



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

5/18/07

A-570-891  
Scope Review  
Public Document  
IA/SEC: HNZ

MEMORANDUM FOR: Stephen J. Claeys  
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for Import Administration

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FROM: Halle Noel Zink  
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SUBJECT: Final Scope Ruling: Antidumping Duty Order on Hand Trucks  
From the People's Republic of China (A-570-891);  
Expeditors Tradewin, LLC, on behalf of Ameristep Corporation  
Inc.

#### Summary

On November 15, 2006, the Department of Commerce (the "Department") received a request from Expeditors Tradewin, LLC ("Tradewin"), on behalf of Ameristep Corporation, Inc., for a scope ruling concerning whether the following hand trucks are covered by the antidumping duty order on hand trucks from the People's Republic of China ("PRC"): Ameristep Product No. 7800 "Non-Typical" Deer Cart, constructed principally of aluminum ("Non-Typical Cart"), and Ameristep Product No. 9800 "Grizzly" Deer Cart, constructed principally of steel ("Grizzly Cart"). See Antidumping Duty Order: Hand Trucks and Certain Parts Thereof From the People's Republic of China, 69 FR 70122 (December 2, 2004) ("Order"). In accordance with 19 CFR 351.225(k)(1), we recommend that the Department determine that Tradewin's Non-Typical and Grizzly Carts are not included within the scope of the Order.

#### Background

On November 15, 2006, the Department received a letter from Tradewin requesting a scope ruling on the hand trucks mentioned above. Gleason Industrial Products, Inc., and Precision



Products, Inc. (collectively, "Gleason"), the petitioners in the original investigation, submitted comments on Tradewin's scope ruling request on February 1, 2007 ("Gleason Response"). Subsequently, on March 9, 2007, Tradewin submitted rebuttal comments to Gleason's February 1, 2007, submission.

### Scope

On December 2, 2004, the Department published the antidumping duty order on hand trucks and certain parts thereof. See Order. The scope language in the Order has carried forward without any modifications and is as follows:

"[T]he product covered by this Order 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. 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. 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.

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.

#### **Tradewin’s Scope Request**

##### **a. Product Description**

Tradewin notes that the product construction description it provides is applicable to both the Non-Typical Cart and Grizzly Cart models. Tradewin states that its Non-Typical and Grizzly Carts are hand-propelled barrows, consisting of a vertical upper frame of aluminum or steel metal tubing; a horizontal lower frame, also of aluminum or steel metal tubing, an axle mounting frame, and two 16-inch rubber wheels on steel rims. Tradewin explains that the upper end of the vertical frame serves as a handle, which the user employs when pushing or pulling the carts. The horizontal frame is joined to the lower end of the vertical frame and extends out perpendicularly. The axle is mounted near the juncture of the two frames. The Non-Typical Cart is distinguishable only in that it is a lightweight version of the Grizzly Cart, made of aircraft-grade aluminum. Additionally, it folds for compact storage and its reinforced straps help secure the load to the cart, as well as help hold the cart in its packed form. Tradewin provided technical drawings and pictures of its Non-Typical and Grizzly Carts in its November 15, 2006, Scope Request.

##### **b. Scope Request**

Tradewin asserts that its Non-Typical Cart and Grizzly Cart fall outside the scope of the Order. Specifically, Tradewin asserts that while its Non-Typical Cart and Grizzly Cart may possess physical characteristics akin to those outlined in the Order, they differ in one critical respect: its Non-Typical Cart and Grizzly Cart do not possess 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, as provided for in the Order. Rather, Tradewin asserts, its Non-Typical Cart and Grizzly Cart possess a horizontal frame similar in construction to the upper, or vertical, frame. In addition, unlike the projecting edge or edges, or toe plate, described in the Order, the Non-Typical Cart’s and Grizzly Cart’s horizontal frame is not sufficiently thin or edged to effectively

slide under any load. Because its Non-Typical Cart and Grizzly Cart do not possess a projecting edge or edges, or toe plate, and cannot be used in the manner described in the Order, Tradewin asserts that its Non-Typical Cart and Grizzly Cart do not fall within the intended scope of the Order.

### **Gleason's Opposition to Tradewin's Scope Request**

Gleason argues that Tradewin's Non-Typical Cart and Grizzly Cart meet the precise definition of the subject merchandise covered by the scope of the Order. Additionally, Gleason argues, whether the horizontal projecting edge of a hand truck is intended to slide under a load for purposes of lifting and/or moving the load, has no bearing on whether that hand truck is subject to the scope of the Order. Thus, Gleason asserts, the issue is whether the horizontal frame of Tradewin's Non-Typical Cart and Grizzly Cart functions as a projecting edge or edges, or toe plate, capable of sliding under a load, per the language of the Order. Focusing in on the undefined Order term "slides under," Gleason, with the aid of a Webster's dictionary, analyzes the two words independently and then in concert. The word "slide," Gleason asserts, is defined, in part, to mean "to go with a smooth continuous motion," or "to coast over a surface...by means of gravity or momentum." See Gleason Response, at 2. The word "under," Gleason asserts, is defined, in part, to mean "in or into a position below or beneath something." Id., at 3. Thus, Gleason asserts, whether the Non-Typical Cart and Grizzly Cart's horizontal frame "slides under" a load, thereby acting as a projecting edge or toe plate, can ordinarily be understood to mean that the product's horizontal frame "can be placed in or into a position beneath a load so the load can be slid across" the horizontal frame's surface, thereby functioning as a projecting edge or edges, or toe plate, as defined in the Order. Id.

Applying its interpretation of the term "slides under," Gleason argues that the Non-Typical Cart and Grizzly Cart's horizontal frame is fully capable of being placed in a position enabling it to slide under a load. In support of its position, Gleason argues that there is nothing on the record which indicates that the Non-Typical Cart's and Grizzly Cart's horizontal frame cannot be placed in or into a position beneath a load, allowing for a load to be slid across its surface. Rather, Gleason argues, the evidence provided by Tradewin clearly demonstrates that an "an individual can easily position the horizontal projecting edge of the {Ameristep} Deer Carts beneath a load by the common sense practice of tipping the load slightly so as to better allow the horizontal projecting edge to slide under the load." See Gleason Response, at 3. Gleason also notes that Tradewin did not request a scope exclusion for its Non-Typical Cart and Grizzly Cart based on the exception, articulated in the Order, applicable to "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 less than 5/8 inch in diameter." Id. (citing the Order). Therefore, Gleason argues, the Department should find that Tradewin's Non-Typical Cart and Grizzly Cart possess all four characteristics of the hand trucks covered by the scope of the Order, including a projecting edge or toe plate.

### **Tradewin's Rebuttal Comments to Gleason's Opposition**

On March 9, 2007, Tradewin filed rebuttal comments countering Gleason's position that its Non-Typical Cart and Grizzly Cart meet the definition of the hand trucks covered by the scope of the Order. Specifically, Tradewin takes issue with Gleason's over-inclusive finding that the term,

"slides under," means the same thing as "placed in a position beneath a load so the load can be slid across the surface." Tradewin argues that such an interpretation stretches both the ordinary meaning of the term, as well as the Order's definition of a hand truck's function. Rather, Tradewin argues, "slides under" means exactly what it says in the Order, that the horizontal projecting edge must slide under the load. Tradewin asserts, however, that two conditions (*i.e.*, the horizontal frame must be placed flush with the ground on which the load rests and the horizontal frame is sharp and does not offer resistance when the user slides it under the load by pushing against the hand truck with his/her hands, feet, or both) must be present for the horizontal frame to slide under the load and, thus, be subject to the Order. Based on these criteria, Tradewin asserts, its Non-Typical Cart and Grizzly Cart do not meet the definition of the hand trucks covered by the scope of the Order. Specifically, Tradewin argues that because the horizontal frame of the Non-Typical Cart and Grizzly Cart extends outwards from the axle of a large 16-inch all-terrain rubber wheel it cannot be placed horizontal to, and flush with the ground, making it impossible to slide under a load. Further, the Non-Typical Cart's and Grizzly Cart's horizontal frame is made of the same one-inch tubular steel as the rest of the Non-Typical Cart and Grizzly Cart, which Tradewin argues, makes sliding the horizontal frame under the load even more difficult, particularly when the frame is not flush with the ground. These additional characteristics, Tradewin argues, prevent the Non-Typical Cart and Grizzly Cart from being used in the manner described in the Order (*i.e.*, horizontal projecting edge of a hand truck must slide under a load for purposes of lifting and/or moving the load).

Finally, Tradewin rebuts Gleason's argument that "an individual can easily position the horizontal projecting edge of the {Ameristep} Deer Carts beneath a load by the common sense practice of tipping the load slightly..." citing two reasons why this operation is not possible. First, Tradewin argues, unlike a stack of cartons or boxes, a large deer carcass is heavy and oddly shaped, making it impossible to "tip slightly" in order to allow an edge of any kind to slide underneath it. Second, Tradewin argues, due to the size of the Non-Typical Cart's and Grizzly Cart's wheel, the rear portion of its horizontal frame remains more than eight inches from the ground on which the load is resting. Thus, for the entire horizontal frame to slide beneath the load, the load would have to be tipped enough by the user to raise it at least eight inches from the ground. Tradewin argues that due to the weight and awkward nature of the load carried by the Non-Typical Cart and Grizzly Cart, such an operation is impossible. Thus, Tradewin again argues, because the Non-Typical Cart's and Grizzly Cart's horizontal frame cannot slide under a load for purposes of lifting and/or moving the load, the Department should find that its Non-Typical Cart and Grizzly Cart do not possess a projecting edge or edges or toe plate, and are therefore, outside the scope of the Order.

### **Legal Framework**

The regulations governing the Department's antidumping scope determinations are found at 19 CFR 351.225. On matters concerning the scope of an antidumping duty order, the Department first examines the descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the U.S. International Trade Commission (ITC). 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(k)(1).

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: (1) the physical characteristics of the merchandise; (2) the expectations of the ultimate purchasers; (3) the ultimate use of the product; (4) the channels of trade in which the product is sold; and (5) 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.

In the instant case, the Department has evaluated Tradewin's request in accordance with 19 CFR 351.225(k)(1) and finds that the descriptions of the product contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the ITC are dispositive with respect to Tradewin's Deer Carts. Therefore, for these Deer Carts, the Department finds it unnecessary to consider the additional factors set forth at 19 CFR 351.225(k)(2).

Documents and parts thereof from the underlying investigation that the Department deemed relevant to this scope ruling were made part of the record of this determination and are referenced herein. Documents that neither the Department nor the parties placed on the record do not constitute part of the administrative record for this scope determination.

#### Analysis of Tradewin's Deer Carts

With respect to the instant scope request, the Department finds, for the reasons outlined below, that Tradewin's Non-Typical Cart and Grizzly Cart are outside the scope of the Order.

The scope language which is relevant to Tradewin's scope exclusion request states that "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..." Further, the scope clarifies that the "projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load."

Tradewin acknowledges that its Non-Typical Cart and Grizzly Cart possess three of the four general physical characteristics of a hand truck, as outlined in the Order, i.e., a vertical frame, a handle, and at least two wheels. Tradewin argues, however, that the Non-Typical Cart and Grizzly Cart differ in one critical respect from the hand trucks contemplated by the Order: they do not possess a projecting edge or edges, or toe plate, which is defined by the Order according to its function, i.e., "[t]he projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load." Thus, Tradewin asserts, because the horizontal frame of its Non-Typical Cart and Grizzly Cart does not constitute a projecting edge or edges, or toe plate, and cannot be used in the manner described in the Order, they do not fall within the intended scope of the Order.

Gleason, on the other hand, argues that Tradewin's Non-Typical Cart and Grizzly Cart possess all four characteristics of the hand trucks covered by the scope of the Order, including a projecting edge or toe plate. In support of its position that the Non-Typical Cart's and Grizzly Cart's horizontal frame functions as a projecting edge or toe plate, as contemplated by the scope

of the Order, Gleason attempts to define the function, "slides under;" as it applies to the Order, to mean that the Non-Typical Cart's and Grizzly Cart's horizontal frame "can be placed in or into a position beneath a load so the load can be slid across the horizontal projecting edge's surface." See Gleason Response, at 2. Thus, Gleason contends, the Non-Typical Cart's and Grizzly Cart's horizontal frame is capable of sliding under a load, and therefore, functions as a projecting edge or toe plate, as described in the Order. Gleason concludes that because the Non-Typical Cart and Grizzly Cart possess the four key characteristics of a hand truck, they are subject to the scope of the Order.

It is uncontested that the Non-Typical Cart and Grizzly Cart possess a vertical frame, a handle and at least two wheels. Thus, the fundamental question that must be answered is whether Tradewin's Non-Typical Cart and Grizzly Cart possess a projecting edge or edges, or toe plate, which slides under a load for purposes of lifting and/or moving the load. After evaluating Tradewin's request, and the evidence on the record, in accordance with 19 CFR 351.225(k)(1), we find that the Non-Typical Cart's and Grizzly Cart's horizontal frame does not constitute a toe plate or projecting edge, as defined by the Order.

Specifically, Tradewin provided written descriptions, technical drawings and pictures demonstrating that the horizontal frame of its Non-Typical Cart and Grizzly Cart are incapable of sliding under a load to lift or move it. First, the Non-Typical Cart's and Grizzly Cart's horizontal frame is made of the same material as the rest of the cart, i.e., one-inch tubular steel or aluminum, which is neither thin, nor edged enough, to effectively slide under any load. Second, the horizontal frame of the Non-Typical Cart and Grizzly Cart extends outwards from the axle of a large 16-inch all-terrain rubber wheel, which prevents the horizontal frame from being placed horizontal to the ground, which makes sliding the horizontal frame under the load even more difficult.

While we agree with Gleason that the issue here is whether the horizontal frame of the Non-Typical Cart and Grizzly Cart "slides under" a load, per the language of the Order, we disagree with the effect Gleason has given to the term "slides under," as it appears in the sentence "[t]he projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load." As stated, in Vertex International, Inc. v. United States, No. 06-10, slip op. at 10 (CIT Jan 19, 2006) ("Vertex"), "Commerce must give effect to this sentence, which states an essential physical characteristic of the articles included within the scope and specifies the purpose for which the horizontal projecting edge or toe plate must be designed." See Vertex at 10. As noted above, Gleason concludes that the term "slides under" a load, means the Non-Typical Cart's and Grizzly Cart's horizontal frame "can be placed in or into a position beneath a load so the load can be slid across the horizontal projecting edge's surface." See Gleason Response, at 3. Gleason's interpretation of the term, "slides under" incorrectly fixates on the user's ability to maneuver the Non-Typical Cart's and Grizzly Cart's horizontal frame - in such a way as to allow the user to place the load onto the horizontal frame, rather than focusing on the ability of the horizontal frame to slide under a load. Nevertheless, we find that an individual cannot easily position the horizontal frame of the Non-Typical Cart and Grizzly Cart beneath a load by tipping the load slightly due to the size of the Non-Typical Cart's and Grizzly Cart's wheel, which causes the rear portion of the Non-Typical Cart's and Grizzly Cart's horizontal frame to remain more than eight inches from the ground on which the load is resting. Thus, in order for the entire frame to slide beneath the load, the load would have to be tipped enough by the user to raise it at least eight

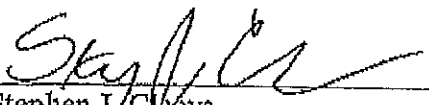
inches from the ground. Due to the weight and awkward nature of the load carried by the Non-Typical Cart and Grizzly Cart, we find that such an operation is not feasible.

We agree with Tradewin that its Non-Typical Cart and Grizzly Cart do not fall within the scope of the Order because the carts do not have a projecting edge or toe plate that slides under a load for purposes of lifting and/or moving the load. Therefore, because Tradewin's Non-Typical Cart and Grizzly Cart do not possess all four characteristics of the hand trucks covered by the scope of the Order, including a projecting edge or toe plate, we find that they are not within the scope of the Order.

### Recommendation

Based on the preceding analysis, we recommend that the Department find that Tradewin's Ameristep Product No. 7800 "Non-Typical" Deer Cart and Ameristep Product No. 9800 "Grizzly" Deer Cart, described above as Non-Typical Cart and Grizzly Cart, are not within the scope of the Order. If you agree, we will send the attached letter to the interested parties, and will notify U.S. Customs and Border Protection of our determination.

Agree  Disagree

  
Stephen J. Cleys  
Deputy Assistant Secretary  
for Import Administration

5/18/07  
Date