



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

A-570-891
Scope Inquiry
IA / Office 7: DC
Public Document

MEMORANDUM TO: John Andersen
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

THROUGH: Richard Weible
Director
AD/CVD Operations, Office 7

Robert James
Program Manager
AD/CVD Operations, Office 7

FROM: Scott Hoefke
Analyst, Office 7

RE: Hand Trucks and Certain Parts Thereof from the People's Republic
of China (PRC): Scope Ruling- PelRay International, LLC

SUMMARY:

On March 4, 2010, the Department of Commerce (Department) received a submission from PelRay International, LLC (PelRay) seeking a ruling as to whether three products it imports are included within the scope of the antidumping duty order on hand trucks and certain parts thereof (hand trucks) from the PRC.¹ The products are: the Janitor Cart, the Large Dinner Trolley (with or without bucket, model numbers D-012A and D-012 respectively); and the Small Dinner Trolley (with or without bucket, model numbers D-013A and D-013 respectively).

In accordance with 19 CFR 351.225(k)(1), we recommend the Department determine that all three products imported by PelRay are not within the scope of the Order.

¹ 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).



BACKGROUND:

On March 4, 2010, the Department received a submission from PelRay, inquiring into whether the three products it imports from the PRC are included within the scope of the order covering hand trucks from the PRC (Scope Inquiry Request).² Satisfying the requirements of 19 CFR 351.225(c)(1)(i), PelRay provided a detailed description of the three products, including their current tariff classification.

Neither the petitioners (Gleason Industrial Products, Inc. and Precision Products, Inc.), nor any other party filed comments on the scope request.

According to PelRay, pursuant to 19 CFR 351.225(c)(1)(ii), the products are not within the scope of the Order because they lack the requisite physical characteristics of the merchandise described by the scope of the Order. In particular, PelRay states “both the ‘Janitor Cart’ and ‘Three Level Service Cart’ lack the ‘toe plate’ that ‘slides under a load for purpose of lifting and or moving the load.’” See Scope Inquiry Request at 2. PelRay also points out that “the ‘Janitor Cart’ has an elevated platform designed to carry a mop bucket and the elevated surface makes it un-usable as a Hand Truck.” Id. Additionally, PelRay states that “Three Level Service Carts” “lacks the projecting toe plate that can be slid under a load for ‘purposes of lifting.’” Id.

Legal Framework

The Department examines scope requests in accordance with the Department’s scope regulations, which may be found at 19 CFR 351.225 (2009). This scope determination may take place with or without a formal inquiry. See 19 CFR 351.225(d) and (e). 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 and the International Trade Commission (the Commission). See 19 CFR 351.225(k)(1). 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).

Conversely, where the descriptions of the merchandise are *not* dispositive, the Department will consider the five additional factors: (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. See 19 CFR 351.225(k)(2) 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

² The request from PelRay mentions only two products: “Janitor Cart” and “Three Level Service Cart,” however, Exhibit B of the Scope Inquiry Request shows two models of the “Three Level Service Cart” that differ in size. PelRay’s use of term “Three Level Service Cart” refers to both the Large Dinner Trolley with or without bucket, model numbers D-012A and D012 respectively; and Small Dinner Trolley with or without bucket, model numbers D-013A and D-013 respectively. For the purposes of this scope determination, the Department considers PelRay having requested three products for review.

of all evidence before the Department.

For this case, the Department has evaluated PelRay's request in accordance with 19 CFR 351.225(k)(1) and finds the descriptions of the product contained in the petition, the initial investigation, and the determinations by the Department and the Commission are, in fact, dispositive with respect to PelRay's requested product. Therefore, the Department finds it unnecessary to consider the additional factors in 19 CFR 351.225(k)(2).

Analysis

With respect to the instant request, we find that for the reasons outlined below, these products are not within the scope of the Order.

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

hand 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 8716.80.50.10 ("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 8716.80.50.90 (Trailers and semi-trailers: other vehicles, not mechanically propelled; and parts thereof; other vehicles; other; 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 8716.80.50.20, 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.

See Antidumping Petition (November 13, 2003) at 9.

On December 2, 2004, the Department published the antidumping duty order on hand trucks from the PRC. See Order. The scope language in the Order was clarified and reads as follows:

The merchandise subject to this antidumping duty 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 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.

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 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.

The scope of the order defines a complete or fully assembled hand truck as “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 transporting the load.”

The Commission adopted a similar definition of the “like product” subject to its determinations, confirming that the investigations 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 (November 2004) (Final Determination) at 6. According to the Commission, 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.

Based on the record evidence, the three products (detailed descriptions listed below) do not have the physical features necessary to be considered a hand truck covered by the scope of the Order.

Janitor Carts:

The Janitor Carts have four wheels, two large ones at the rear and two small ones under the front of a horizontal platform. According to PelRay, the platform is designed to hold a wet mop and bucket. See Scope Inquiry Request at pages 2, 7, and 9. The product photographs submitted with PelRay’s Scope Request indicate a horizontal platform with a lip, a small edge projecting up vertically while the back of the cart holds a trash bag. The wheels under the horizontal platform with its lip and well structure would make the horizontal platform incapable of sliding under a load in order to lift it even if one were to tilt the load. Therefore, the Department concludes that the Janitor Carts do not meet the description of the merchandise covered by the scope of the Order.

Large Dinner Trolley, with or without bucket:

The Shelf Utility Carts have four wheels, two vertical frames, and three horizontal shelves spaced evenly apart. The product photographs and description indicate no sliding projecting edge or toe plate of any kind which could be used to slide under a load for purposes of lifting and transporting a load in accordance with the scope language. Therefore, the Department concludes that the Large Dinner Trolley does not meet the description of the merchandise covered by the scope of the Order.

Small Dinner Trolleys, with or without bucket:

The Small Dinner Trolleys are similar to the Large Dinner Trolley with four wheels and three shelves spaced apart. Identical to the Large Dinner Trolley, the photographs and description indicate no sliding projecting edge or toe plate of any kind which could be used to slide under a load for purposes of lifting and transporting a load in accordance with the scope language. Therefore, the Department concludes that the Large Dinner Trolley does not meet the description of the merchandise covered by the scope of the Order.

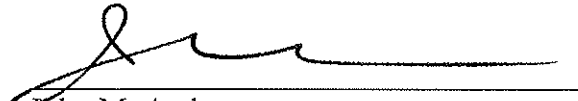
Recommendation

Based upon the preceding analysis, we recommend the Department find the three products listed in the request by PelRay (Janitor Cart (model D-011), Large Dinner Trolley (models D-012 and D-012A), and Small Dinner Trolley (models D-013 and D-013A)) are not within the scope of the Order.

✓

Agree

Disagree



John M. Andersen
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

4/12/10

Date