



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

PUBLIC FILE

A-570-891

Scope Request
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February 1, 2006

MEMORANDUM TO: Stephen J. Claeys
Deputy Assistant Secretary
for AD/CVD Operations

THROUGH: Wendy J. Frankel
Director
for AD/CVD Operations, Office 8

FROM: Hilary E. Sadler, Esq.
Case Analyst
for AD/CVD Operations, Office 8

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

SUBJECT: Final Scope Ruling for Central Purchasing, LLC's Breaker
Hammer Accessory Cart

Summary

On November 22, 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 request for scope ruling, "Applicability of Antidumping Duty Order A-570-891 on an accessory cart for a Breaker Hammer," (November 22, 2005) ("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:

“[T]he 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); Order, 69 FR 70122.

Scope Request

Summary of Central Purchasing's Scope Request

Description of the merchandise

- 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. 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 states that the Accessory Cart is specifically designed to fit and carry a Breaker Hammer and does not have a projected edge or toe plate. Central Purchasing maintains that the Accessory Cart is only used to transport breaker hammers and is not utilized as a standard hand truck.
- Additionally, Central Purchasing contends the design and configuration without a 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

Petitioners¹ did not comment on Central Purchasing's scope ruling request.

¹ Petitioners in this order are Gleason Industrial Products, Inc. and Precision Products, Inc. (collectively "Gleason").

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 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 Breaker Hammer Accessory Cart. 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:

"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." See Order.

Furthermore, the scope requires that "[t]he projected edge or edges, or toe plate, slides under a load . . ." See Order. In its investigation report, the ITC commented that "[h]and trucks cannot serve their intended purpose without each of the three parts that are included in Commerce's scope of investigation." See Hand Trucks and Certain Parts Thereof From China, at 6, USITC Pub. 3737, Inv. No. 731-TA-1059 (Final), (November 2004) ("ITC Report").

From the description and pictures Central Purchasing has provided, the Accessory Cart does not have a toe plate that could slide under a load, a required characteristic. Moreover, the Accessory Cart also has a protrusion on the horizontal plate that would prevent it from sliding under a load. Thus, the Accessory Cart possesses only two of the three key physical characteristics of the subject hand trucks as defined in the scope of the order. See Scope Request at Appendix. Thus, we determine that the Accessory Cart does not possess all of the characteristics of a hand truck as described in the scope of the order.

Recommendation

Based upon the above analysis, we recommend that the Department find that the Accessory Cart does not meet the description of merchandise covered by the scope of the order and, therefore, is not subject to the antidumping duty order on hand trucks and certain parts thereof from the People's Republic of China.

✓

Agree

Disagree

Stephen J. Claeys

Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

2/11/06

Date

