



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

A-570-891

Scope Ruling  
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FOR PUBLIC FILE

MEMORANDUM TO: Barbara E. Tillman  
Acting Deputy Assistant Secretary  
for Import Administration

THROUGH: Wendy J. Frankel *wjf*  
Director  
AD/CVD Enforcement, Office 8

FROM: Lilit Astvatsatrian *LA*  
Case Analyst  
AD/CVD Enforcement, Office 8

RE: Antidumping Investigation: Hand Trucks and Certain Parts  
Thereof from the People's Republic of China

SUBJECT: Final Scope Ruling: Central Purchasing, LLC.

### Summary

On April 12, 2005, the Department of Commerce ("the Department") received a scope ruling request from Central Purchasing, LLC. ("Central Purchasing") concerning whether a certain type of light-duty hand truck imported by Central Purchasing is covered by the antidumping duty order on hand trucks and certain parts thereof ("hand trucks") from the People's Republic of China ("PRC"). See Notice of Antidumping Duty Order: Hand Trucks and Certain Parts Thereof from the People's Republic of China, 69 FR 70122 (December 2, 2004) ("Order"). Central Purchasing requests the Department to determine whether the Accessory Cart for a Breaker Hammer ("Accessory Cart"), manufactured in the People's Republic of China ("PRC"), is subject to the Order. See Central Purchasing's April 12, 2005, Request for Scope Ruling ("Scope Request").

### 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 determination of sales at less than fair value and the eventual antidumping duty order:



For the purpose of this investigation, the product covered consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof.

A complete or fully assembled hand truck is a hand-propelled barrow consisting of a vertically disposed frame having a handle or more than one handle at or near the upper section of the vertical frame; at least two wheels at or near the lower section of the vertical frame; and a horizontal projecting edge or edges, or toe plate, perpendicular or angled to the vertical frame, at or near the lower section of the vertical frame. The projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load.

That the vertical frame can be converted from a vertical setting to a horizontal setting, then operated in that horizontal setting as a platform, is not a basis for exclusion of the hand truck from the scope of this petition. That the vertical frame, handling area, wheels, projecting edges or other parts of the hand truck can be collapsed or folded is not a basis for exclusion of the hand truck from the scope of the petition. That other wheels may be connected to the vertical frame, handling area, projecting edges, or other parts of the hand truck, in addition to the two or more wheels located at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition. Finally, that the hand truck may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges or toe plate, and the two wheels at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition.

Examples of names commonly used to reference hand trucks are hand truck, convertible hand truck, appliance hand truck, cylinder hand truck, bag truck, dolly, or hand trolley. They are typically imported under heading 8716.80.50.10 of the Harmonized Tariff Schedule of the United States ("HTSUS"), although they may also be imported under heading 8716.80.50.90. Specific parts of a hand truck, namely the vertical frame, the handling area and the projecting edges or toe plate, or any combination thereof, are typically imported under heading 8716.90.50.60 of the HTSUS. Although the HTSUS subheadings are provided for convenience and for customs purposes, the Department's written description of the scope is dispositive.

Excluded from the scope are small two-wheel or four-wheel utility carts specifically designed for carrying loads like personal bags or luggage in which the frame is made from telescoping tubular material measuring less than 5/8 inch in diameter; hand trucks that use motorized operations either to move the hand truck from one location to the next or to assist in the lifting of items placed on the hand truck; vertical carriers designed specifically to transport golf bags; and wheels and tires used in the manufacture of hand trucks.

See Notice of Initiation of Antidumping Duty Investigation: Hand Trucks and Certain Parts Thereof from the People's Republic of China, 68 FR 68591 (December 9, 2003); Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Hand Trucks and Certain Parts Thereof from the People's Republic of China, 69 FR 29509 (May 24, 2004); Notice of Final Determination of Sales at Less Than Fair Value: Hand Trucks and Certain Parts Thereof from the People's Republic of China, 69 FR 60980 (October 14, 2004) ("Final Determination"); Amended Final Determination of Sales at Less Than Fair Value: Hand Trucks and Certain Parts Thereof from the People's Republic of China, 69 FR 65410 (November 12, 2004). Notice of Antidumping Duty Order: Hand Trucks and Certain Parts Thereof from the People's Republic of China, 69 FR 70122 (December 2, 2004) ("Order").

### **Scope Request**

#### **Summary of Central Purchasing's Scope Request**

##### *Description of the merchandise*

- Central Purchasing states that the Accessory Cart has a unique configuration at the toe plate area, and is specifically designed to fit and carry a Breaker Hammer and serves no other purpose. Central Purchasing maintains that the Accessory Cart has a highly specialized purpose and, therefore, is not utilized as a standard hand truck.
- According to Central Purchasing, the Accessory Cart has overall dimensions of 14 1/8 inches in length, 17 inches in width, and 42 1/4 inches in height. Central Purchasing states that the toe plate dimensions are 14 1/16 inches in width and 6 1/8 inches in length. Also, Central Purchasing describes the Accessory Cart as having four welded tubular holders that measure 6 inches by 1 1/2 inches in outside diameter, and 6 inches by 1 3/8 inches in inside diameter. In addition, Central Purchasing states that the Accessory Cart has two wheels 7 1/2 inches in diameter by 1 3/8 inches in width. Finally, Central Purchasing states that the net weight of the Accessory Cart is 21.15 pounds.

##### *Central Purchasing's argument*

- Central Purchasing argues that the Accessory Cart has a highly specialized purpose and is neither utilized nor utilizable as a standard hand truck for which the original order was written. Additionally, Central Purchasing contends, the design and configuration of the toe plate makes the Accessory Cart different from hand trucks covered by the Order.

## Summary of the Petitioners' Comments on Central Purchasing's Scope Ruling Request

- Petitioners<sup>1</sup> state that the Accessory Cart is within the defined scope of the Order. Petitioners state that the scope of the Order defines the subject merchandise as "... hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edge or toe plate, and any combination thereof." See Final Determination, 69 FR 60981. Petitioners argue that the Accessory Cart is a hand-propelled barrow with a vertical frame having a handle at the upper section of the vertical frame; two wheels at the lower section of the vertical frame; and a horizontal projecting edge perpendicular to the vertical frame at the lower section of the vertical frame. Therefore, Petitioners conclude that the Accessory Cart meets the definition of the subject merchandise.
- Petitioners argue that the designated purpose of the Accessory Cart does not exclude it from the scope of the Order. Petitioners maintain that Central Purchasing's argument that the Accessory Cart should be excluded from the scope of the Order because it is designed to fit and carry a Breaker Hammer has no merit because the scope of the Order covers hand trucks "suitable for any use." Petitioners further argue that the scope of the Order states that hand trucks "...may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges or toe plate, and the two wheels at or near the lower section of the vertical frame..." See Order. Therefore, Petitioners argue that the fact that the Accessory Cart has added physical characteristics that give the cart the ability to fit and carry a Breaker Hammer, is not a basis for exclusion of the Accessory Cart from the scope of the Order.
- Petitioners state that the Accessory Cart is not excluded from the scope of the Order based on any stipulated exceptions. Petitioners state that Central Purchasing does not argue that the Accessory Cart falls within one of the stipulated exceptions to the Order and, therefore, acknowledges that none of the exceptions listed in the scope of the Order apply. Petitioners contend that the Department should not exclude the Accessory Cart based on any of the stipulated exceptions to the Order. Therefore, Petitioners conclude that the Department should find that Central Purchasing's Accessory Cart falls within the scope of the Order.

### Legal Framework

The Department examines scope requests in accordance with the Department's scope regulations. See 19 CFR 351.225 (2002). 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

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<sup>1</sup> Petitioners are Gleason Industrial Products, Inc. and Precision Products, Inc.

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).

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 Central Purchasing'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 Central Purchasing's hand trucks. Therefore, the Department finds it unnecessary to consider the additional factors in 19 CFR 351.225(k)(2).

### Analysis

The scope language of the Order states that "for the purpose of this investigation, the product covered consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof."

Based on Central Purchasing's description of its own merchandise, the Accessory Cart has the following characteristics of subject merchandise: (1) a vertical frame; (2) a handling area; (3) projecting edge(s) or toe plate; and (4) two or more wheels. See Page 1 of Attachment 1 of Scope Request. Thus, we determine that the Accessory Cart displays the key physical characteristics as the subject hand trucks<sup>2</sup> defined in the scope of the Order.

Central Purchasing argues that because the Accessory Cart is specifically designed to fit and carry a Breaker Hammer, it should be excluded from the scope of the Order. However, the scope of the Order specifically covers hand trucks "suitable for any use." Furthermore, Central Purchasing argues that the Accessory Cart has a unique configuration at the toe plate area, and, thus, it should not be within the scope of the Order. The scope of the Order specifically states "... that the hand truck may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges, or toe plate, and the two wheels at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the

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<sup>2</sup> See Pictures provided in Central Purchasing's April 12, 2005, scope exclusion request.

petition."<sup>3</sup> Thus, Central Purchasing's contention that the additional physical characteristic at the toe plate area is not sufficient for exclusion from the scope of the Order because the scope of the Order allows for additional characteristics at the toe plate area.

The scope of the Order states that "...excluded from the scope are small two-wheel or four-wheel utility carts specifically designed for carrying loads like personal bags or luggage in which the frame is made from telescoping tubular material measuring less than 5/8 inch in diameter; hand trucks that use motorized operations either to move the hand truck from one location to the next or to assist in the lifting of items placed on the hand truck; vertical carriers designed specifically to transport golf bags; and wheels and tires used in the manufacture of hand trucks."<sup>4</sup> However, Central Purchasing did not make any argument pertaining to the aforementioned exclusionary criteria, and based on its description of its Accessory Cart, the product does not appear to meet any of the exclusionary criteria.

**Recommendation**

Based upon the above analysis, we recommend the Department find that the Accessory Cart meets the description of merchandise covered by the scope of the Order and, therefore, is subject to the antidumping duty order on hand trucks from the PRC.

✓  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

*Barbara E. Tillman*  
Barbara E. Tillman  
Acting Deputy Assistant Secretary  
for Import Administration

*June 3, 2005*  
\_\_\_\_\_  
Date

<sup>3</sup>See ("Order").

<sup>4</sup>See ("Order").