



**UNITED STATES DEPARTMENT OF COMMERCE**  
**International Trade Administration**  
Washington, D. C. 20230

A-570-827  
Scope Inquiry  
Draw & Sketch  
Final Scope Ruling  
**PUBLIC DOCUMENT**  
IA/08: KGH

DATE: March 10, 2009

MEMORANDUM TO: John M. Andersen  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

THROUGH: Wendy Frankel  
Director, Office 8  
Antidumping and Countervailing Duty Operations

Charles Riggle  
Program Manager, Office 8  
Antidumping and Countervailing Duty Operations

FROM: Katharine G. Huang  
International Trade Compliance Analyst, Office 8  
Antidumping and Countervailing Duty Operations

SUBJECT: Final Scope Ruling on the Antidumping Duty Order on Certain  
Cased Pencils from the People's Republic of China: Request by  
Walgreen Co. (ArtSkills Draw & Sketch)

### Summary

On January 13, 2009, the Department of Commerce ("Department") issued a preliminary scope ruling that the three graphite pencils and the three cased charcoal drawing pencils contained in ArtSkills Draw & Sketch product imported by Walgreens from the People's Republic of China ("PRC") are within the scope of the *PRC Pencils Order*.<sup>1</sup> In accordance with 19 CFR 351.225(f)(4), we recommend that the Department issue a final ruling and continue to find that the three graphite pencils and the three cased charcoal drawing pencils contained in ArtSkills Draw & Sketch are within the scope of the *PRC Pencils Order*, and the remaining components, including one pencil sharpener, one sanding pad, one black eraser, one kneaded eraser, and one tortillion, are outside the scope of the *PRC Pencils Order*.

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<sup>1</sup> See *Antidumping Duty Order: Certain Cased Pencils from the People's Republic of China*, 59 FR 66909 (December 28, 1994) ("*PRC Pencils Order*").



## Background

On May 29, 2007, the Department received a scope ruling request from Walgreens,<sup>2</sup> arguing that ArtSkills Draw & Sketch product, which contains three graphite pencils, three cased charcoal drawing pencils, one pencil sharpener, one sanding pad, one black eraser, one kneaded eraser, and one tortillion, is outside the scope of the *PRC Pencils Order*. On March 21, 2008, the Department initiated a formal scope inquiry under the *PRC Pencils Order*, pursuant to 19 CFR 351.225(e). On January 13, 2009, the Department issued its preliminary scope ruling that the three graphite pencils and the three cased charcoal drawing pencils contained in ArtSkills Draw and Sketch are within the scope of the *PRC Pencils Order*, and the remaining components, including one pencil sharpener, one sanding pad, one black eraser, one kneaded eraser, and one tortillion, are outside of the scope of the *PRC Pencils Order*. The Department invited comments from all interested parties, pursuant to 19 CFR 351.225(f)(3).<sup>3</sup> No parties submitted comments on the Department's preliminary scope ruling.

## The Scope of the *PRC Pencils Order*

Imports covered by this order are shipments of certain cased pencils of any shape or dimension (except as noted below) which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (e.g., with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to the order are currently classifiable under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Specifically excluded from the scope of the order are mechanical pencils, cosmetic pencils, pens, non-cased crayons (wax), pastels, charcoals, and chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above-referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion. Also excluded from the scope of the order are pencils with all of the following physical characteristics: 1) length: 13.5 or more inches; 2) sheath diameter: not less than one-and-one quarter inches at any point (before sharpening); and 3) core length: not more than 15 percent of the length of the pencil.

In addition, pencils with all of the following physical characteristics are excluded from the scope of the order: novelty jumbo pencils that are octagonal in shape, approximately ten inches long, one inch in diameter before sharpening, and three-

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<sup>2</sup> See Scope Ruling Request for Walgreen Co.: Certain Cased Pencils from the People's Republic of China (A-570-827), received on May 29, 2007 ("Walgreens' Draw & Sketch Scope Ruling Request").

<sup>3</sup> See Letter to All Interested Parties from Charles Riggle, Program Manager, Office 8, Antidumping and Countervailing Duty Operations, Re: Preliminary Scope Ruling on Antidumping Duty Order on Certain Cased Pencils from the People's Republic of China: Request by Walgreen Co., (ArtSkills Draw & Sketch) (January 29, 2009) ("Preliminary Scope Ruling").

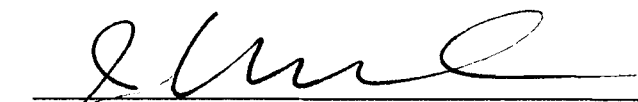
and-one eighth inches in circumference, composed of turned wood encasing one-and-one half inches of sharpened lead on one end and a rubber eraser on the other end.

Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.<sup>4</sup>

### Recommendation

Because no party commented on the Department's preliminary scope ruling, we recommend that the Department continue to find that the three graphite pencils and the three cased charcoal drawing pencils contained in ArtSkills Draw & Sketch product are within the scope of the *PRC Pencils Order*, and the remaining components, including one pencil sharpener, one sanding pad, one black eraser, one kneaded eraser, and one tortillion, are outside the scope of the *PRC Pencils Order* for the same reasons stated in the Preliminary Scope Ruling. Specifically, we find that the physical characteristics of the three cased charcoal drawing pencils, the expectations of the ultimate purchasers, the ultimate use, and the channels of trade in which the product is sold are similar to those for cased pencils subject to the *PRC Pencils Order*. We also recommend instructing U.S. Customs and Border Protection to continue to suspend liquidation and require a cash deposit of estimated duties at the applicable rate, for each unliquidated entry of the three graphite pencils and the three cased charcoal drawing pencils contained in the product entered, or withdrawn from warehouse, for consumption on or after the date of initiation of the scope inquiry.

Agree  Disagree

  
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John M. Andersen  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

3/10/09  
\_\_\_\_\_  
Date

<sup>4</sup> See *Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 38366 (July 6, 2006).