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**International Trade Administration**  
Washington, D.C. 20230

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Scope Inquiry  
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**FOR PUBLIC FILE**

**MEMORANDUM TO:** Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

**THROUGH:** Wendy J. Frankel *wjf*  
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**FROM:** Juanita H. Chen *JHC*  
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**RE:** Hand Trucks and Certain Parts Thereof from the People's Republic  
of China: Scope Ruling on Stebco Portable Slide-Flat Cart

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**SUMMARY:**

On December 6, 2006, Bond Street Ltd. (A New York Ltd. Company) ("Bond Street") filed a submission with the Department of Commerce ("Department") requesting a scope ruling on whether its Stebco portable slide-flat cart, style no. 390009CHR ("slide-flat cart"), is included within the scope of the order on hand trucks and certain parts thereof from the People's Republic of China ("PRC"). In accordance with 19 C.F.R. 351.225(k)(1), we recommend that the Department determine that the slide-flat cart is within the scope of the antidumping duty order on hand trucks and certain parts thereof from the PRC.

**SCOPE:**

On December 2, 2004, the Department published the antidumping duty order on hand trucks and certain parts thereof ("hand trucks"). 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"). The scope language in the Order has carried forward to this date with no modifications, and is as follows:

The 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. 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 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.

## **BACKGROUND:**

On December 6, 2006, Bond Street filed a request with the Department, asking that the slide-flat cart it imports be found outside the scope of the Order ("Scope Inquiry Request").<sup>1</sup> Bond Street states that it imports "business products for use in home and office and business travel." *See* Scope Inquiry Request, at 1. Bond Street provides the approximate measurements of the slide-flat cart as 40 inches high by 18.75 inches wide by 19 inches deep (when open) and 30 inches high by 18.75 wide by 2 5/8 inches deep (when folded). Bond Street states the slide-flat cart falls under HTSUS 8716.80.5020.

Bond Street argues that the design of the slide-flat cart renders it incapable of performing the typical functions of a hand truck. Bond Street notes that the slide-flat cart has a collapsing toe plate and lacks a kick plate, and argues this makes the cart unable to slide under a load with any ease. Rather, Bond Street claims items must be lifted onto the toe plate, which is contrary to a hand truck's requirement of "the ability, and the ease and quickness of mobility and sliding under, lifting, and moving of large loads." *See* Scope Inquiry Request, at 3. Bond Street also argues that the slide-flat cart is inefficient for use as a hand truck, as the 40-inch handle height prevents the user from carrying more than two "traditional" warehouse boxes without crushing or injuring the user's fingers. *Id.* Instead, asserts Bond Street, the expectations and ideal use of the slide-flat cart is "for carrying 3-4 pieces of luggage or sample cases which are between 8 inches and 12 inches deep." *Id.* Bond Street points out the slide-flat cart includes an elastic bungee strap common to luggage carts (to secure personal loads that might fall off the cart), but not typically included with hand trucks (where the size and weight of heavy loads are enough to secure the load). Bond Street also argues that the bungee strap hook, located 8.5 inches off the ground at the back of the slide-flat cart, is meant to deter use as a hand truck, as its placement prevents the user from placing a foot against the slide-flat cart for leverage and lifting a heavy load.

Bond Street claims it markets to wholesalers, such as S.P. Richards Company (a seller of office products) ("S.P. Richards"), who advertise the slide-flat cart in their catalogues as travel items and portable carts for individuals and salesmen. Bond Street argues the slide-flat cart is advertised and marketed in the same section as carts designed for carrying personal bags or luggage, which are specifically excluded from the scope. Bond Street claims the slide-flat cart is not advertised in industrial catalogues or in any section of catalogues used for hand trucks (*e.g.*,

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<sup>1</sup> The original due date for initiating a formal scope inquiry or issuing a scope ruling was January 20, 2007. On January 17, 2007, the Department extended the deadline for the scope inquiry to February 28, 2007. On February 28, 2007, the Department extended the deadline for the scope inquiry to April 15, 2007 (a Sunday). On April 16, 2007, the Department extended the deadline for the scope inquiry to May 30, 2007.

hand trucks, mail room or janitorial), but rather is advertised only in the "Business Cases" section. *See* Scope Inquiry Request, at 4. In support, Bond Street provides pages from the S.P. Richards 2006 catalogue and website, pointing out the slide-flat cart is advertised in the carts, luggage carts, and travel carts sections, but not in the hand trucks section. *See* Scope Inquiry Request, at attachments.

Bond Street also argues that the slide-flat cart falls under the exclusionary language of the scope, which it asserts is meant to cover carts, such as the slide-flat cart, that are not capable of handling traditional hand truck functions, *e.g.*, carts that carry "less heavy loads." *See* Scope Inquiry Request, at 2. Bond Street argues the collapsing toe plate is designed for travel, as the wheels fold flat for greater portability and storage. Bond Street also notes that the horizontal tubing of the slide-flat cart is less than 5/8 inches in diameter; while Bond Street acknowledges some of the vertical tubing is greater than 5/8 inches in diameter, it argues the capability and use of the slide-flat cart, and not the width of the tubing, are determinative for exclusion. As a result, based on the use and abilities of the slide-flat cart, Bond Street argues it is excluded from the scope of the Order.

On January 25, 2007, Gleason Industrial Products, Inc. and Precision Products, Inc. (collectively "Petitioners") filed their opposition to Bond Street's Scope Inquiry Request ("Petitioners' Opposition"). Petitioners argue the slide-flat cart fits precisely within the scope of the Order, as it is a hand-propelled barrow with a vertical frame, a handle at the upper section of the frame, two wheels at the lower section of the frame, and a horizontal projecting edge perpendicular to the vertical frame at the lower section of the frame. Petitioners counter Bond Street's argument that the slide-flat cart lacks a kick plate by noting that the scope of the Order does not require the hand truck to include a kick plate. As for Bond Street's argument that the slide-flat cart is incapable of sliding under a load with any ease, Petitioners cite to a dictionary definition of "slide" to claim that the scope language of "a toe plate slides under a load for purposes of lifting and/or moving the load," actually means that the toe plate "can be placed in or into a position beneath a load so the load can be slid across the toe plate's surface." *See* Petitioners' Opposition, at 2-3. Petitioners argue there is no evidence that the slide-flat cart cannot be placed in such a position. *Id.* at 3. Rather, Petitioners claim the toe plate can be positioned to slide beneath a load by the "common sense practice" of tipping the load slightly. *Id.* Petitioners also assert that the bungy strap hook does not prevent use of the slide-flat cart as a hand truck, as the hook does not obstruct the toe plate.

Additionally, Petitioners argue the slide-flat cart does not meet the necessary criteria to fall under the scope exclusion. First, Petitioners assert the slide-flat cart is not small when compared to the original petition hand truck exhibits and descriptions. *Citing* Memorandum from Lilit Astvatsatryan, Case Analyst, to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, titled "Final Scope Ruling: Faultless Starch/Bon Ami Co.," dated June 3, 2005. (275 lb. carrying capacity fell within the 200-1000 lb. range of the petition, 11.9-13 lb. weight fell within the 9 to 90 lb. range of the petition, and 40.6 / 44.5 inch heights fell within the 38 to 65 inch range of the petition). Petitioners argue the weights and dimensions of the slide-flat cart

are similar to the hand truck of the June 3, 2005, scope ruling and, thus, the slide-flat cart should not be considered small.<sup>2</sup> Second, Petitioners argue the slide-flat cart is not specifically designed for carrying personal bags or luggage. Petitioners note the catalogue attachment to the Scope Inquiry Request describes the slide-flat cart as ideal for transporting not only suitcases but also “boxes, equipment and presentation materials.” See Petitioners’ Opposition, at 5. Petitioners point out that Bond Street itself stated that the slide-flat cart could carry two boxes, and argue the slide-flat cart’s 275 lb. weight capacity indicates its ability to perform “multiple tasks other than carrying personal luggage.” *Id.*, at 5-6. Third, Petitioners argue the slide-flat cart frame is not made of telescoping tubular material measuring less than 5/8 inch in diameter. Petitioners argue that even if the frame were made of telescoping tubular material, Bond Street acknowledged that some of the vertical tubing is greater than 5/8 inch in diameter. *Id.* at 6-7. As a result, conclude Petitioners, the slide-flat cart does not meet the exclusion criteria and should be found within the scope of the Order.

On February 12, 2007, Bond Street submitted a reply (“Bond Street Feb. Reply”), arguing that the Order covers hand trucks “designed and intended for industrial and commercial use” and when viewing all the factors, as a whole, the slide-flat cart is “a small cart intended for personal use” that falls outside the scope of the Order. See Bond Street Feb. Reply, at 1 and 3. While Petitioners argue that the lack of a kick plate does not remove the slide-flat cart from the scope of the Order, Bond Street responds that it is not this feature alone, but rather this feature taken into consideration with the other outlined features, that removes the slide-flat cart from the scope of the Order. Bond Street takes issue with Petitioners’ argument that because the bungy strap hook is not at the front of the slide-flat cart, it does not prevent use of the slide-flat cart as a hand truck. Bond Street asserts the hook placement is specifically designed to accommodate and secure luggage and personal cases, which would be damaged if the hook was placed at the front of the slide-flat cart. Bond Street reiterates that the hook placement also deters the user from pushing or kicking the slide-cart under a load, as doing so would damage the slide-flat cart.

Bond Street disagrees with Petitioners’ conclusion that the dictionary definition of “slide” indicates that the scope language of “a toe plate slides under a load for purposes of lifting and/or moving the load,” actually means that the toe plate “can be placed in or into a position beneath a load so the load can be slid across the toe plate’s surface.” See Bond Street Feb. Reply, at 2. Bond Street points out that Petitioners’ claim, that tipping a load slightly to better allow the toe plate to slide under a load is a “common sense practice,” is unproven and unsupported, and argues it is the language of the scope, and not “common sense,” that is determinative. *Id.* However, in response to the argument, Bond Street contends that tilting 60 lb. warehouse boxes

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<sup>2</sup> Petitioners argue that the slide-flat cart is “similar” the cart in the June 3, 2005 scope ruling, as well as the cart in an earlier scope ruling, *i.e.* Memorandum from Stephen Cho, Case Analyst {}, to Jeffrey A. May, Deputy Assistant Secretary for Import Administration, titled “Scope Exclusion/Clarification Request {}: Alton Industries, Inc. . . .,” dated October 6, 2004. Both carts were found by the Department to be within the scope of the Order and, for various reasons, did not meet the exclusionary language. Petitioners claim the two carts “look like the {slide-flat cart} and operate in a similar fashion” and, as a result, conclude that the slide-flat cart should also be found within the scope of the Order. See Petitioners’ Opposition, at 7 and Exhibits 1-4.

would damage not only the bottom of the boxes (by the tilted toe plate) but also, over time, the vertical frame of the slide-flat cart. Bond Street also points out that the wheels collapse when the slide-flat cart is tipped forward, preventing the toe plate from sliding under the load.

Bond Street argues the slide-flat cart falls under the scope exclusion and notes the exclusionary language requires that an item be specifically “designed for carrying loads **like** personal bags or luggage.” *See* Bond Street Feb. Reply, at 1 (emphasis in original). Bond Street argues this language refers to an item’s common or primary use, which is not negated by other uses, and while the slide-flat cart can “move suitcases or equipment,” this does not mean it is designed to move heavy equipment, but rather that it can move boxes or other personal items. *Id.*, at 3. Furthermore, Bond Street reiterates that the slide-flat cart is typically promoted in the “Bags and Travel” section of wholesalers’ catalogs. *Id.* Bond Street also contends that the slide-flat cart is made from telescoping tubular material. Bond Street claims the industry and dictionary defines “telescoping” as condensing from the larger form to the smaller form, and points out that the upper portion of the cart “passes through cylindrical holes and condenses the cart into its portable and smaller form.” *Id.*, at 4. Although Petitioners point out that some of the vertical tubing is greater than 5/8 inch in diameter, Bond Street claims that fact is not enough to “remove the cart from the class or kind of carts specifically designed to carry luggage, bags and other items of a personal nature.” *Id.* Finally, Bond Street argues the slide-flat cart is small, as it has a “relatively light load capacity” and cannot handle the 275 lb. maximum on a continuous basis.<sup>3</sup> *Id.*, at 3. In contrast, Bond Street argues industrial hand trucks are designed to carry the rated weight on a continuous basis. In addition, Bond Street asserts the Department cannot determine whether the slide-flat cart is small by comparing it to other items previously found to be within the scope. Instead, Bond Street notes the slide-flat cart’s 40 inch height is common to rolling cases with telescoping handles that carry luggage or duffel bags. Bond Street counters Petitioners’ similarity argument by noting that the slide-flat cart is actually more similar to the “Magna Cart” referenced in Petitioners’ attachment, which was found to be out of the scope. *Id.*, at 4. Bond Street also points out that one of the two “similar” carts has shock absorbent tires and claims this suggests use as a hand truck, while the slide-flat cart has smaller PVC<sup>4</sup> wheels that are less suitable for heavy loads. *Id.*, at 5.

On March 19, 2007, Petitioners submitted a reply arguing the Bond Street Feb. Reply added no new arguments to the record (“Petitioners Mar. Reply”). Petitioners argue that even if the slide-flat cart is limited in its ability to carry certain loads, as claimed by Bond Street, the slide-flat cart is not prevented from carrying all loads, like a specialized hand truck. *See* Petitioners Mar. Reply, at 2-3. Finally, Petitioners complain that they were not provided a sample slide-flat cart although Bond Street provided the Department with one. Petitioners argue that pursuant to 19 C.F.R. 351.303 (f)(1)(i), any document filed with the Department must also be served upon all

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<sup>3</sup> Bond Street claims the manufacturer advises the ideal load capacity is 150 lb. but provides no supporting documentation for this claim.

<sup>4</sup> Polyvinyl chloride, a plastic.

other parties on the service list. *Id.*, at 2. As a result, Petitioners ask that the sample slide-flat cart be removed from the record. On March 26, 2007, Bond Street submitted a reply to Petitioners' request that the slide-flat cart be removed from the record ("Bond Street Mar. Reply"). Bond Street argues that a document is "anything printed or written"; thus, the sample slide-flat cart does not fall under the document service requirements of the Department's regulations. *See* Bond Street Mar. Reply, at 1-2.

On May 9, 2007, in response to Petitioners' complaint that they had not been served a sample slide-flat cart, the Department offered interested parties an opportunity to view the slide-flat cart at the main Department of Commerce building. *See* letter from the Department to All Interested Parties (May 9, 2007). Petitioners viewed the slide-flat cart at the main Department of Commerce building on May 18, 2007, and submitted their comments on the viewing on May 21, 2007. Petitioners state the viewing confirms that the slide-flat cart is not excluded from the scope of the Order, and reiterate their arguments that the slide-flat cart is "almost identical" to another cart previously found within the scope of the Order, that its other uses show it was not designed for only personal bags or luggage, and that it is not manufactured from telescoping tubular material. On May 30, 2007, Bond Street submitted a response to Petitioners' May 21, 2007, comments. Bond Street asserts that had Petitioners tested the slide-flat cart's sliding abilities on boxes of paper, it would have confirmed that the wheels collapse when the slide-flat cart is tipped, making it "virtually impossible" to slide it under a load. Bond Street repeats its assertions that the slide-flat cart's other uses do not negate its primary use as a luggage cart, and that the slide-flat cart telescopes. Finally, Bond Street takes issue with Petitioners' claim that the slide-flat cart is "almost identical" to another cart found within the scope of the Order, pointing out an item is either identical or not identical, and arguing the slide-flat cart is not identical to the other cart, as it has different tires and is advertised in a different market. Bond Street concludes that the slide-flat cart is a different class or kind of merchandise that falls outside the scope of the Order.

#### **LEGAL FRAMEWORK AND ANALYSIS:**

The Department examines scope requests in accordance with our regulations at 19 C.F.R. 351.225. Under 19 C.F.R. 351.225, 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 ITC. *See* 19 C.F.R. 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 C.F.R. 351.225(d).

Where the descriptions of the merchandise are not dispositive, the Department will consider the following factors, as provided under 19 C.F.R. 351.225(k)(2): 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.

In the instant case, the Department has evaluated Bond Street's Scope Inquiry Request in accordance with 19 C.F.R. 351.225(k)(1), and the Department finds that the descriptions of the merchandise are dispositive. Therefore, we find it unnecessary to consider the additional factors set forth in 19 C.F.R. 351.225(k)(2).

The language of the scope essentially states that a hand truck consists of: 1) a vertical frame; 2) a handle(s); 3) two or more wheels; and 4) a projecting edge or toe plate. Bond Street's description of the merchandise, as well as the catalogue and website representations of the merchandise, indicate that the slide-flat cart clearly consists of these requisite characteristics. *See* Bond Street Scope Request, at attachments. In fact, Bond Street does not argue that the slide-flat cart does not contain any of these characteristics. Rather, Bond Street argues the Department should take into consideration the functions of the slide-flat cart and the limitations of its toe plate, focusing on the scope language that states "The projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load." Bond Street argues that the design of the collapsing toe plate, the placement of the bungy cord hook, and the lack of a kick plate, make it impossible to slide the slide-flat cart under a load. However, merely because the toe plate is collapsible, allowing the wheels to fold flat, does not exclude the slide-flat cart, as set forth in the clear language of the scope wherein it states "{t}hat 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." While Bond Street argues the bungy cord hook is placed so as to deter users from using the slide-flat cart as a hand truck, it appears from Bond Street's submissions that its primary purpose is to secure the item for transport. Furthermore, there is no evidence to indicate that a user could not place one's foot at a position other than the 8.5 inch location of the hook (*e.g.*, below the hook or against the wheel). Regardless, the existence of the bungy cord hook does not exclude the slide-flat cart from the scope, as the scope 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." Finally, the lack of a kick plate does not exclude the slide-flat cart from the scope, as the inclusion of a kick plate is not a required characteristic as set forth in the language of the scope.

As for exclusions to the scope, Bond Street and Petitioners focus their arguments on the language of the scope that excludes "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 . . ."<sup>5</sup> Bond Street concedes that the slide-flat cart has some vertical tubing greater than 5/8 inch in diameter, but argues the horizontal tubing is

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<sup>5</sup> Neither party discusses the exclusionary language for "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."





