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International Trade Administration  
Washington, D.C. 20230

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Scope Inquiry  
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December 30, 2008

**MEMORANDUM TO:** Stephen J. Claeys  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

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

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**FROM:** Trisha Tran *TT*  
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**RE:** Hand Trucks from the People's Republic of China: Final Scope  
Ruling on Eastman Outdoors Inc., Versa Deer Cart

### Summary

On October 15, 2007, the Department of Commerce ("Department") received a request from Eastman Outdoors Inc. ("Eastman"), for a scope ruling concerning whether the Versa Deer Cart ("Versa Cart") is covered by the antidumping duty order on hand trucks from the People's Republic of China ("PRC").<sup>1</sup> In accordance with 19 CFR 351.225(k)(1), we recommend that the Department determine that the Versa Cart imported by Eastman is not included within the scope of the Order.

### Background

#### a. Product Description

Eastman states that the Versa Cart that it imports is a type of deer cart, which has a single handle and a U-shape frame with the sides joining at the front leading to the handle. Eastman explains that the Versa Cart has an open passageway at both the front and the back of the cart, and has two 14-inch wheels that are located in a very forward position on the underside of the cargo area of the cart. Eastman also states that the Versa cart does not have any vertical orientation, and that it is specifically designed to be used by hunters to transport downed deer over a wide variety of terrain.<sup>2</sup> Eastman provided a photograph of the Versa cart and technical drawings from the United States Patent website in its October 15, 2007, Request.<sup>3</sup>

<sup>1</sup> 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").

<sup>2</sup> See Eastman's October 15, 2007 Request, at 1-2.

<sup>3</sup> See Eastman's October 15, 2007 Request, at 1-2.



b. **Scope Request**

Eastman acknowledges that the Versa Cart is a two-wheeled, hand-propelled device but argues that it is substantially different in all other respects from the scope of the Order. First, Eastman contends that the Versa Cart lacks a horizontal projecting edge or toe plate and the ability to slide under a load to lift or move a load. Eastman maintains that because the Versa Cart lacks the projecting edge, the lower portion of the cart cannot be placed flush with the ground due to the cart's U-shape frame and the angle of the lower portion of the cart in relation to the large wheels. Further, Eastman asserts that the lower portion of the Versa Cart is constructed of tubular material approximately one inch thick which is neither thin, nor edged enough, to effectively slide under any load. Moreover, Eastman argues that because of the size and irregular shape of a deer carcass, it is not possible to manipulate the Versa Cart so that it could slide underneath the deer. Eastman explains that the only way to put a deer on the Versa Cart is to lift the carcass and place it on top of the Versa Cart. Therefore, Eastman argues, the Versa Cart does not fall within the intended scope of the Order.

In addition, Eastman contends that the Versa Cart is designed for the specific purpose of transporting an animal carcass, and cannot easily be modified for any other purpose. More specifically, Eastman argues, the Versa Cart has no vertical orientation because the cart does not have wheels at the bottom of the vertical sides of the cart that would assist in moving different types of loads. Therefore, according to Eastman, the Versa Cart falls outside the definition of a hand truck subject to the Order.

We have not summarized Eastman's arguments that address the criteria set forth at 19 CFR 351.225(k)(2) because the Department is considering this request pursuant to 19 CFR 351.225(k)(1).

No other party commented on this scope request.

**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 description 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").<sup>4</sup> This determination may take place with or without a formal inquiry.<sup>5</sup> 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.<sup>6</sup>

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)

<sup>4</sup> See 19 CFR 351.225(k)(1).

<sup>5</sup> See 19 CFR 351.225(d).

<sup>6</sup> Id.

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 Eastman'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 the Versa Cart. Therefore, for this scope inquiry, the Department finds it unnecessary to consider the additional factors set forth at 19 CFR 351.225(k)(2).

#### **Analysis of Eastman's Versa Cart**

With respect to the instant scope request, the Department has examined the record evidence in this case and determined that Eastman's Versa Cart is outside the scope of the Order.

In their petition submitted on November 13, 2003, the petitioners requested that the investigation cover:

{h}and trucks made primarily or exclusively from steel, aluminum or other metals, as well as those made from nylon or plastic, whether assembled or unassembled, complete or incomplete, suitable for residential, industrial or commercial use, and specific parts thereof, namely the frame, the handling area and the projecting edges or toe plate, and any combination thereof. A hand truck is a hand-propelled barrow consisting of a frame having at one end a handle or pair of handles and at the other end two or more wheels and a projecting edge or edges to slide under a load. The subject hand trucks are typically imported under heading 8716.80.5010 ("Trailers and semi-trailers; other vehicles, not mechanically propelled; and parts thereof; other vehicles; other; industrial hand trucks") of the HTSUS, although they may also be imported under heading 8716.80.5090 ("Trailers and semi-trailers; other vehicles, not mechanically propelled; and parts thereof; other vehicles; other"). Although the HTSUS subheadings are provided for convenience and for the purposes of the U.S. Bureau of Customs and Border Protection (Customs), 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 (of subheading 8716.80.5020, HTSUS); 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; and wheels and tires used in the manufacture of hand trucks.<sup>7</sup>

The scope of the Order is defined as:

<sup>7</sup> See Antidumping Petition (November 13, 2003) at 9.

{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.<sup>8</sup>

The ITC adopted a similar definition of the "like product" subject to its determination, confirming that the investigation covered "finished hand trucks and hand truck parts described in Commerce's scope of investigation." See Determination of the Commission in Investigation 731-TA-1059 (Final), USITC Publication 3737, 69 FR 69957 (November 2004) (Final Determination) at 6. According to the ITC, hand trucks exhibit four general physical characteristics: (1) a frame; (2) a handling area; (3) two or more wheels; and (4) a projecting edge or edges perpendicular, or at an angle, to the frame. See Final Determination at I-4.

We considered the aforementioned along with a preceding scope ruling for Ameristep Corporation Inc. ("Ameristep") dated May 18, 2007, where we found that the Non-Typical Deer Cart and Grizzly Deer Cart did not fall within the scope of the Order. Specifically, we found that the carts did not possess all four characteristics of the hand trucks covered by the scope of the Order (i.e. (1) a frame; (2) a handling area; (3) two or more wheels; and (4) a projecting edge or edges perpendicular, or at an angle, to the frame) because they did not have a projecting edge or toe plate that could slide under a load for the purposes of lifting and/or moving the load.

In Ameristep, the issue was whether the horizontal frame "slides under" a load, as required by the language of the Order.<sup>9</sup> In Ameristep, the requestor argued that the carts' horizontal frame (1) was made of the same material as the rest of each cart, i.e., one-inch tubular steel or aluminum, which was neither thin, nor edged enough, to effectively slide under any load and (2) extended outwards from the axle of a large 16-inch all-terrain rubber wheel, which prevented the horizontal frame from being placed horizontal to the ground and, as result, made sliding the horizontal frames of both carts did not possess the projecting edge or toe plate that slid under a load for purposes of lifting and/or moving the load. Moreover, the horizontal frames of both the carts in Ameristep did not "slide under" a load, per the language of the Order, because an individual could not easily position the horizontal frame beneath a load by tipping the load slightly due to the size of the subject carts' wheels. Due to the weight and awkward nature of the load carried by the Non-Typical Cart and Grizzly Cart, the Department found that such an operation was not feasible. Therefore, the carts did not fall within the scope of the Order because the carts' horizontal frames did not possess the projecting edge or toe plate that slid under a load for purposes of lifting and/or moving the load and the horizontal frames were not capable of sliding under a load as required by the language of the Order.<sup>10</sup>

<sup>8</sup> 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); 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.

<sup>9</sup> See Issues and Decision Memorandum for the Final Scope Ruling: Antidumping Order on Hand Trucks From the People's Republic of China; Expeditors Tradewin, LLC, on behalf of Ameristep Corporation Inc. (May 18, 2007), ("Ameristep").

<sup>10</sup> See Ameristep, at 8.

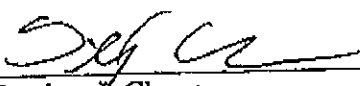
Similarly, in this case, the primary issue is whether the Versa Cart possesses a projecting edge or edges, or toe plate, which is capable of sliding under a load for purposes of lifting and/or moving the load. Therefore, we apply the same rationale that the Department adopted in Ameristep. Record evidence indicates that the Versa Cart's horizontal frame lacks a projecting edge or toe plate that could be slid under a deer carcass for purposes of moving and/or lifting the load. In addition, the horizontal frame is made of the same material, i.e. tubular material which is one-inch thick and which is neither thin nor edged enough to effectively slide under a load. Furthermore, the lower portion of the Versa Cart cannot be placed flush with the ground because of the angle of the lower portion of the Versa Cart in relation to the large 14-inch wheels. Thus, in order for the entire frame to slide beneath the deer carcass, the load would have to be tipped enough by the user to raise it several inches from the ground. Due to the weight and awkward nature of a deer carcass intended to be carried by the Versa Cart, we find that this operation is not feasible.

Therefore, in applying the same rationale that was adopted by the Department in Ameristep, we agree with Eastman that the Versa Cart does not fall within the scope of the Order because the cart does not have a projected edge or toe plate that slides under a load for purposes of lifting and/or moving the load. Therefore, because the Versa Cart imported by Eastman does 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 it is not within the scope of the Order.

#### Recommendation

Based on the preceding analysis, we recommend that the Department find that the Versa Cart imported by Eastman is 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. Claeys  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

12/30/08  
Date