



Ottawa, Tuesday, January 18, 1994

**Review No.: RR-93-003**

IN THE MATTER OF a review, under subsection 76(2) of the *Special Import Measures Act*, of the finding of material injury made by the Anti-dumping Tribunal on June 20, 1984, in Inquiry No. ADT-6-84, as altered by its order dated September 28, 1984, in Review No. R-7-84, and continued without amendment by the Canadian International Trade Tribunal on January 19, 1989, in Review No. R-13-88, concerning:

**PAINT BRUSHES USING NATURAL HOG BRISTLE AS THE FILAMENT MATERIAL, AND THE COMPONENTS THEREOF KNOWN AS "HEADS," ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

**ORDER**

The Canadian International Trade Tribunal, under the provisions of subsection 76(2) of the *Special Import Measures Act*, has conducted a review of the finding of material injury made by the Anti-dumping Tribunal on June 20, 1984, in Inquiry No. ADT-6-84, as altered by its order dated September 28, 1984, in Review No. R-7-84, and continued without amendment by the Canadian International Trade Tribunal on January 19, 1989, in Review No. R-13-88.

Pursuant to subsection 76(4) of the *Special Import Measures Act*, the Canadian International Trade Tribunal hereby continues the above-mentioned finding without amendment.

Kathleen E. Macmillan  
Kathleen E. Macmillan  
Presiding Member

W. Roy Hines  
W. Roy Hines  
Member

Desmond Hallissey  
Desmond Hallissey  
Member

Michel P. Granger  
Michel P. Granger  
Secretary



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MATERIAL, AND THE COMPONENTS THEREOF KNOWN  
AS "HEADS," ORIGINATING IN OR EXPORTED FROM THE  
PEOPLE'S REPUBLIC OF CHINA**

*Special Import Measures Act* - Whether to rescind or continue, with or without amendment, the finding of material injury made by the Anti-dumping Tribunal on June 20, 1984, in Inquiry No. ADT-6-84, as altered by its order dated September 28, 1984, in Review No. R-7-84, and continued without amendment by the Canadian International Trade Tribunal on January 19, 1989, in Review No. R-13-88.

Place of Hearing:	Ottawa, Ontario
Dates of Hearing:	December 13 and 14, 1993
Date of Order and Reasons:	January 18, 1994
Tribunal Members:	Kathleen E. Macmillan, Presiding Member W. Roy Hines, Member Desmond Hallissey, Member
Project Director:	Douglas Cuffley
Research Managers:	André Renaud Daryl Poirier
Economist:	Simon Glance
Statistical Officers:	Margaret Saumweber Sonya McEachern
Counsel for the Tribunal:	Joël J. Robichaud
Registration and Distribution Officer:	Claudette Friesen
<b>Participants:</b>	John D. Richard, Q.C. for Canadian Brush, Broom and Mop Manufacturers Association T.S. Simms & Co. Limited Nour Trading House Inc.  <b>(Producers)</b>

and Rubberset Company (Canada),  
Division of Sherwin-Williams  
Company

**(A party supporting the producers'  
position)**

**Witnesses:**

Thomas S. Simms  
Chairman and Chief Executive Officer  
T.S. Simms & Co. Limited

Robert (Bob) Shaw  
Director of Marketing  
Nour Trading House Inc.  
Vice-President  
Canadian Brush, Broom and Mop  
Manufacturers Association

Richard L. Simms  
President  
T.S. Simms & Co. Limited

Patty Austin, CMA  
General Manager  
Nour Trading House Inc.

P.C. (Phil) Jones, C.A.  
Vice-President, Finance  
T.S. Simms & Co. Limited

Norm Wolske  
Site Manager  
Rubberset Company,  
Division of Sherwin-Williams  
Company

Wayne A. McLaggan  
Manager, Plant Operations  
T.S. Simms & Co. Limited  
President  
Canadian Brush, Broom and Mop  
Manufacturers Association

Tom Sved  
D.S. Paint Applicators,  
Division of 693220 Ontario Ltd.

Ronald Hastings  
Head Buyer, Hardgoods  
Color Your World Corp.

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Ottawa, Tuesday, January 18, 1994

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**PAINT BRUSHES USING NATURAL HOG BRISTLE AS THE FILAMENT MATERIAL, AND THE COMPONENTS THEREOF KNOWN AS "HEADS," ORIGINATING IN OR EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA**

TRIBUNAL: KATHLEEN E. MACMILLAN, Presiding Member  
W. ROY HINES, Member  
DESMOND HALLISSEY, Member

**STATEMENT OF REASONS**

**BACKGROUND**

This is a review, under subsection 76(2) of the *Special Import Measures Act*<sup>1</sup> (SIMA), of the finding of material injury made by the Anti-dumping Tribunal on June 20, 1984, in Inquiry No. ADT-6-84, as altered by its order dated September 28, 1984, in Review No. R-7-84, and continued without amendment by the Canadian International Trade Tribunal (the Tribunal) on January 19, 1989, in Review No. R-13-88, concerning paint brushes using natural hog bristle as the filament material, and the components thereof known as "heads," originating in or exported from the People's Republic of China (China).

Pursuant to subsection 76(2) of SIMA, the Tribunal initiated a review of the finding and issued a notice of review on September 17, 1993. This notice was forwarded to all known interested parties and published in Part I of the September 25, 1993, edition of the Canada Gazette.

As part of this review, the Tribunal sent questionnaires to known producers and importers of the subject goods. From the replies to these questionnaires and other sources, the Tribunal's research staff prepared public and protected pre-hearing staff reports. As part of the research activities, the Tribunal's research staff met with domestic producers in New Brunswick and Ontario in order to answer any questions pertaining to the questionnaires. Tribunal members also visited the premises of producers in the same two provinces to view the production process. In addition, the record of this

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1. R.S.C. 1985, c. S-15.

review consists of all relevant documents, including the original finding, the notice of review, and public and confidential sections of replies to the questionnaires. All public exhibits were made available to interested parties, while protected exhibits were provided to independent counsel only.

Public and *in camera* sessions were held in Ottawa, Ontario, on December 13 and 14, 1993.

The producers, T.S. Simms & Co. Limited (Simms) and Nour Trading House Inc. (Nour), and the supporting party, Rubberset Company (Canada) (Rubberset), were represented by counsel at the hearing, submitted evidence and made argument in support of continuing the finding.

Neither importers nor exporters made formal appearances or submissions to the Tribunal in connection with this review, nor did they take a position with respect to how the Tribunal should find. However, two importers of paint brushes appeared as witnesses at the request of the Tribunal: Color Your World Corp. and D.S. Paint Applicators, Division of 693220 Ontario Ltd.

## **PRODUCT**

The subject goods under review are paint brushes using natural hog bristle as the filament material, and the components thereof known as "heads," originating in or exported from China.

Paint brushes are produced using natural hog or synthetic bristle as the filament material. Over 90 percent of the world's pure hog bristle paint brushes are reportedly made with hog bristles from China. The head (i.e. paint brush without a handle) of a paint brush consists of the ferrule (i.e. metal band) and bristle portions. Heads are not specifically produced or imported for sale in Canada.

Paint brushes are manufactured in a variety of sizes and qualities, and may be sold under the producer's brand or a seller's private label. The size of a paint brush is determined by its width. Sizes may be designated in the imperial or metric system of measures and generally range from 1/2 to 4 in. or 15 to 100 mm. There are also specialty paint brushes such as sash brushes and angled handle brushes used for special applications.

The quality of a paint brush is determined by the thickness, length and finish of the bristle used to make it. The types of materials used in the ferrule and the handle, and in the painting of the handle, are also factors affecting the quality of the finished paint brush. Although paint brushes can be categorized as being of professional, consumer or economy quality, there is no standard to define these categories. The most expensive paint brushes would be of professional quality, and the least expensive, of economy quality. Furthermore, paint brushes of consumer quality can be subcategorized as good, better or best.

The subject paint brushes compete with and may be substituted for synthetic fibre paint brushes. However, the industry generally recommends that natural hog bristle paint brushes be used primarily with alkyd paint, although they may also be used with latex paint if they are cleaned properly. Synthetic bristle paint brushes absorb very little

water in comparison with natural hog bristle paint brushes. For that reason, synthetic bristle paint brushes may be used more readily with either alkyd or latex paint. Synthetic bristles must be flagged or split at the ends in order to have the same paint retention characteristics as natural hog bristles.

### **DOMESTIC INDUSTRY**

The industry has undergone important changes since the 1988 review and is presently composed of four producers, three of which belong to the Canadian Brush, Broom and Mop Manufacturers' Association (the Association), i.e. Simms of Saint John, New Brunswick, Nour of Waterloo, Ontario, and Pintar Manufacturing Limited (Pintar) of Toronto, Ontario. The fourth producer, which is not a member of the Association, is Crown-Meakins Inc. (Crown-Meakins) of Montréal, Quebec.

At the time of the 1988 review, there were six producers, i.e. the four producers noted above as well as Rubberset of Gravenhurst, Ontario, and EZ Paintr Canada (EZ Paintr) of Toronto, Ontario. Although both those firms are still members of the Association, they no longer produce the subject paint brushes in Canada; instead, they import from their affiliates in the United States.

The Canadian producers provide paint brushes in all product categories, i.e. economy, consumer and professional, using both natural and synthetic filament bristles. However, Nour, Canada's second largest producer, has opted to specialize and concentrate its production in the professional paint brush segment of the market. At the same time, some Canadian producers have decided to drop their production of the lowest-cost products and to import them instead, including the so-called "chip brushes," which have a variety of end uses and are not used solely for painting.

Paint brushes are part of the paint applicator market, which includes paint rollers, foam paint pads and accessories. Although paint brushes as tools do not appear to have changed, improvements in the quality and design of various components have continued to take place. Both producers and consumers have derived benefits from these changes. They have allowed producers to improve productivity and to lower costs, and allowed consumers to obtain the most efficient and least costly paint applicators for their needs. The largest domestic paint brush producer, Simms, produces paint brush manufacturing equipment which is exported throughout the world. This company continues to develop new machinery and equipment, and to incorporate these developments into its own production of paint brushes in order to increase automation and to lower labour costs. Nour has also fabricated and rebuilt some of the production equipment used in its plant.

Paint brushes with natural hog bristles hold a larger share of the Canadian market than of the U.S. market. One reason for this is that the United States formerly embargoed imports of natural hog bristles from China, the main source of natural hog bristles. For that reason, the synthetic bristle paint brush predominates in the United States.

**Simms** was founded in 1866 and has been located in Saint John, New Brunswick, since 1872. The company is jointly owned by Thomas S. Simms and Richard L. Simms, and produces hog bristle paint brushes, synthetic bristle paint brushes, roller coater applicators, household and industrial brushes and brooms, and paint brush

manufacturing equipment. All goods are produced in its manufacturing facility in Saint John, New Brunswick. Its national sales office is located in Toronto, Ontario.

**Nour** was incorporated in July 1978 and has been producing consumer and professional paint brushes in Waterloo, Ontario, since that time. This privately owned Canadian company also produces paint roller refills and markets its products nation-wide.

**Pintar** was incorporated in 1977 and produced paint rollers exclusively until 1988, when it began manufacturing and distributing paint brushes as well. The company went into receivership in February 1992, but was reorganized and resumed manufacturing at a new location in June 1992. Pintar produces a full range of paint rollers and accessories, and paint brushes.

**Crown-Meakins** is another producer in Canada, although not a member of the Association. This producer did not provide information during the Anti-dumping Tribunal's original inquiry nor during the Tribunal's 1988 review and current review.

**Rubberset** was originally founded as Rubberset Company in Newark, New Jersey, in 1873. In 1914, Rubberset was established in Toronto, Ontario, as a sales organization and, in 1917, began production of paint brushes. In 1922, the paint brush production was moved to Gravenhurst, Ontario. In 1934, the company was acquired by Bristol Myers Company and, in 1956, was purchased by Sherwin-Williams Company of Cleveland, Ohio. In June 1981, Rubberset became a division of Sherwin-Williams Company. The division operated for a number of years before closing in September 1992. Up to then, the division had produced paint brushes of both natural hog and synthetic bristles, and paint rollers, which it distributed through hardware wholesalers, dealers and mass merchandisers on a national basis. Now, the division imports the subject goods from an affiliated producer in the United States for distribution in Canada.

**EZ Paintr** (previously known to the Tribunal as Dixon Applicators Company) is a division of The Newell Group (Newell), located in Freeport, Illinois. EZ Paintr Corp. was formed in 1945 in Fond du Lac, Wisconsin, and moved to Milwaukee, Wisconsin, in 1952. It was bought by Newell in 1973. In 1988, Newell also acquired Thomas Industries Paint Applicator Division located in Johnson City, Tennessee. Today EZ Paintr Corp. has 570,000 sq. ft. of floor space in its Milwaukee and Johnson City plants and produces a wide variety of both natural hog and synthetic bristle paint brushes, roller covers, pads, trays and sundry items. EZ Paintr ceased production in Canada in November 1989. Up to that time, it produced both natural hog and synthetic bristle paint brushes and paint rollers in Canada and marketed its products nation-wide. EZ Paintr now imports the subject goods from its affiliated producer in the United States for distribution in Canada.

## **SUMMARY OF THE 1984 FINDING AND 1989 REVIEW FINDING**

### **Summary of the 1984 Finding**

On June 20, 1984, the Anti-dumping Tribunal found that the dumping in Canada of the subject goods from China had caused, was causing and was likely to cause material injury to the production in Canada of like goods.<sup>2</sup>

The complaint was filed by the Association on behalf of its members, all of which, along with the Association, were represented at the hearing. Also present or represented by counsel at the hearing were two importers, Britbull Industries and A.Z. Trading Company.

The industry alleged that, in spite of efforts to meet competition from dumped imports, it lost sales and experienced reduced production and profits, price suppression and underutilization of capacity.

Importers countered that imports of the subject goods from China focused on the promotional paint brush segment of the market and, through innovative marketing, developed considerably a sector of that market which had not been adequately served by the producers.

In its consideration of material injury, the Anti-dumping Tribunal noted that, during the period from 1980 to 1983, imports of natural hog bristle paint brushes increased nearly thirteenfold, and nearly all of that increase was attributable to a surge of imports of the subject goods from China which increased more than eighteenfold. The lower level of sales from domestic production, coupled with the spectacular growth of imports, left Canadian producers with a much smaller share of the market. While domestic producers were supplying 95 percent of that market in 1980, their market share dropped to 56 percent in 1983, most of the decline occurring that year. At the same time, China developed a very strong position in the marketplace. Imports from that country represented 42 percent of the market in 1983, an increase of 39 percentage points in three years. Most of that market penetration took place in 1983. Since the share of the market held by imports from other countries remained stable during the period under consideration, the penetration of imports from China corresponded exactly to the decline in the participation of the domestic producers in the market.

The Anti-dumping Tribunal was satisfied that the injury suffered by the domestic industry took the form of decreased profits, loss of business volume, decline in production, denial of participation in market growth with the consequential non-materialization of reasonable expectation of profits, loss of market share, and loss and reduction of specific accounts. The cumulative assessment of these criteria of injury led the Anti-dumping Tribunal to conclude that the injury was material and that the dumped imports from China were the cause of that injury.

As indicated above, sales of the natural hog bristle paint brushes from China had been strong and successful. This was the result of sales of good quality paint brushes which were

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2. By order dated September 28, 1984, the Anti-dumping Tribunal altered the finding to conform with the statement of reasons, thereby finding that the dumping of the components known as "heads" had not caused, was not causing, but was likely to cause material injury to the production in Canada of like goods.



competitive with paint brushes produced in Canada for promotional offerings and, to some extent, for regular sales from stock by retailers. These retailers were offered the paint brushes at such low prices that they were able to earn good margins on these products while using them as a promotional vehicle. Through this marketing, the paint brushes from China gained good market acceptance in a short period of time. Paint brushes from China were of good quality and were able to compete directly with the mass of products offered in the marketplace by the domestic producers. If anti-dumping duties were not imposed, the Anti-dumping Tribunal was satisfied that paint brushes from China would continue to make inroads in the market at the direct expense of the Canadian producers and would continue to cause material injury.

With respect to components, the Anti-dumping Tribunal noted that the head was a major component of a paint brush in terms of value. It could easily be imported separately from the handle, should circumstances establish the advantage of such action. Consequently, there was the likelihood of injury occurring to the production in Canada of paint brush heads and, certainly, in terms of reduced employment and underutilization of production capacity, and to the production of completed paint brushes, had the dumping of heads been permitted to take place.

### **Summary of the 1989 Review Finding**

On January 19, 1989, the Tribunal continued the 1984 finding without amendment. In reviewing the evidence, the Tribunal noted that, during the years since the finding had been in effect, the market for paint brushes had experienced moderate growth. Enjoying protection against dumping from China, the Canadian producers had been able to return to their historical share of the market, which was approximately 90 percent (inclusive of their own imports, which had been of relatively modest volume and share). Anti-dumping measures brought about a very large contraction in imports from China. Nevertheless, paint brushes from that country continued to account for the lion's share of imports until 1987. In that year, a new overseas supplier emerged. Paint brushes from Jamaica, evidently assembled from components sourced largely in China, captured about one half of the market share that had been enjoyed by imports from China in the previous year. During 1988, the paint brushes from Jamaica had, by and large, taken over the share that had been held by paint brushes from China. In addition, paint brushes from Brazil had appeared on the market in small volumes. The industry expressed no serious concerns with Brazilian imports, as they were considered to be sold at competitive prices.

In addressing the likelihood of a resumption of dumping by exporters of paint brushes from China, the Tribunal noted that, over the previous five years, there had been several instances of anti-dumping actions against dumped paint brushes from that source, including actions by the United States, Australia and the European Community (EC). In the Tribunal's view, the geographic scope, the scale and the persistence of the dumping of paint brushes from China demonstrated a clear propensity to dump. Furthermore, the margins of dumping were large. This evidence, together with important evidence that was given during an *in camera* session, led the Tribunal to conclude that, if anti-dumping measures were eliminated, the dumping of paint brushes from China in the Canadian market would likely resume in significant volumes.

In addressing the likelihood of such dumping causing material injury to Canadian production, the Tribunal noted that, unlike the situation in the early 1980s, the paint brushes

from China were now known and accepted. The production costs of the Canadian industry remained at a level that rendered it unable to compete profitably with probable dumped price levels. It continued to be vulnerable. In the absence of anti-dumping protection, renewed dumping of low-priced paint brushes from China in large quantities would likely bring about a replay of the injury scenario of the early 1980s.

## **POSITION OF PARTIES**

### **Industry**

Counsel for the Association, Simms, Nour and Rubberset argued that the domestic producers are vulnerable to the inevitable reduction in Canadian prices for paint brushes which will occur if the finding is rescinded. Counsel submitted that the subject goods are a commodity product and that they are readily substitutable with goods produced in China. They are low-priced goods which are highly price sensitive in the Canadian market.

With respect to the likelihood of resumed dumping by exporters of paint brushes from China, counsel made reference to the results of enforcement data provided to the Tribunal by the Department of National Revenue (Revenue Canada), which showed that, during the years from 1988 to part of 1993, in the face of anti-dumping duties, imports from China continued to be dumped, in some instances, at significant margins of dumping. Counsel also noted the anti-dumping finding in the United States which determined that exporters from China were dumping in that market. As a result of the U.S. finding, an anti-dumping duty of 127 percent was imposed.

Counsel also made reference to producers in Europe and Australia which have not abandoned their concerns and their attempts to curtail the effects of dumped imports of paint brushes from China. In that regard, counsel for the domestic industry contended that procedural errors in the EC had led to the overturning of an earlier decision to impose anti-dumping duties against China. More current information obtained by Simms from the European Federation of the Brush and Paintbrush Industry indicates that paint brushes from China have flooded some countries in the EC marketplace and that some producers have already gone out of business as a result of the massive importation of these paint brushes. Accordingly, a new anti-dumping investigation against China is being pursued by producers in the EC.

The apparent resolve of Australian paint brush producers to reinstate similar actions against China was likewise put forward by counsel for the domestic industry as indicative of the continued difficulties in world markets caused by Chinese exporters of the subject goods.

In counsel's view, the threat to the domestic industry definitely comes from China and not from other countries. Counsel argued that paint brushes from China, from the mid-level consumer quality up to the lower-level professional quality, can compete directly with similar brushes produced by Canadian producers. However, other countries, such as Taiwan, Brazil, Thailand and Indonesia, export lower-quality paint brushes to Canada, most of which are not produced in Canada. With respect to the United States, counsel claimed that the evidence showed that, in reality, the situation had not changed since 1988. Counsel argued that the combined Canada-United States apparent market share had remained the same. The increase in the U.S. market share was due to Rubberset and

EZ Paints moving their production south of the border. The evidence did not show that these two companies had taken over any of the Canadian producers' share of the market. Consequently, counsel argued that the domestic industry was not threatened by U.S. imports, even though they were similar to the paint brushes produced in Canada. Counsel claimed that Jamaica was being used as a "proxy" for China to avoid anti-dumping duties, and, consequently, if the finding were rescinded, China would export directly to Canada.

Counsel also argued that, if the finding were rescinded, the resumed dumping would cause material injury to Canadian production of paint brushes. Counsel argued that the switch to paint brushes from China would be immediate and intense, and noted that China is familiar with the Canadian distribution system and with all of its customers. Having been a player in the market for some 10 years, China is very aware of domestic selling prices. As a result, it would be able to gain easy access to the market by being very price competitive. Counsel made reference to the evidence of the representatives of Nour who said that, if the finding were rescinded, they would switch to imports in order to save their business, as they did before the Anti-dumping Tribunal's finding in 1984. They said that they could not compete with prices from China. Counsel also argued that the evidence showed that buyers would switch to imports from China if the finding were rescinded.

### **Rubberset**

Rubberset, an importer of paint brushes from the United States, was represented by counsel and supported the Canadian producers' position. In its submissions, Rubberset contended that there would be an immediate and significant movement to imports from China should the finding be rescinded. In its view, this movement would come about because retailers and wholesalers were under significant profit pressures. As a result, prices would drop below Rubberset's ability to compete, and most producers would fall below break-even point.

Rubberset claims that imports from China are now made up of higher-quality products than they were historically. With the imposition of anti-dumping duties, imports have moved up from low-level consumer quality paint brushes (good and better) to low- and mid-level professional quality paint brushes. Rescission of the finding would result in a very swift and large market penetration of low-level consumer quality bristle paint brushes from China.

With respect to imports from other countries, it is Rubberset's opinion that those imports are primarily white bristle chip brushes, which are very low-end, single-use, toss-away paint brushes that do not compete with the "good," "better" or "best" consumer quality of other natural hog bristle items that comprise the largest part of the paint brush market in Canada. Loss of production of these consumer quality items would substantially increase overheads across other product lines as well.

## **Importers/Exporters**

Neither importers nor exporters of the subject goods from China submitted a brief or made a formal appearance to counter the industry's position.

However, the two witnesses for the Tribunal, Mr. Tom Sved and Mr. Ronald Hastings, who had imported the subject goods in the past, gave *in camera* testimony regarding relative prices, availability and purchasing criteria of the products from China, and their likely impact on the market in the event of a rescission of the injury finding. In addition, Mr. Sved refuted the industry's contention that imports of the subject goods from Jamaica into Canada were of Chinese origin.

## **ECONOMIC INDICATORS**

Domestic production of the subject paint brushes over the period from 1988 to 1992 remained at about 7.5 million units each year, with the exception of a decline in production to approximately 6.5 million units in both 1990 and 1992. However, the reduced level of production in 1992 is primarily attributable to the shut-down of production in Canada by Rubberset on September 1, 1992. Had Rubberset continued production for the full year at the same rate as achieved in the first eight months of the year, total Canadian production of the subject goods in 1992 would have equalled or exceeded the 7.5-million-unit level reached in three of the four preceding years. Also, if the production volumes for the first nine months of 1993 for the three reporting producers were annualized and compared to their production volumes in 1988, total production in 1993 would be 30 percent higher than it was in 1988 for the same three producers.

While Canadian producers have reported that they are exploring export markets, none of them have yet succeeded to penetrate those markets to any significant degree. Only one domestic producer reported export sales, and those sales represented only a very small percentage of its total production volume.

Imports of the subject paint brushes have varied considerably in volume from 1988 through to the first nine months of 1993. From a level of 4.5 million units in 1988, imports fell to approximately 3.0 million units or less in each of 1989, 1990 and 1991. In 1992, imports once again reached their 1988 level of 4.5 million units. In the first nine months of 1993, imports surged to a level of over 6.0 million units, equivalent to almost 8.0 million units on an annual basis.

The United States accounted for the greatest part of that increased import volume. This flows directly from the above-noted decisions of EZ Paints and Rubberset to shut down their Canadian manufacturing facilities and supply their Canadian customers from their consolidated manufacturing facilities in the United States. Imports of the subject goods from the United States increased by over 400 percent in the first nine months of 1993 and represented, by far, the largest share of all imports of the subject paint brushes from all countries.

Indonesia, a relatively new participant, has assumed a larger role in the Canadian paint brush market in the past two years. Imports from that country increased almost 400 percent in the first nine months of 1993. Thailand has also become a new player in the Canadian market, albeit on a much smaller scale than Indonesia.

Imports from China fluctuated considerably over the period, ranging from a low of 67,000 units in 1992 to a high of 558,000 units in 1989. Imports in the first nine months of 1993 reached a level of 328,000 units, an increase from the 313,000 units imported in all of 1988. However, imports from China accounted for only 5 percent of all imports of the subject goods in the first nine months of 1993, compared to 7 percent of all such imports in 1988.

As reported by Simms and Nour, the installed capacity to produce paint brushes of all kinds has increased over the period from 1988 to 1993. Production levels for the two firms also increased over the same period, so that capacity utilization rates were generally maintained by these reporting firms. These two firms, together with Pintar, have sufficient capacity to satisfy the total current annual demand in Canada for the subject paint brushes. The increases in capacity resulted from capital expenditures for production machinery and equipment throughout the period.

Aggregate industry employment, as reported by three of the four existing producers, increased steadily over the period from 1988 to 1991, before falling off significantly in 1992. The increases in employment came about largely as a result of Pintar's decision to enter into the production of paint brushes in 1988. Until that time, Pintar had produced paint rollers exclusively. The subsequent drop in employment levels for those three reporting firms was also largely attributable to Pintar, which suspended production early in 1992, before resuming it at a reduced level later that same year. Employment levels in 1993 for the three reporting producers were comparable to 1988.

In terms of aggregate financial performance, the reporting producers have been profitable since 1988, although individual producers experienced losses in some of the years under review. In overall terms, they have generally continued to be profitable, with the subject goods usually outperforming their other operations.

The market share held by domestic producers in 1993 (43 percent) had declined steeply from that held in 1988 (79 percent), and even more so from the share held at the time of the original finding in 1984 (96 percent). As noted above, this recent loss of market share derives principally from the decisions of two former producers (EZ Paint and Rubberset) to shut down their Canadian operations and to service their Canadian clientele from their manufacturing facilities in the United States. The level of production by the three reporting domestic producers that were producing the subject goods in 1988 and in 1993 actually increased by some 30 percent over the period. Nevertheless, the fact remains that well over one half of the Canadian market for the subject goods is now being supplied by imports, as compared to less than 10 percent in 1984.

### **REASONS FOR DECISION**

The two essential questions which need to be addressed by the Tribunal in reviewing this finding are, firstly, the likelihood of continued dumping from China should the finding be rescinded and, secondly, the question of whether the dumping is likely to cause material injury to the production in Canada of like goods.

### **LIKELIHOOD OF DUMPING**

The Tribunal notes from the enforcement data provided by Revenue Canada that paint brushes from China have been dumped in Canada throughout the review period despite the imposition of anti-dumping duties. The record shows that a significant proportion of exports of the subject goods from China were sold at dumped prices, and that the weighted average margin of that dumping has been substantial.

In its 1989 finding, the Tribunal found that the original anti-dumping actions by the United States, the EC and Australia against paint brushes from China "demonstrate[d] a clear propensity to dump." The situation is fundamentally unchanged today. The anti-dumping action is still in place in the United States, and anti-dumping protection is again being sought by producers in both the EC and Australia. Accordingly, the Tribunal finds the evidence regarding the likelihood of dumping as convincing today as it was five years ago.

Should either the European or Australian paint brush producers, or both, succeed in their efforts to curtail imports from China, the loss of such major marketplaces would heighten the need for China to find other outlets for its paint brushes. There is no evidence of a domestic market in China for the subject paint brushes. Access to export markets is, therefore, a vital precondition to the continued production of paint brushes in that country. This need to export would enhance the likelihood of resumption of dumping in any other market that remains open. With the U.S. market already constraining exports of paint brushes from China, Canada would be one of the few remaining developed countries which would provide an attractive alternate market for that surplus export capacity, should the current finding be rescinded.

As noted by counsel for the domestic industry, while no evidence is available on the installed capacity to produce paint brushes in China, the rapidity with which, and the extent to which, imports from China were able to make inroads into the Canadian market in the early 1980s was strongly indicative of a capacity level sufficient to flood the small Canadian market with the subject goods. This argument was supported by the testimony given by the witnesses from Nour, who claimed that the large number of imports from China prior to the 1984 finding took two years to flow through the market.

As also claimed by these witnesses, the attractiveness of the Canadian market would stem not merely from the rescission of the finding but from the knowledge which exporters from China have acquired, over the years, of the Canadian distribution system, of the major buyers of paint brushes and of the price levels which would allow paint brushes from China to penetrate the market most effectively.

Based on the foregoing evidence and testimony, the Tribunal is satisfied that dumping of the subject paint brushes from China in the Canadian market is not only likely to continue but to increase should the finding be rescinded.

### **LIKELIHOOD OF MATERIAL INJURY**

In assessing whether the domestic industry is likely to be injured following a rescission of the finding, the Tribunal examined the market, production and pricing developments since the last review. Contrary to the position argued by counsel for the domestic industry, the Tribunal believes that the focus of its examination in conducting a review should be the likely impact of the dumped imports on Canadian production, and not

on production in North America as a whole. Accordingly, the Tribunal notes the significant decline in market share held by domestic producers in 1993 as a consequence of the shut-down of Rubberset's and EZ Paint's Canadian production facilities. It might be, contrary to the present position of the domestic industry, that U.S. imports will exert considerable price pressures on the Canadian market in the years to come.

In general, the Tribunal is of the view that the domestic industry has made considerable efforts to benefit from the protection offered by the injury finding. Significant investments have been made in production machinery and equipment in the past five years. The Tribunal also notes the efforts that domestic producers have made to improve their cost position. During a period of intense import competition from a variety of sources and generally declining prices for the subject goods, domestic firms have been able to register small profits in some years.

Notwithstanding the efforts of Canadian firms to improve their competitive position, the Tribunal believes that, if the finding were rescinded, dumped imports from China would have a devastating effect on the domestic industry. The Tribunal bases this conclusion on the testimony that it received on the nature of the paint brush market in Canada and the factors that determine purchase decisions. Witnesses spoke of paint brushes being commodity products that are able to attract little, if any, brand loyalty. Price is the essential criterion governing the decision to purchase, particularly for paint brushes of consumer quality. Moreover, paint brushes are products that lend themselves easily to price promotion by retailers in the hardware and paint business.

Witnesses also described a market comprised of a small number of highly competitive retail purchasers. Retailers anxious to preserve their own market position would feel compelled to follow suit if a competitor purchased low-priced imports. Even Nour, a Canadian producer, testified that it had bought paint brushes from China in 1983 and would likely do so again in order to maintain its clients if the finding were rescinded.

In the Tribunal's view, the very attractive prices offered by exporters from China, as low as one half the current Canadian market prices on a landed-in-Canada basis, would immediately prove appealing to Canadian retail purchasers, resulting in significant lost sales for Canadian producers. These price levels simply could not be met by Canadian producers. Consequently, the switch to products from China would be swift and widespread, as it was in 1983.

The Tribunal also believes that imports of the subject goods from China would effectively penetrate virtually all segments of the consumer quality paint brush market in Canada. Evidence presented at the hearing indicated that the subject imports were effectively competing in the higher end of that market. If the finding were rescinded, imports from China would again enter the most popular segment of the domestic market, that is, the low- to mid-level consumer quality of paint brushes. This market segment constitutes the bulk of domestic demand for natural hog bristle paint brushes and provides the volume levels and contribution to overhead necessary for efficient production of all qualities of brushes.

In summary, based on the evidence that it received as to prices, costs and market concentration, and on the *in camera* testimony of several witnesses regarding these same indicators, the Tribunal believes that continued and increased dumping of paint brushes from China will likely cause material injury to production in Canada of like goods.

**CONCLUSION**

The Tribunal concludes that, if the finding is rescinded, the dumping of the subject goods from China, which has occurred throughout the review period, is likely to increase and cause material injury to the production in Canada of like goods. Therefore, the finding respecting the subject goods is continued without amendment.

Kathleen E. Macmillan  
Kathleen E. Macmillan  
Presiding Member

W. Roy Hines  
W. Roy Hines  
Member

Desmond Hallissey  
Desmond Hallissey  
Member