

Ministry of **Economic  
Development**



*M a n a t ū   Ō h a n g a*

# **Non-Confidential Final Reassessment Report**

## **Anti-Dumping Duty on Hog Bristle Paintbrushes from China**

**Dumping and Countervailing Duties Act 1988**

Trade Rules, Remedies and Tariffs  
Ministry of Economic Development  
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## **ABBREVIATIONS**

The following abbreviations are used in this Report:

Act (the)	Dumping and Countervailing Duties Act 1988
Ad valorem duty	Percentage duty
Anti-Dumping Agreement	WTO Agreement on Implementation of Article VI of the GATT 1994
Chief Executive (the)	Chief Executive of Ministry of Economic Development
CIF	Cost, Insurance and Freight
COP	Cost of Production
CNY	Chinese Yuan Renminbi
FOB	Free on Board
Haydn	Haydn Brush Company Limited
LDC	Less Developed Country
Ministry (the)	Ministry of Economic Development
NIP	Non-Injurious Price
NIFOB	Non-Injurious Free on Board [Reference Price]
NV(VFDE)	Normal Value (Value for Duty Equivalent) [Reference Price]
NZCS	New Zealand Customs Service
NZD	New Zealand Dollars
PAL	Paint Aids Limited
POR(I)	Period of Review for Injury: 1 April 2005 to 31 March 2008
POR(D)	Period of Review for Dumping : 1 July 2007 to 30 June 2008
USD	United States Dollars
VFD	Value for Duty
WTO	World Trade Organisation

# 1. Executive Summary

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## Introduction

1. On 27 January 2009, a review of the anti-dumping duties on imports of hog bristle paintbrushes from China concluded there is a continued need for the anti-dumping duties to prevent a continuation or recurrence of dumping, which would likely cause material injury to the New Zealand industry (referred to in this report as the 2008 Review). A reassessment of the anti-dumping duties was initiated immediately following the completion of the review.

## Reassessment

2. This Reassessment Report considers the appropriate level of anti-dumping duties. A section on the proposed rates of anti-dumping duty was included in the Final Report for the 2008 Review and interested parties were given the opportunity to make submissions on the proposed rates of anti-dumping duty. Only one submission was received concerning the proposed rates of anti-dumping duty and has been addressed in the relevant section of this report.

3. The goods subject to this reassessment are described as:

*Hog bristle paintbrushes for household or industrial use\**

\* Note: This description includes hog bristle paintbrush heads

## Conclusion

4. This report concludes that the current anti-dumping duties on hog bristle paintbrushes from China be reassessed to the rates listed in the Proposed Rates of Anti-Dumping Duty section of this report.



## **2. Introduction**

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### **2.1 2008 Review**

5. A review of the anti-dumping duties that currently apply against imports of hog bristle paintbrushes from China was initiated by the Ministry of Economic Development (the Ministry) on 11 July 2008. The review was completed on 27 January 2009 and concluded that there is a continued need for the anti-dumping duties to prevent a continuation or recurrence of dumping, which would likely cause material injury to the New Zealand industry.

6. A reassessment of the anti-dumping duties was initiated on 27 January 2009 immediately following the completion of the review. An Interim Reassessment Report which set out the proposed changes to the anti-dumping duty rates was released as part of the Final Report. Interested parties were given until 12 February 2009 to make submissions upon the proposed changes to the current anti-dumping duties. An extension to this date was given to an importer on its request, however, a submission was not received.

7. The Interim Reassessment Report stated that a Final Reassessment Report would be completed as soon as practicable after submissions closed. The Interim Reassessment Report also noted that the process was dependent upon the nature of the submissions received and that it may be necessary to lengthen the reassessment process in order to include new information in the Ministry's analysis. If submissions resulted in significant changes to the proposals, the Ministry would consider issuing another report to allow parties to defend their interests before final recommendations were placed before the Minister.

8. One submission was received from Haydn Brush Company (Haydn) and has been addressed in the relevant section of this report. As there has not been any new information submitted by interested parties which has resulted in changes to the proposed rates of anti-dumping duty, the Ministry considers that an additional report is not required.

9. The reassessment was conducted in accordance with the Dumping and Countervailing Duties Act 1988 (Act) and having regard to the World Trade Organisation (WTO) Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Anti-dumping Agreement). Electronic links to copies of both the Act and the Agreement are annexed to this report.

### **2.2 Background**

10. In May 1988, the Minister of Commerce imposed anti-dumping duties on hog bristle paintbrushes from China which were imported into New Zealand, based on an investigation which found that dumped Chinese imports had caused material injury to the domestic industry. Three subsequent reviews have concluded that if the anti-dumping duties were removed, it is likely there would be a recurrence of dumping, which would likely cause material injury to the domestic industry.

11. As noted above, on 27 January 2009 a review was completed which concluded that a removal of the anti-dumping duties would likely result in a continuation or recurrence of dumping and material injury to the New Zealand industry. Based on the information gathered during the course of the review on the current and likely pricing behaviour of the Chinese hog bristle brush producers and their ability to supply New Zealand importers with significant volumes of dumped product, the Ministry initiated a reassessment which recommended that the anti-dumping duties be reassessed and proposed a set of new anti-dumping duty rates as in an Interim Reassessment Report.

## 2.3 Disclosure of Information

12. The Ministry makes available all non-confidential information to any interested party or any other member of the public through its public file system, in accordance with the requirements of section 10 of the Act and Article 6 of the Anti-dumping Agreement.

13. The Ministry has, given the timing of this reassessment, continued the public file for the review to include all non-confidential information used in relation to the current reassessment. This was communicated to all interested parties so that they could continue to request information from the public file during the course of this reassessment.

## 2.4 Interested Parties

14. The interested parties involved in the reassessment are listed below.

### New Zealand Industry

15. Haydn Brush Company (Haydn) and Paint Aids Limited (PAL) are the only manufacturers of paintbrushes in New Zealand. Haydn submitted the application for review seeking a continuation of the anti-dumping duties. PAL is both a manufacturer and an importer of the subject goods and opposes the continuation of the anti-dumping duties. Both Haydn and PAL were recognised as the New Zealand industry.

### Manufacturers and Exporters

16. The following companies were identified from NZCS data as exporting hog bristle paintbrushes from China to New Zealand from 1 July 2007 to 30 June 2008, which was the period of review for dumping (POR(D)). The Ministry was able to identify [REDACTED] as a manufacturer of hog bristle paintbrushes in China from information provided by an importer.

**Table 2.1: List of Exporters**

AGD Asia Ltd
F H Prager Pty Ltd
Fujian Fuzhou Tiandi Import & Export Co Ltd
King Brush Co Ltd



Sunnry International Ltd

## Importers

17. The following importers were therefore identified from NZCS data as importing hog bristle paintbrushes from China during the POR(D).

**Table 2.2: List of Importers**

Five Star Paints Limited
Magsons Hardware Limited, (Magsons, aka Magsons Mitre 10)
PAL
Ramset NZ
Uncle Bills (New Zealand) Limited

## 2.5 Imported Goods

18. The goods which are the subject of the anti-dumping duties, hereinafter referred to as “subject goods” are:

*Hog bristle paintbrushes for household or industrial use\**

\* Note: This description includes hog bristle paintbrush heads

19. The subject goods enter New Zealand under Tariff Item 9603.40.00 and Statistical Keys 03B ‘hog bristle paintbrushes’, 05J ‘combination of synthetic and hog bristle paintbrushes’, 08C ‘other’ and 11C ‘Distemper, varnish or similar brushes’. Imports from China of these goods are subject to the Less Developed Country (LDC) tariff of 5 percent.



## 3. Anti-Dumping Duties

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### 3.1 Methods of Imposing Duties

20. The objective of an anti-dumping duty is to remove injury attributable to dumping, and is not to punish the exporter or to provide protection to an industry beyond the impact of the dumping. The Act prevents the Minister from imposing a duty that exceeds the margin of dumping.<sup>1</sup> Furthermore, the Act requires that the Minister have regard to the desirability of ensuring the amount of duty is not greater than is necessary to prevent material injury to the New Zealand industry.<sup>2</sup> This consideration is known as the “lesser duty rule”.

21. There are numerous considerations that are taken into account when deciding on the form of the anti-dumping duty. Factors such as the ability to ensure the dumping margin is not exceeded, the ability to maintain fairness between parties, the predictability of the duty payable and the ease of administration, are all important aspects of an anti-dumping duty.

22. Anti-dumping duties can be applied in a number of different ways. The three basic approaches are:

- a specific duty approach;
- an *ad valorem* rate approach; and
- a reference price approach.

#### A Specific Duty

23. A specific duty is a set amount of duty payable per unit of product imported. This specific amount of duty is based on the monetary value of a margin of dumping. The approach is convenient to apply, impossible to evade by incorrectly stating the value for duty, and it clearly indicates to the importer the amount of duty payable on the product.

24. Some problems with a specific duty approach may occur if there are a wide range of goods involved, exchange rates may fluctuate to the extent that the margin of dumping will be exceeded without constant reassessments of the specific amount, or where an exporter manipulates prices so that the duty is either greater than the margin of dumping or less than the margin of dumping previously established.

25. A specific duty, expressed as a monetary amount, can only operate effectively when two conditions are present. The first is that prices and exchange rates are consistent and stable. The second is that the transaction-to-transaction comparison does not result in a range of different dumping margins.

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<sup>1</sup> Dumping and Countervailing Duties Act 1988, s14(4)

<sup>2</sup> Dumping and Countervailing Duties Act 1988, s14(5)

26. A specific duty approach can be implemented as a formula, being the difference between equivalent prices to the normal value and the export price of a particular shipment, with the values for the normal value and export price being fixed. When those elements of the formula are expressed in terms of the currency of each transaction, the problem of exchange rate movements can be dealt with. However, a formula approach does not deal with the problem of changes in export prices for reasons other than exchange rate movements or movements in normal values such as a price change.

### **Ad Valorem Rate Duty**

27. An *ad valorem* duty is a duty based on the margin of dumping or the margin of injury (if the margin of injury is less than the margin of dumping), and is expressed as a percentage of the value for duty (VFD). An *ad valorem* duty is convenient to apply and is unlikely to be substantially affected by exchange rate movements. *Ad valorem* rates are often appropriate where there are a large range of goods or where new models appear, provided that the transaction-to-transaction comparison does not result in a range of different dumping margins. As with the other approaches, there is the possibility of collusion between an exporter and importer concerning the manipulation of the invoice value of the goods.

28. Under this approach, a particularly low export price (and therefore a potentially more injurious export price) would result in a lower amount of duty, which may not be sufficient to remove injurious dumping. Conversely, a particularly high export price (and therefore likely to be less injurious), would attract a higher amount of duty, which may be higher than is necessary to remove injurious dumping.

29. An *ad valorem* rate gives an indication of the impact of the duty, but is not as clear an indication as the other forms of duty.

### **Reference Price Duty**

30. Under the reference price approach, the duty payable is the difference between the transaction price and a reference price. A reference price can be based on either a normal value or the domestic industry's non-injurious price (NIP). A Normal Value (Value for Duty Equivalent) or NV(VFDE) amount represents the un-dumped value of the goods at the free-on-board (FOB) level. A non-injurious free-on-board (NIFOB) price is the price at which the imports would not cause injury to the New Zealand industry, calculated at the FOB level. The Ministry prefers to set reference prices in the currency that the reference price calculations have been worked, that being either the currency of the normal value (in the case of NV(VFDE) amounts) or the currency of the NIP (in the case of NIFOB prices). For example, in the present review, the NV(VFDE) amounts have been based on the normal value in China, which is set in Chinese Yuan Renminbi (CNY), while the NIFOB prices have been based on Haydn's NIP, which is in New Zealand Dollars (NZD). A full discussion of both reference price methods is set out below.

31. A reference price has advantages in that it is best able to deal with movements in the export price and exchange rates (if expressed in the currency of the normal value), and is particularly appropriate for dealing with situations where a lesser duty is applicable. However, it has been argued that it is more easily evaded than the

other forms of duty by overstating the VFD of the goods. Nevertheless, a reference price does have the advantage of clearly signalling to exporters and importers what price is un-dumped or non-injurious. In addition, a reference price duty only collects duty when the goods are priced below the non-injurious or un-dumped reference price, therefore duty is collected only to the extent necessary to remove injurious dumping.

32. One of main problems with reference prices is that the information they are based on represents a snapshot of prices and costs at a particular point in time. If these prices or costs change, the reference prices may no longer be accurate although significant changes in prices or costs can be addressed by way of a reassessment of the reference prices.

## Developing Country Considerations

33. For the purposes of dumping investigations and reviews and the imposition of anti-dumping duties, China is considered to be a developing country and therefore Article 15 of the Anti-dumping Agreement applies. Article 15 requires that special regard must be given by developed country members to the special situation of developing country members when considering the application of anti-dumping measures. The possibility of constructive remedies is to be explored before applying anti-dumping duties where they would affect the essential interests of a developing country member.

34. The WTO Dispute Settlement Panel in *European Communities - Cotton-Type Bed Linen from India* was of the view that “the imposition of a “lesser duty” or a price undertaking would constitute “constructive remedies” within the meaning of the Article 15...”<sup>3</sup> Price undertakings offered in relation to an initial investigation are covered in section 15 of the Act but do not explicitly extend to reassessments of current anti-dumping duties in place. In addition, no offers of price undertakings were received from Chinese exporters.

35. The Ministry considers that, given the above, its consideration of a lesser duty (as discussed below) fulfils its obligation under Article 15 of the Agreement to give special regard to constructive remedies.

## 3.2 Present Anti-Dumping Duties

36. Anti-dumping duties have been in place on hog bristle paintbrushes from China since 1987, as the result of successive reviews determining that dumping and injury would recommence if the anti-dumping duties were removed. The Ministry has assessed and collected anti-dumping duties on the basis of three categories of paintbrush that are distinguished by different cubic volumes of bristle contained in a brush. The volumes of bristle increase from the industrial category, to the handyman category, to the tradesman category.

37. The volume of bristle for the different brush sizes in the three categories is shown in the following table.

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<sup>3</sup> WT/DS141/R, Appellate Body report, paragraph 6.229.

**Table 3.1: Range of Cubic Volume of Bristle (mm<sup>3</sup>)**

Size (mm)	Industrial	Handyman	Tradesman
25	0 - 11,500	11,501 - 15,000	>15,000
38	0 - 20,000	20,001 - 25,000	>25,000
50	0 - 33,500	33,501 - 36,000	>36,000
63	0 - 38,000	38,001 - 44,000	>44,000
75	0 - 45,000	45,001 - 55,000	>55,000
100	0 - 65,000	65,001 - 90,000	>90,000

38. In the 2003 review, the Ministry calculated NV(VFDE) amounts and NIFOB prices for each size and category of hog bristle paintbrush. These two types of reference prices were compared and the lesser of the two adopted, in accordance with the lesser duty rule. The reference prices apply on a country wide basis, meaning that there are no exporter specific reference prices and they apply to all Chinese exporters.

39. As noted in paragraph 30, NV(VFDE) amounts are set in CNY and NIFOB prices are set in NZD. Most of the duties are set as NV(VFDE) amounts, but where a reference price was set as a NIFOB price, there was also an alternative duty rate set in the form of a NV(VFDE) amount, which was to ensure that the amount of anti-dumping duty does not exceed the margin of dumping.

40. The Ministry also established separate rates of anti-dumping duty for paintbrush heads based on the average production costs of the New Zealand industry in the 2003 review. From the information supplied by the domestic industry in that review, the Ministry applied 71 percent of the reference price for a complete paintbrush to establish the reference price for a paintbrush head.

41. The reference prices which currently apply to Chinese hog bristle paintbrushes and paintbrush heads are set out in the following tables.

**Table 3.2: NIFOB and NV(VFDE) Amounts, Complete Paintbrushes (per unit)**

Size (mm)	Industrial	Handyman	Tradesman
25	CNY 4.40	CNY 4.40	CNY 4.49
38	CNY 6.19	CNY 6.28	CNY 6.37
50	CNY 9.25	CNY 9.52	CNY 9.52
63	NZD 2.89*	CNY 11.85	CNY 11.94
75	CNY 13.65	CNY 13.91	CNY 14.18
100	NZD 4.88*	CNY 18.76	CNY 19.39
Alternative Duty*			
63	CNY 11.49*		
100	CNY 18.58*		

**Table 3.3: NIFOB and NV(VFDE) Amounts, Paintbrush Heads (per unit)**

Size (mm)	Industrial	Handyman	Tradesman
25	CNY 3.12	CNY 3.12	CNY 3.19
38	CNY 4.39	CNY 4.46	CNY 4.52
50	CNY 6.57	CNY 6.76	CNY 6.76
63	NZD 2.05*	CNY 8.41	CNY 8.48
75	CNY 9.69	CNY 9.88	CNY 10.07
100	NZD 3.46*	CNY 13.32	CNY 13.77
Alternative Duty*			
63	CNY 8.16		
100	CNY 13.19		

42. The 'alternative duty' in the tables above is applied when it is lower than the NZD NIFOB price (when converted by the relevant exchange rate). Hog bristle paintbrushes of sizes which are not specified in the tables above are assigned the reference price of the nearest brush size allocated a reference price.

### 3.3 Rates of Anti-Dumping Duty

#### Specific Duty

43. The Ministry has considered whether a specific duty should be applied. The Ministry does not hold any current information on which to establish a specific duty. There are a range of sizes and quality of goods imported and potentially many suppliers with different cost structures and dumping margins. There is also no information available to show that prices are stable, and exchange rates are not stable at the present time. This method of imposing anti-dumping duty is therefore not considered to be appropriate in this instance.

#### Ad Valorem Duty

44. An alternative method of setting anti-dumping duties is to apply an *ad valorem* duty to all Chinese exporters. An *ad valorem* duty can be set at the margin of dumping or at the margin of injury. In accordance with the lesser duty rule, the lower of the two margins would be used as the *ad valorem* duty rate. Lower priced goods would attract a lower amount of duty and higher priced goods attract a higher amount of duty, which would not necessarily address the amount of injury caused in the relevant paintbrush category.

45. As discussed in section 4.7 of the Final Report, the information estimating export prices and normal values sourced in the present review relates to only one brand of DIY hog bristle paintbrushes, which are categorised in the industrial brushes group for duty collection purposes. As noted in paragraph 86 of the Final Report, the assessment of the likelihood of a continuation or recurrence of dumping should duties be removed, was unable to be based on a comparison of transaction-to-transaction prices as is this Ministry's normal approach. An assessment of whether there was likely to be dumping was made from the information that was available,

that is, from a Chinese bristle merchant's estimate of domestic and export selling prices for one brand and type of paintbrush. These prices were not supported with any evidence so were unable to be verified. Even though there was no information on the actual prices and costs (see *inter alia* paragraphs 97, 102, 105 and 109 of the Final Report) and therefore the actual level of dumping, the information was considered to be sufficient to indicate that there would likely be a continuation of dumping should the duties be removed. The information used in the dumping section of the report is therefore a conservative estimate of the likely dumping margins if the duties are removed, given that these estimated prices on the Chinese domestic market are well below prices estimated by up-dating the normal values established in the last review by an index (see paragraph 62 to 66 below).

46. The Ministry considers that because of the lack of supporting information and the availability of other verified information from past cases, using an *ad valorem* rate of duty is not appropriate in this instance.

## Reference Prices

47. The Ministry's normal practice regarding reference prices is to calculate both NIFOB and NV(VFDE) amounts and in accordance with the lesser duty rule, apply the lower of the two reference prices. The following section discusses this approach to setting reference prices.

## Calculation of Non-Injurious Prices (NIPs)

48. A NIP is an unsuppressed selling price at which a domestic producer can sell its products in its domestic market and is the basis on which a NIFOB reference price is calculated. An unsuppressed selling price is one that is achievable in the absence of competition from dumped product in the New Zealand market.

49. The Ministry has found evidence of some injury to the industry from 1 April 2005 to 31 March 2008, which was the period of review for injury POR(I). The Ministry concluded in the Final Report that the injury suffered over this period is not likely to be attributable to imports of hog bristle paintbrushes from China (given there is an anti-dumping duty currently in place). In this situation, and taking account of the information available, the review team considers the industry's NIPs to be the net selling prices achieved by the industry over the POD(R). The relevant level of trade for the industry is the ex-factory level (see paragraph 165 of the Final Report).

50. PAL provided its gross selling prices for its domestically produced hog bristle and synthetic paint brushes, but the Ministry does not have sufficient information to calculate ex-factory prices (as discussed in paragraph 175 of the Final Report). The Ministry has therefore based the industry's NIPs on Haydn's ex-factory selling prices.

51. To calculate Haydn's average ex-factory selling price, a deduction was made for the [REDACTED]. The Ministry has calculated Haydn's average ex-factory selling prices of the like goods (hog bristle paintbrushes and synthetic paintbrushes) for the year ended 30 June 2008. As discussed in section 3.1 of the Final Report, domestically produced synthetic paintbrushes are considered to be like goods to the subject goods.



52. The Ministry considers that synthetic paintbrushes produced by Haydn are at the top of the range, and should therefore be classified within the tradesman category of paintbrushes. The Ministry has calculated a weighted average selling price for the hog bristle Trade and Elite brushes, and the synthetic paintbrushes to establish a NIP for the tradesman category. The NIPs for the industrial and handyman categories are the average net selling prices achieved by Haydn over the year ended 30 June 2008 for its Do-it-Yourself (DIY) and Handyman brushes respectively.

53. The following table shows Haydn's NIPs calculated using the method described above.

**Table 3.4: Haydn's NIPs (per Unit)**

Size	Industrial	Handyman	Tradesman
25			
38			
50			
63			
75			
100			

### Calculation of NIFOB Reference Prices

54. The purpose of a NIFOB price is to ensure that the price of imported product, when considered at the FOB level, is such that when the paintbrushes are sold at the relevant level of trade in the New Zealand domestic market, the sale price is not lower than the NIP. As stated in paragraph 165 of the Final Report, the first point of competition and relevant level of trade is at the importer's ex-store level. NIFOB prices are calculated by taking the industry's NIP at the ex-factory level and deducting costs and margins that would be incurred by importers between the FOB level and the importer's ex-store level.

55. The costs between FOB and an importer's ex-store price include ocean freight, insurance, customs duty, local costs and importer's margin and were calculated on the basis set out in the price undercutting section of the Final Report starting at paragraph 169.

56. The following table shows the NIFOB prices for the three categories of paintbrushes.

**Table 3.5: Industrial NIFOB per Unit**

	25mm	38mm	50mm	63mm	75mm	100mm
NIP Ex-Factory						
Less: Costs and Margins after FOB to Ex-Store						
Ocean Freight/Insurance						
Local Fees						

Import Duty						
Total Deductions						
Margin %						
NIFOB (NZD)						

Table 3.6: Handyman NIFOB per Unit

	25mm	38mm	50mm	63mm	75mm	100mm
NIP Ex-Factory						
Less: Costs and Margins after FOB to Ex-Store						
Ocean Freight/Insurance						
Local Fees						
Import Duty						
Total Deductions						
Margin %						
NIFOB (NZD)						

Table 3.7: Tradesman NIFOB per Unit

	25mm	38mm	50mm	63mm	75mm	100mm
NIP Ex-Factory						
Less: Costs and Margins after FOB to Ex-Store						
Ocean Freight/Insurance						
Local Fees						
Import Duty						
Total Deductions						
Margin %						
NIFOB (NZD)						

### NV(VFDE) Reference Prices

57. NV(VFDE) amounts are calculated by adding to the Chinese normal value, all costs incurred by the exporter up to the FOB level. The NV(VFDE) amounts therefore represent an un-dumped price at the FOB level.

58. As discussed in the dumping section of the Final report (section 4.5) the Ministry received limited normal value information in this review which relates only to hog bristle paintbrushes, which are included within the industrial category of paintbrushes for duty collection purposes. This normal value information has not been supported with any evidence.

59. As stated in paragraph 45, the Ministry considers that the normal value information sourced in the review is a conservative estimate of the current selling prices of hog bristle paintbrushes within the industrial category in China. The Ministry considers the normal value information provides enough information to conclude that there is likely to be dumping if the anti-dumping duties are removed. However, the Ministry considers that the normal value information obtained in the review may not be most appropriate information to be used when setting anti-dumping duties. The information obtained relates to a bristle merchants estimate of the price of a model of industrial brush and what it would sell for on the Chinese domestic market, but the estimate has not been accompanied with any supporting evidence and has not been verified. Costs from ex-factory to the FOB level have not been based on actual transactions but taken from the 2003 Review. There is also a question mark about the veracity of the information, as in the 2003 Review Report an estimate of prices provided for the Chinese domestic market when compared with normal values updated from the Chinese retail index, supported the level of prices provided for the Chinese market. Here the price levels provided are substantially lower when compared with updated normal values. This could be due to the limitations of the data which did not cover the range of brushes being imported, being information for only one type of brush from the lowest price category, and an absence of cost information.

60. The Ministry considers that because there is insufficient data available, information which was used in previous reviews is the best available information for the purposes of setting anti-dumping duties because the information has previously been verified by the Ministry and it also relates to all three categories of hog bristle paintbrushes.

61. For the reasons stated above, the Ministry has updated normal value and other relevant cost and margin information from the 2003 review with a relevant Chinese price index to establish NV(VFDE) amounts in this review.

#### **Updated 2003 NV(VFDE) using an Index**

62. In the 2003 review, in order to establish up to date normal values, the Ministry updated normal value information obtained in 1991 by the Chinese retail index, because of a lack of information provided by Chinese exporters. The Ministry then added 8 percent to the updated normal values to account for all costs and margins between ex-factory and FOB to establish the NV(VFDE) amounts.

63. For this review, the Ministry has only been able to obtain Chinese retail index information up to 2006. The Ministry considers that this information is not recent enough for the purpose of updating the 2003 reference prices and a more up to date Chinese price index is appropriate.

64. The Ministry has obtained statistical information concerning the Chinese Producer Price Index (PPI) up to June 2008. This statistical information is contained in the October 2008 edition of *“International Monetary Fund: International Financial Statistics”* which states that the PPI is designed to monitor changes in prices of items at the first important commercial transaction. In principle, the PPI should include service industries, but in practice it is limited to the domestic agricultural and industrial sectors. Of particular note is that the industrial sector prices should be at

the ex-factory level. The total percentage increase in the NV(VFDE) amount over the period 2003 to 2008 calculated on this basis is 30 percent.

65. In order to establish updated NV(VFDE) amounts, the Ministry has updated the normal values and costs established in 2003 by the Chinese PPI up to 2008. As the 2008 PPI information is limited to the first two quarters, the Ministry has used the average percentage increase in the first two quarters of 2008 (compared to the same two quarters in 2007) as the percentage increase for the 2008 year.

66. The following table shows the NV(VFDE) amounts calculated using the method described above.

**Table 3.8: NV(VFDE) updated by the Chinese PPI (CNY per Unit)**

Size	Group 1	Group 2	Group 3
(mm)	Industrial	Handyman	Tradesman
25	5.73	5.73	5.85
38	8.06	8.18	8.29
50	12.04	12.40	12.40
63	14.96	15.43	15.55
75	17.77	18.11	18.46
100	24.19	24.43	25.25

### Comparison of NIFOB and NV(VFDE) Amounts

67. To establish whether a lesser duty should apply, NIFOB and NV(VFDE) amounts have been calculated to check whether the NIFOB prices have exceeded the margin of dumping. If a NIFOB price is less than the NV(VFDE) amount, then the NIFOB price (which is a form of lesser duty) will apply. If the NIFOB price is greater than the NV(VFDE) amount then the NV(VFDE) amount will apply, i.e. duty will be imposed at the full margin of dumping.

68. The Ministry has converted the NIFOB prices, which are normally set in NZD, to CNY to compare the NIFOB prices and NV(VFDE) amounts in the same currency to identify the lower of the two. The Ministry has used the average exchange rate for the year ended 30 June 2008, because this is Haydn's 2008 financial year from which financial information was used to calculate the NIPs, as discussed in paragraph 49.

69. The following table shows the comparison of reference prices.

**Table 3.9: Industrial Reference Price Comparison (CNY)**

Size (mm)	NIFOB	NV(VFDE)	Lowest Reference Price
25		5.73	NV(VFDE)
38		8.06	NV(VFDE)
50		12.04	NV(VFDE)

63		14.96	NV(VFDE)
75		17.77	NV(VFDE)
100		24.19	NV(VFDE)

**Table 3.10: Handyman Reference Price Comparison (CNY)**

Size (mm)	NIFOB	NV(VFDE)	Lowest Reference Price
25		5.73	NV(VFDE)
38		8.18	NV(VFDE)
50		12.40	NV(VFDE)
63		15.43	NV(VFDE)
75		18.11	NV(VFDE)
100		24.43	NV(VFDE)

**Table 3.11: Tradesman Reference Price Comparison (CNY)**

Size (mm)	NIFOB	NV(VFDE)	Lowest Reference Price
25		5.85	NV(VFDE)
38		8.29	NV(VFDE)
50		12.40	NV(VFDE)
63		15.55	NV(VFDE)
75		18.46	NV(VFDE)
100		25.25	NV(VFDE)

70. The NV(VFDE) amounts are significantly lower than the corresponding NIFOB prices, ranging from [redacted] percent to [redacted] percent. Therefore the Ministry proposes that the reference prices are all set as NV(VFDE) amounts.

### Haydn's Submission

71. Haydn considers that the proposed reference prices for the Industrial category paintbrushes appear to be adequate. However, Haydn does not consider the reference prices for the Handyman and Tradesman category reflect the costs of making a brush when consideration is given to the cubic volume of bristle as shown in paragraph 37. Haydn also states that if there is an influx of Handyman and Tradesman paintbrushes from China, it would seek to have these rates revisited.

72. Haydn was not able to provide cost of production information for the Chinese manufacturers which would support its submission. The only other information that could be used to adjust the costs between the categories would be Haydn's costs. These costs, however, would likely be considerably higher than those for similar processes in China and therefore are not considered to be a suitable basis on which to base adjustments between the categories. No other information about the cost

differences between the categories of paintbrushes is available from another country with a similar cost structure to China. In the absence of further information which would indicate that there are larger differences in prices between the three categories in China, the Ministry considers that the information which has been verified and used over previous reviews remains the best available information for the purpose of setting anti-dumping duties.

### **Effect of Exchange Rates on Anti-Dumping Duties**

73. The Ministry considers that where an anti-dumping duty is imposed as a NV(VFDE) reference amount, it is appropriate that the duty should be established in CNY. NV(VFDE) amounts are based on the normal value, which is the price at which a like good is sold in the domestic market of the exporting country in the normal course of trade and this price is set in the local currency. Due to exchange rate fluctuations, there is a risk of collecting anti-dumping duty which is above or below the margin of dumping if NV(VFDE) amounts are set in a currency other than the country of export. For instance, if NV(VFDE) amounts are set in NZD, any appreciation of the NZD against the CNY would result in anti-dumping duty being paid in excess of the margin of dumping, and the opposite would occur if the exchange rate depreciated. Fluctuations in exchange rates which may affect the amount of anti-dumping duty payable in relation to the margin of dumping are avoided by setting NV(VFDE) amounts in CNY.

74. The Ministry recognises the problem of exchange rate movements concerning the lesser duty rule where reference prices have been established. In the comparison of NIFOB prices with NV(VFDE) amounts exchange rate movements can result in NIFOB prices identified as being the lesser duty, later becoming higher than the corresponding NV(VFDE) amounts, which would be contrary to the requirement that anti-dumping duties do not exceed the margin of dumping. Exchange rate movements relating to NIFOB prices, however, are not an issue for the proposed reference prices as there are no NIFOB prices which are lower than the NV(VFDE) amounts.

### **3.4 Proposed Rates of Anti-Dumping Duty**

75. The Ministry considers that anti-dumping duties should be imposed in the form of reference prices as set out in the tables below. All of the proposed reference prices are in the form of NV(VFDE) amounts, and have therefore been set in CNY for the reasons discussed in paragraph 30 and paragraph 73.

76. As stated in paragraph 40, the Ministry used 71 percent of the reference price established for a complete paintbrush to calculate reference prices for imports of paintbrush heads in the 2003 review. The Ministry considers that this approach is still reasonable and therefore the same percentage has been applied in this review to establish reference prices for paintbrush heads.

**Table 3.12: Proposed Reference Prices – Complete Paintbrushes (CNY)**

Size	Group 1	Group 2	Group 3
(mm)	Industrial	Handyman	Tradesman
25	5.73	5.73	5.85
38	8.06	8.18	8.29
50	12.04	12.40	12.40
63	14.96	15.43	15.55
75	17.77	18.11	18.46
100	24.19	24.43	25.25

**Table 3.13: Proposed Reference Prices – Paintbrush Heads (CNY)**

Size	Group 1	Group 2	Group 3
(mm)	Industrial	Handyman	Tradesman
25	4.07	4.07	4.15
38	5.72	5.81	5.89
50	8.55	8.80	8.80
63	10.62	10.96	11.04
75	12.62	12.86	13.11
100	17.18	17.34	17.93

## Date Duties Become Effective

77. Under section 17(c) of the Act reassessed anti-dumping duties can apply from either the day after the Minister determines new rates of anti-dumping duty or a specified day thereafter. There is no basis in this case for the new rate to apply on a specified day other than the day after the date of the Minister's determination.

## Refunds of Anti-Dumping Duty

78. Section 14(10) of the Act allows for refunds of anti-dumping duty, where the reassessed amount is lower than the measure that is currently in force, for the period since the initiation of the preceding review. All of the proposed reference prices are higher than the current reference prices, and therefore this is not a situation where refunds are applicable.

## 3.5 Future Reassessments

79. Under section 14(6) of the Act, the Ministry may initiate a reassessment of any rate or amount of anti-dumping duty where a request for a reassessment is submitted by an interested party who submits evidence justifying the need for a reassessment.

80. Normally, the Ministry would not undertake a reassessment within six months of new duty rates being set, as prices can still be adjusting to the new rates of anti-dumping duties during this time. However, if an application for a review or reassessment was presented that illustrated a significant change in circumstances had occurred, the Ministry would consider this application within the six month timeframe. Sufficient evidence would be required that an importer's or exporter's behaviour in the market had changed such that it was likely to cause material injury to the New Zealand industry, for a reassessment to be initiated.



## 4. Recommendations

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81. The Ministry concludes that the current rates of anti-dumping duties need to be reassessed and it is accordingly recommended that the Minister:

- a. Determine new rates of anti-dumping duty as set out in Tables 3.12 and 3.13 in the Proposed Rates of Anti-Dumping Duty section of this report.
- b. Agrees that the new rates of anti-dumping duty should apply from the day after the date the Minister determines the new rates of anti-dumping duty in accordance with section 17(c) of the Act.
- c. Sign the attached *Gazette* notice publicly notifying the above decisions.

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Investigating Team  
Trade Rules, Remedies and Tariffs Group  
Ministry of Economic Development



## Annex 1

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82. A full copy of the WTO Agreement on Implementation of Article VI of the GATT 1994 can be found at:

[http://www.wto.org/english/docs\\_e/legal\\_e/19-adp.pdf](http://www.wto.org/english/docs_e/legal_e/19-adp.pdf)

83. A full copy of the Dumping and Countervailing Duties Act 1988 can be found at:

[http://www.legislation.govt.nz/browse\\_vw.asp?content-set=pal\\_statutes](http://www.legislation.govt.nz/browse_vw.asp?content-set=pal_statutes)