



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

A-570-866  
Scope Ruling  
Public Document  
IA/NME/08: ED

February 9, 2009

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

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

**FROM:** Gene Degnan  
Case Analyst, Office 8  
Antidumping and Countervailing Duty Operations

**RE:** Antidumping Duty Order on Folding Gift Boxes from the People's  
Republic of China

**SUBJECT:** Final Scope Ruling: Footstar

**Summary**

On April 26, 2007, the Department of Commerce ("the Department") received a scope ruling request from Footstar concerning whether certain gift boxes are covered by the antidumping duty order on folding gift boxes ("FGBs") from the People's Republic of China ("PRC"). See Notice of Antidumping Duty Order: Certain Folding Gift Boxes From the People's Republic of China, 67 FR 864 (January 8, 2002) ("the Order"). Footstar requested that the Department find four of its non-corrugated paper folding boxes that it imports from the PRC to be outside the scope of the FGB order. Petitioners have not commented on Footstar's scope ruling request. In accordance with 19 CFR 351.225(d), we recommend that the Department determine that the four boxes that are the subject of the scope request do not meet the description of merchandise within the scope of the Order.



## Background

The Department defined the scope of the investigation in its notice of initiation. This scope language carried forward without modification through the preliminary and final determinations of sales at less than fair value and the eventual antidumping duty order as follows:

The products covered by this order are certain folding gift boxes. Folding gift boxes are a type of folding or knock-down carton manufactured from paper or paperboard. Folding gift boxes are produced from a variety of recycled and virgin paper or paperboard materials, including, but not limited to, clay-coated paper or paperboard and kraft (bleached or unbleached) paper or paperboard. The scope of the order excludes gift boxes manufactured from paper or paperboard of a thickness of more than 0.8 millimeters, corrugated paperboard, or paper mache. The scope also excludes those gift boxes for which no side of the box, when assembled, is at least nine inches in length.

Folding gift boxes included in this scope are typically decorated with a holiday motif using various processes, including printing, embossing, debossing, and foil stamping, but may also be plain white or printed with a single color. The subject merchandise includes folding gift boxes, with or without handles, whether finished or unfinished, and whether in one-piece or multi-piece configuration. One-piece gift boxes are die-cut or otherwise formed so that the top, bottom, and sides form a single, contiguous unit. Two-piece gift boxes are those with a folded bottom and a folded top as separate pieces. Folding gift boxes are generally packaged in shrink-wrap, cellophane, or other packaging materials, in single or multi-box packs for sale to the retail customer. The scope excludes folding gift boxes that have a retailer's name, logo, trademark or similar company information printed prominently on the box's top exterior (such folding gift boxes are often known as "not-for-resale" gift boxes or "give-away" gift boxes and may be provided by department and specialty stores at no charge to their retail customers). The scope of the order also excludes folding gift boxes where both the outside of the box is a single color and the box is not packaged in shrink-wrap, cellophane, other resin-based packaging films, or paperboard.

Imports of the subject merchandise are classified under Harmonized Tariff Schedules of the United States (HTSUS) subheadings 4819.20.0040 and 4819.50.4060. These subheadings also cover products that are outside the scope of this order. Furthermore, although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

See Initiation of Antidumping Duty Investigation: Certain Folding Gift Boxes From the People's Republic of China, 66 FR 15400 (March 19, 2001); Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China, 66 FR 40937 (August 6, 2001); Notice of Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China, 66 FR 58115 (November 20,

2001); Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China, 66 FR 63216 (December 5, 2001); and the Order.

### **Scope Request**

#### *Description of the merchandise*

Footstar's ruling request addresses four different sized boxes. Footstar states that all of the boxes are classified under United States Harmonized Tariff Schedule subheading 4819.20.00.40 and are used to package business cards and forms. All boxes are described as being constructed of 550 gram paperboard that is .0280 inch thick, of a single color on the outside, with no printing of any kind. Footstar asserts that the boxes are not packaged in shrink-wrap, cellophane, other resin-based packaging films, or paperboard, but are bundled together with a corrugated paper strip. The dimensions of the four boxes, in inches of length times width, are given as follows:

- 5 x 3.5 ("Box (1)")
- 7 x 3.5 ("Box (2)")
- 12.125 x 3.5 ("Box (3)")
- 11 x 8.5 ("Box (4)")

#### *Footstar's Arguments*

Footstar asserts that its boxes meet three of the exclusionary criteria in the scope of the Order. First, Footstar argues that although its boxes will not have any printing on them, they are not gift boxes or give-away boxes and will not be supplied to retail customers, and thus they satisfy the exclusionary language of the scope of the Order that states that "{t}he scope of the investigation excludes folding gift boxes that have a retailer's name, logo, trademark or similar company information printed prominently on the box's top exterior (such folding gift boxes are often known as "not-for-resale" gift boxes or "give-away" gift boxes and may be provided by department and specialty stores at no charge to their retail customers)."

Second, Footstar argues that two of its boxes (i.e., Box (1) and Box (2)), neither of which have any side at least nine inches in length, satisfy the exclusionary language of the scope of the Order that states that "{t}he scope of the investigation also excludes those gift boxes for which no side of the box, when assembled, is at least nine inches in length."

Finally, Footstar argues that because its boxes are of a single color on the outside and will be packaged together with a corrugated paper strip, they satisfy the exclusionary language of the scope of the Order that states that "{t}he scope of the investigation also excludes folding gift boxes where both the outside of the box is a single color and the box is not packaged in shrink-wrap, cellophane, other resin-based packaging films, or paperboard."

Petitioners have not commented on Footstar's scope ruling request.

### Legal Framework

The Department examines scope ruling requests in accordance with the Department's scope regulations. See 19 CFR 351.225. On matters concerning the scope of an antidumping duty order, the Department first examines the description of the merchandise contained in the petition, the initial investigation, the determinations of the Secretary (including prior scope determinations) and the International Trade Commission ("ITC"). See 19 CFR 351.225(k)(1). This determination may take place with or without a formal inquiry. If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling as to whether or not the subject merchandise is covered by the order. See 19 CFR 351.225(d).

Conversely, where the descriptions of the merchandise are *not* dispositive, the Department will consider the five additional factors set forth at 19 CFR 351.225(k)(2). These criteria are: i) the physical characteristics of the merchandise; ii) the expectations of the ultimate purchasers; iii) the ultimate use of the product; iv) the channels of trade in which the product is sold; and v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope inquiry is made on a case-by-case basis after consideration of all evidence before the Department.

For this case, the Department evaluated Footstar's request in accordance with 19 CFR 351.225(k)(1) because it finds that the descriptions of the product contained in the petition, the initial investigation, the determinations by the Secretary (including prior scope determinations) and the ITC are, in fact, dispositive with respect to Footstar's boxes. Therefore, the Department finds it unnecessary to consider the additional factors in 19 CFR 351.225(k)(2).

### Analysis

The scope of the Order states that "{t}he scope of the investigation excludes folding gift boxes that have a retailer's name, logo, trademark or similar company information printed prominently on the box's top exterior (such folding gift boxes are often known as "not-for-resale" gift boxes or "give-away" gift boxes and may be provided by department and specialty stores at no charge to their retail customers)." Record evidence indicates that Footstar's boxes do not have a retailer's name, logo, trademark or similar company information printed on them. Accordingly, we do not find that Footstar's boxes satisfy this exclusionary language of the scope of the Order and, therefore, are not excluded from the Scope of the Order by this criterion.

The language of the scope of the Order also specifies that "{t}he scope of the investigation also excludes those gift boxes for which no side of the box, when assembled, is at least nine inches in length." Record evidence indicates that Footstar's Box (1) and Box (2) have no side that is at least nine inches in length, and thus these boxes satisfy this exclusionary criterion. Therefore, we

find that Box (1) and Box (2) do not meet the description of merchandise within the scope of the Order. Box (3) and Box (4), however, each have one side that is at least nine inches in length, and therefore are not excluded from the scope of the investigation by this criterion.

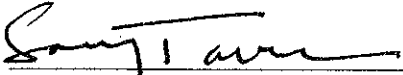
Finally, the language of the scope of the Order further states that “{t}he scope of the investigation also excludes folding gift boxes where both the outside of the box is a single color and the box is not packaged in shrink-wrap, cellophane, other resin-based packaging films, or paperboard.” Footstar asserts, and record evidence corroborates, that all of its boxes are of a single color on the outside. Further, Footstar asserts that the boxes are bound together with a corrugated paper strip, and emphasizes that this strip is not paperboard. There is nothing on the record to refute Footstar’s assertion that the corrugated strip is composed of paper, not paperboard. Accordingly, based on our examination of the record evidence, we find that all four boxes that are the subject of this scope request meet the criteria of this exclusion because they are all of a single color on the outside and not packaged in shrink-wrap, cellophane, other resin-based packaging films, or paperboard.

**Recommendation**

Based upon the above analysis, and pursuant to 19 CFR 351.225(d) and 351.225(k)(1), we recommend the Department find that all four boxes described in Footstar’s Scope Ruling Request are not subject to the scope of the order on FGBs because they meet one or more of the exclusion criteria of the scope language for the order on FGBs from the PRC.

✓  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

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

2/9/19  
\_\_\_\_\_  
Date