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Scope

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MEMORANDUM TO:

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

THROUGH:

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FROM:

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SUBJECT:

Certain Lined Paper Products ("CLPP") from the People's
Republic of China – C2F, Inc. Scope Ruling Request

Summary

On September 8, 2006, the Department of Commerce ("Department") published its final determination in the antidumping duty investigation of certain lined paper products ("CLPP") from the People's Republic of China ("PRC").¹ On September 28, 2006, the Department issued an antidumping duty order.² On December 29, 2010, the Department received a revised request and product samples from C2F, Inc. ("C2F") to issue a scope ruling concerning two bound journals that it imports from the PRC.³ This memorandum addresses issues raised by C2F regarding the scope of the *CLPP Order*. For the reasons described below, we recommend finding that the products covered by this inquiry are outside the scope of the *CLPP Order*.

¹ See *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006) ("*Final Determination*").

² See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006) ("*CLPP Order*").

³ The request was a resubmission and correction to a request originally filed by C2F on November 30, 2010.



Scope of the Order

The scope of the *CLPP Order* includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or “tear-out” size), and are measured as they appear in the product (i.e., stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as “tablets,” “note pads,” “legal pads,” and “quadrille pads”), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as “office planners,” “time books,” and “appointment books”);

- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationary (including but not limited to products commonly known as “fine business paper,” “parchment paper”, and “letterhead”), whether or not containing a lined header or decorative lines;
- Stenographic pads (“steno pads”), Gregg ruled (“Gregg ruling” consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book), measuring 6 inches by 9 inches;

Also excluded from the scope of this order are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar@Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1” wide elastic fabric band. This band is located 2-3/8” from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a

turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to this order is typically imported under headings 4820.10.2050, 4810.22.5044, 4811.90.9090, 4820.10.2010, 4820.10.2020 of the Harmonized Tariff Schedule of the United States (“HTSUS”). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

Since the issuance of the order, the Department has issued several scope rulings including, among others, the following:

On October 19, 2006, the Department found that 8½” x 6-7/8” composition book imported by SchoolMax LLC is outside the scope of the *CLLP Order* because the larger dimension of the composition book, which measures 8½”, is less than the minimum length of 8¾”.

On October 19, 2006, the Department found that the Encompass Journal Book, the Notable Journal Book, and the Project Manager’s Kit imported by GEM Group, Incorporated are outside the scope of the *CLPP Order* because the dimensions of both of these products are smaller than the minimum dimensions required for inclusion in the scope of the *CLLP Order*.

On October 19, 2006, the Department found that ACCO’s S300 Series, W74100 Series, WS65 Series, WS200 Series, WS149 Series, WS295 Series, WS490, WS491, WS495, WS293RA, and WS100-3RA are outside the scope of the *CLLP Order* because the order specifically excludes “books that are bound through the inclusion of binder’s board, a spine strip, and cover wrap,” as well as “columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data.” Because all of the products referenced in ACCO’s request were case bound books that fall under the first exclusion above – and most met the criteria for

both exclusions we found that the products referenced in ACCO's request meet the description of merchandise specifically excluded from the scope of the *CLLP Order*.

On May 7, 2007, the Department found that the following printed educational materials imported by Lakeshore Learning Materials: product numbers GG823 (Blank Writing Journal); RR801ML2 (Writing Journal); AA953ML3 (Diario para Escribir); GG528JNL (Vacation Journal); G381JRN (Science Journal); RR969 and RR968 (My Math Journal); GG145 and GG146 (Math Journal, Grades 4 - 6); EE372 (Poetry Journal); GG154 and GG155 (Improve Your Writing Word Blank Journal); LA125 (Stamp, Draw, & Write Story Center); EE419 (Letter Writing Supply Kit); GG241JNL (Reading Journal); AA559 (Cursive Writing Letter Practice Book); AA558 (1 to 30 Printing Numbers Practice Book); AA565 (Lowercase Printing Letters Practice Book); and AA555 (Uppercase Printing Letters Practice Book), are not within the scope of the *CLPP Order*.

On December 23, 2009, the Department found that London Lomo Notebook and Lomo Notebook imported by Lomographic Corporation are outside the scope of the *CLPP Order* because these products have smaller dimensions than merchandise covered by the scope of the *CLPP Order*.

C2F's Scope Ruling Request

C2F claims that the two bound journals which it imports from the PRC are not within the scope of the *CLPP Order* because they do not meet the scope definitions. C2F provides the following descriptions of the two journals:

1) PRO-0203-01- Product is a black journal with cream colored paper that has horizontal lines. There is a logo on the front side of the journal with the words BIG in lime green. The journal is wire spiral bound. The dimensions of the paper as measured as it appears in the product, are as follows: the smaller dimension, length, is 5½ inches, and the larger dimension, width, is 6½ inches. Product will be imported under HTS 4820.10.2060. The product can be used by artists, students, note takers and list takers. See C2F submission at 3.

2) PTL-018121- Product is a Black bound-stitched journal with cream colored paper with horizontal lines. There is a logo on one side of the journal with the word Coperta on the back. The journal is a page book, has a ribbon page marker, and an elastic closure to hold the cover closed. The paper is stitched in sections for lay flat writing. The journal is case bound. The dimensions of the paper as measured as it appears in the product are as follows: the smaller dimension, width, is 7½ inches, and the larger dimension, length, is 9½ inches. Product will be imported under HTS 4820.10.2040. The product can be used by artists, students, note takers and list takers. See C2F submission at 5.

C2F claims that PRO-0203-01 is smaller than the specified dimensions of the scope of the *CLPP Order*, and that PTL-018121 meets a specific scope exclusion covering “{p}rinted books and other books that are case bound through the inclusion of binders board, a spine strip and cover

wrap.” Accordingly, C2F requests that the Department find these two products are outside the scope of the *CLPP Order*.

Legal Framework

The regulations governing the Department’s antidumping scope rulings can be found at 19 CFR 351.225. On matters concerning the scope of an order, the Department first examines the descriptions of the merchandise contained in the petition, the determinations of the Secretary and the ITC, and the initial investigation. See 19 CFR 351.225 (k)(1). This ruling 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 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 following additional factors set forth at 19 CFR 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. These factors are known commonly as the *Diversified Products* criteria.⁴ The Department applies these factors when the product descriptions contained in the petition, the determinations of the Secretary (including prior scope rulings) and the ITC, and the initial investigation are not dispositive. 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 record evidence before the Department.

In this case, we find it unnecessary to address the five additional factors contained in 19 CFR 351.225(k)(2) because the descriptions found in the petition, the Department’s determinations, and ITC publications are dispositive with respect to the bound journals.

Analysis

Pursuant to 19 CFR 351.225(k)(1), the Department will take into account the descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations), and the ITC when considering whether a particular product is included within the scope of an order. The scope of the *CLPP Order* specifies the dimension of subject paper as the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8¾ inches to 15 inches (inclusive).

We agree with C2F that the journal PRO-0203-01 does not meet the minimum dimensions required for inclusion in the scope of the *CLPP Order*. The scope of the order includes paper measuring 6 inches to 15 inches (inclusive) on the smaller measure and between 8¾ inches to 15 inches (inclusive) on the larger measure. Because the smaller dimension of the PRO-0203-01

⁴ *Diversified Products Corp. v. United States*, 6 CIT 155, 572 F. Supp. 883 (1983) (“*Diversified Products*”).

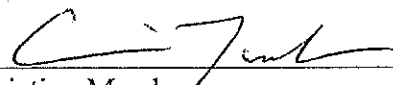
journal is 5½ inches, and the larger dimension is 6½ inches, both measures are smaller than the dimensions identified as included within the scope.

We also agree with C2F that the journal PTL-018121 is specifically excluded from the scope of the order. The order specifically excludes “{p}rinted books and other books that are case bound through the inclusion of binders board, a spine strip and cover wrap.” Our review of the written description and the product sample confirm that the PTL-018121 is case bound. Therefore, we determine that C2F’s two journals (PRO-0203-01 and PTL-018121) are not within the scope of the *CLPP Order*.

Recommendation

Based on the foregoing analysis, we recommend that the Department determine that the two style journals (PRO-0203-01 and PTL-018121) imported by C2F, are outside the scope of the *CLPP Order*.

Agree Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

4/13/11

Date

