⁸⁴ including significant underselling by the subject imports of the domestic like product, as well as significant price depression and suppression, within a reasonably foreseeable time.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the 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.⁸⁵ 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.⁸⁶ 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 antidumping duty order at issue and whether the industry is vulnerable to material injury if the order is revoked.⁸⁷

In the original determination, the Commission found that the domestic industry was threatened with material injury by reason of increasing volumes of low-priced LTFV imports of natural bristle paint brushes that were gaining an increasing share of the market in which the domestic product directly competed.⁸⁸ In particular, the Commission was concerned about dramatically increasing inventories of Chinese natural bristle paint brushes.⁸⁹ While the Commission found that the domestic industry was not yet experiencing material injury by reason of the LTFV 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 determined that imports of higher quality brushes had begun to increase, and threatened to penetrate the

⁸⁴ Commissioner Crawford notes that the domestic industry already faces intense competition and price discipline from lower-priced imports of both natural bristle and synthetic filament paint brushes. She therefore finds that the price effects of the subject imports would not likely be significant.

⁸⁵ 19 U.S.C. § 1675a(a)(4).

⁸⁶ 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. Commerce’s expedited determination in its five-year review covered one named Chinese producer and exporter, and “all other” manufacturers and exporters of natural bristle paint brushes from China. Commerce found that revocation of the antidumping duty order would likely lead to margins of dumping of 351.92 percent for both the named company and for all others. Natural Bristle Paint Brushes and Brush Heads From the People’s Republic of China, 64 Fed. Reg. at 25013.

⁸⁷ 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.

⁸⁸ Original Determination at 11-12.

⁸⁹ Original Determination at 13.

consumer segment of the market where domestic producers realized their highest profits.⁹⁰ The Commission also found that Chinese products had frequently undersold domestic products by substantial margins, and that this combination of increased volume, underselling, and other factors threatened the domestic industry with material injury.⁹¹

The antidumping duty order had a significant restraining effect on subject imports. After imposition of the order, the domestic industry's shipments remained steady, and the average unit values of domestic products increased.⁹² We note that nonsubject imports gained most of the volume lost by subject imports.⁹³ However, there has been a material improvement in the domestic industry since imposition of the antidumping duty order as shipments, sales, and unit values have increased.^{94 95}

Based on the limited record in this review, we conclude that if the order is revoked, the likely volume of subject imports would be significant and that these imports would have significant adverse price effects.⁹⁶ Given the substitutable nature of the product, particularly within the economy and consumer segments of the market, we find that a significant volume of low-priced subject imports would likely have a significant adverse impact on the production, shipment, sales, and revenue levels of the domestic industry.^{97 98} This reduction in the industry's production, sales, and revenue levels would have a direct adverse impact on the industry's profitability and employment levels as well as its ability to raise capital and

⁹⁰ Original Determination at 12.

⁹¹ Original Determination at 11-13. The Commission also noted that: the Chinese producers' ability to switch workers among many different types of brushes would allow them to increase capacity; the Chinese producers could switch from exporting hog bristles to exporting the downstream natural bristle paint brushes; that there were large inventories of subject merchandise in the United States; and, that alternate export markets for PRC brushes were limited by antidumping duty remedies imposed by Australia, Canada, and the European Community. *Id.* at 12-13.

⁹² *See* Original Determination, Report at A-12; Domestic Producers' Response, Att. 11.

⁹³ *See* CR & PR, Table I-3; Original Determination, Report at A-12; Domestic Producers' Response, Att. 11.

⁹⁴ CR & PR, Table I-3; Original Determination, Report at A-12; Domestic Producers' Response, Att. 11.

⁹⁵ The Division has alleged that the domestic industry is in an "extremely vulnerable" state based on (1) the increased number of Chinese producers, (2) improvements in Chinese production processes and sales efforts in the consumer segment of the market, (3) the magnitude of the dumping margin, and (4) suppression of prices for synthetic filament paint brushes. Domestic Producers' Comments at 3. However, we have no information regarding the current financial condition of the domestic industry. The available record evidence indicates that domestic shipments, sales, and unit sales values have increased since the period of the original investigation. CR & PR, Table I-1, Domestic Producers' Response, Att. 11. In the absence of current industry financial performance, we accordingly conclude that there is not sufficient information on the record for us to find that the domestic industry is in a weakened state, as contemplated by the vulnerability criterion of the statute. *See* SAA at 885 ("The term 'vulnerable' relates to susceptibility to material injury by reason of dumped or subsidized imports. This concept is derived from existing standards for material injury and threat of material injury If the Commission finds that the industry is in a weakened state, it should consider whether the industry will deteriorate further upon revocation of an order. . .").

⁹⁶ Commissioner Crawford finds that the price effects of the subject imports would not likely be significant.

⁹⁷ Moreover, the record indicates that since the imposition of the antidumping duty order, the Chinese producers have improved the quality of their paint brushes and are now more likely to penetrate the more lucrative consumer and professional segments of the market.

⁹⁸ Commissioner Crawford also notes the overlap in uses for natural bristle and synthetic filament brushes, and the comparable pricing of subject imports (natural bristle brushes) and synthetic filament brushes from China. A significant increase in the volume of subject natural bristle brushes would thus compete not only with domestic natural bristle brushes but also with domestic synthetic filament brushes, and therefore the impact would likely be felt by the entire U.S. industry producing paint brushes.

make and maintain necessary capital investments. Accordingly, we conclude that, if the antidumping duty order is revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine 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 the domestic paint brush industry within a reasonably foreseeable time.