



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

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

June 6, 2011

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

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

Eugene Degan
Program Manager, Office 8
Antidumping and Countervailing Duty Operations

FROM: Sergio Balbontin
International Trade Analyst, Office 8
Antidumping and Countervailing Duty Operations

RE: Folding Gift Boxes from the People's Republic of China:
Flexo Craft Prints, Inc. Final Scope Ruling

Summary

On April 14, 2011, the Department of Commerce ("Department") received a submission from Flexo Craft Prints, Inc. ("Flexo"), a U.S. importer, requesting a scope ruling¹ on whether certain items are outside the scope of the antidumping order on folding gift boxes 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) ("Order"). On May 17, 2011, we rejected Flexo's submission due to certain filing deficiencies (*e.g.*, failure to provide a description of the merchandise and failing to serve interested parties).² On May 18, 2011, Flexo re-filed their scope ruling request.³ On May 23, 2011, the Department advised Flexo that its May 18, 2011 submission did not comply with the certification requirements of 19 CFR 351.303(g) of the Department's regulations.⁴ On June 6, 2011, Flexo submitted the required

¹ See Letter from Flexo to the Department, "Formal Request Regarding Scope Ruling (A-570-866)," dated April 14, 2011. Flexo's scope request included various samples of the merchandise it intended to import. On April 1, 2011, the Department provided Flexo with scope filing instructions per Flexo's request. See Letter from the Department to Flexo, "Filing a Formal Scope Ruling Request: Certain Gift Boxes from the People's Republic of China," dated April 1, 2011.

² See Letter from the Department to Flexo, "Filing a Formal Scope Ruling Request: Certain Gift Boxes from the People's Republic of China," dated May 17, 2011.

³ See Letter from Flexo to the Department, "Formal Request Regarding Scope Ruling (A-570-866)," dated May 18, 2011. Flexo did not submit samples with this submission.

⁴ See Letter from the Department to Flexo, "Certain Gift Boxes from the People's Republic of China: Rejection of Submission of Formal Scope Ruling Request Due to Non-Compliance with Newly Revised



certification, signed by Flexo officials on May 26, 2011.⁵ On June 16, 2011, Harvard Folding Box Company, Inc. (“Harvard”), the petitioner in the less-than-fair-value investigation, submitted comments.⁶

In accordance with 19 CFR 351.225(k)(1), we recommend the Department determine that Flexo’s items are within the scope of the *Order* based on the clear language of the *Order* and the description of the products contained in Flexo’s request for a scope ruling.

Background

The scope of the *Order* states:

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

Certification Language,” dated May 23, 2011.

⁵ See Letter from Flexo to the Department, “Certain Gift Boxes from the People’s Republic of China: Rejection of Submission of Formal Scope Ruling Request Due to Non-Compliance with Newly Revised Certification Language,” dated June 6, 2011.

⁶ See Letter from Harvard Folding Company, Inc., “Folding Gift Boxes From the People’s Republic of China; Response To Request For Scope Clarification Submitted By Flexo Craft Prints Inc.” dated June 16, 2011.

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 Order.

Flexo's Scope Ruling Request

In its May 18, 2011 submission, Flexo describes three products labeled as "folding gift boxes" and provided the following dimensions, in inches:⁷

- 1) "Robe Gift Box" measuring 18.875L x 14.5W x 4.25H.⁸
- 2) "Shirt Gift Box" measuring 15L x 11.75W x 3.125H.⁹
- 3) "Giftware Box" measuring 12L x 12W x 5H.¹⁰

According to Flexo, these folding gift boxes are manufactured entirely in the PRC.¹¹ Flexo did not further elaborate on the items. Flexo posits that its folding gift boxes are excluded from the scope of the *Order* under the exclusion for "gift boxes for which no side of the box, when assembled, is at least nine inches in length," asserting that "if any side of the box is 9 inches or more, it's excluded from anti-dumping tariff."¹²

Harvard's Response

In its response, Harvard argues that Flexo's gift boxes are included within the scope of the *Order* because the scope exclusionary language only excludes gift boxes where all sides of the box are less than nine inches in length.¹³

Legal Framework

The Department examines scope 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 U.S. International Trade Commission. *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).

⁷ *See* Flexo's May 18, 2011, submission at 1.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 1-2.

¹³ *See* Harvard's Submission at 2.

Where the descriptions of the merchandise are not dispositive, the Department will consider the five additional factors set forth in 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. See 19 CFR 351.225(k)(2). 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 the evidence before the Department.

Analysis

With respect to the instant inquiry, the Department evaluated Flexo's request in accordance with 19 CFR 351.225(d) and 19 CFR 351.225(k)(1), and finds that the Department can determine whether the boxes described in Flexo's application are included within the folding gift boxes scope without further considering the criteria set forth in 19 CFR 351.225(k)(2). Record evidence, *i.e.*, Flexo's description of its folding gift boxes, indicates that all three of Flexo's folding gift boxes have at least one side measuring more than nine inches in length. The relevant scope language, referred to by Flexo in its submission in support of its position, states that, "The scope of the order also excludes those gift boxes for which **no side** of the box, when assembled, is at least nine inches in length." Emphasis added. The Department has previously determined that this language excludes gift boxes for which, when assembled, no side on the box *exceeds* nine inches, *e.g.*, a jewelry gift box where all sides are less than nine inches. See Memorandum regarding: Antidumping Duty Order on Folding Gift Boxes from the People's Republic of China: Final Scope Ruling: Footstar, dated February 9, 2009; *see also* Memorandum regarding: Folding Gift Boxes from the People's Republic of China: "FunZip" Final Scope Ruling, dated March 16, 2009. However, because each of Flexo's boxes at issue in this ruling contain at least one side longer than 9 inches, each box meets the physical description of merchandise covered by the scope of the *Order*. Thus, in consideration of the record evidence as provided by Flexo, the Department disagrees with Flexo's position that its folding gift boxes are excluded from the scope of the *Order*.

Flexo presents no other arguments to exclude its "Robe Gift Box", "Shirt Gift Box," and "Giftware Box" from the scope of the *Order*. Flexo's application does not indicate that the folding gift boxes would be excluded from the scope of the *Order* under any other basis.

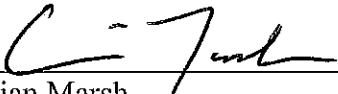
Recommendation

Based upon the foregoing analysis, the Department finds that, pursuant to 19 CFR 351.224(d) and 19 CFR 351.225(k)(1), Flexo's Robe, Shirt, and Giftware folding gift boxes are within the scope of the *Order* covering folding gift boxes from the PRC because these boxes, as described by Flexo, meet the physical description of merchandise covered by the *Order* and do not otherwise meet any of the exclusionary language of the scope of the *Order*.

✓

Agree

Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

7/6/11

Date