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International Trade Administration
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Scope Inquiry
Public Document
Office 1: JM

November 29, 2010

MEMORANDUM TO:

Susan H. Kuhbach
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

THROUGH:

Nancy Decker
Acting Director, Office 1
Antidumping and Countervailing Duty Operations

FROM:

Team

RE:

Antidumping and Countervailing Duty Orders on Narrow Woven Ribbons With Woven Selvedge from the People's Republic of China and Antidumping Order on Narrow Woven Ribbons With Woven Selvedge from Taiwan

SUBJECT:

Scope Inquiry Request from Money Hill Co., Ltd. and Golden Art Co., Ltd. Regarding Cut-Edge Ribbon

Summary

On October 13, 2010, the Department of Commerce ("Department") received a submission from Money Hill Co., Ltd. c/o Party Art Enterprise Co. Ltd. ("Money Hill"), a Taiwanese company, and its affiliated Chinese factory, Golden Art Co., Ltd. ("Golden Art"), requesting the Department confirm that cut-edge ribbon is outside of the scope of the antidumping and countervailing duty orders on narrow woven ribbon with woven selvedge from the People's Republic of China ("PRC") and Taiwan.¹ In accordance with 19 CFR 351.225(d) and (k)(1), we recommend that the Department confirm that Money Hill and Golden Art's cut-edge ribbon is excluded to the extent it matches the written language of the scope of the Antidumping Duty Orders or the Countervailing Duty Order.

¹ See Money Hill and Golden Art's October 13, 2010 Letter to the Department regarding "Narrow Woven Ribbons With Woven Selvedge from the People's Republic of China; Scope Inquiry Regarding Cut-Edge Ribbon" ("Scope Inquiry Letter"). See also Narrow Woven Ribbons With Woven Selvedge From Taiwan and the People's Republic of China: Amended Antidumping Duty Orders, 75 FR 56982 (September 17, 2010) ("Antidumping Duty Orders") and Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China; Countervailing Duty Order, 75 FR 53642 (September 1, 2010) ("Countervailing Duty Order").



Background

On October 13, 2010, Money Hill and Golden Art requested the Department confirm that cut-edge ribbon is excluded from the scope of the Antidumping Duty Orders and the Countervailing Duty Order. The term cut-edge ribbon refers to cut-edge narrow woven ribbons formed by cutting broad woven fabric into strips of ribbon, with or without treatments to prevent the longitudinal edges of the ribbon from fraying (such as by merrowing, lamination, sono-bonding, fusing, gumming or waxing), and with or without wire running lengthwise along the longitudinal edges of the ribbon. While the companies acknowledge that the scope of the above orders expressly excludes cut-edge ribbon, their U.S. customers have concerns that U.S. Customs and Border Protections (“CBP”) could misclassify the excluded cut-edge ribbons as subject merchandise because imports of certain cut-edge ribbons fall under HTS subheadings or statistical categories listed in the scope that “subject merchandise also may enter.” They further note that other cut-edge ribbons could be misclassified by CBP as subject merchandise if only the excluded product at the eight digit HTS subheading is examined rather than at the ten-digit level. To support their claims, Money Hill and Golden Art have provided the scope of the orders and cited language that specifically excludes cut-edge ribbon. They have also submitted a description and photographs of Golden Art’s production process.²

On November 16, 2010, Petitioner provided comments on the Scope Inquiry Letter.³ Petitioner agrees with Money Hill and Golden Art that the scope of the orders expressly excludes cut-edge ribbon. Moreover, any imports of cut-edge ribbon by these companies, to the extent they meet the written language of the scope, should be excluded. Petitioner only oppose the Department providing any further clarifications or modification to the written description that would expand in any way the original intent of the exclusion language regarding cut-edge ribbons. No other interested parties submitted comments in response to the Scope Inquiry Letter.

Analysis

Regulatory Framework

The process of determining whether a product is included within the scope of an antidumping duty order is governed by the regulations found at 19 CFR 351.225. In conducting a scope determination, the Department first looks to “{t}he descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the Commission” (the “(k)(1) criteria”).⁴ If the Department can make its determination based upon the application for a scope ruling and the (k)(1) criteria, the Department may issue a final scope ruling.⁵ However, if the (k)(1) criteria are not dispositive

² See Scope Inquiry Letter at Exhibits 1 and 2.

³ See Berwick Offray LLC’s (including its wholly-owned subsidiary Lion Ribbon Company, Inc.) (“Petitioner”) November 16, 2010 Letter to the Department regarding “Response To Scope Application Of Money Hill regarding The Orders On Narrow Woven Ribbons With Woven Selvedge From Taiwan and The People’s Republic of China” (“Petitioner’s Response”).

⁴ See 19 CFR 351.225(k)(1).

⁵ See 19 CFR 351.225(d).

from the application for a scope ruling, the Department must initiate a scope inquiry.⁶ The Department may then consider: “(i) The physical characteristics of the product; (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.”⁷

Scope of the Orders

In September 2010, the Department published the Antidumping Duty Orders and the Countervailing Duty Order on narrow woven ribbon with woven selvedge from the PRC and Taiwan. The scope of each order states:

The merchandise subject to the order is narrow woven ribbons with woven selvedge, in any length, but with a width (measured at the narrowest span of the ribbon) less than or equal to 12 centimeters, composed of, in whole or in part, man-made fibers (whether artificial or synthetic, including but not limited to nylon, polyester, rayon, polypropylene, and polyethylene terephthalate), metal threads and/or metalized yarns, or any combination thereof. Narrow woven ribbons subject to the order may:

- also include natural or other non-man-made fibers;
- be of any color, style, pattern, or weave construction, including but not limited to single-faced satin, double-faced satin, grosgrain, sheer, taffeta, twill, jacquard, or a combination of two or more colors, styles, patterns, and/or weave constructions;
- have been subjected to, or composed of materials that have been subjected to, various treatments, including but not limited to dyeing, printing, foil stamping, embossing, flocking, coating, and/or sizing;
- have embellishments, including but not limited to appliqué, fringes, embroidery, buttons, glitter, sequins, laminates, and/or adhesive backing;
- have wire and/or monofilament in, on, or along the longitudinal edges of the ribbon;
- have ends of any shape or dimension, including but not limited to straight ends that are perpendicular to the longitudinal edges of the ribbon, tapered ends, flared ends or shaped ends, and the ends of such woven ribbons may or may not be hemmed;
- have longitudinal edges that are straight or of any shape, and the longitudinal edges of such woven ribbon may or may not be parallel to each other;
- consist of such ribbons affixed to like ribbon and/or cut-edge woven ribbon, a configuration also known as an “ornamental trimming;”

⁶ See 19 CFR 351.225(e).

⁷ See 19 CFR 351.225(k)(2) and Diversified Products Corp. v. U.S., 572 F. Supp. 883, 889 (CIT 1983).

- be wound on spools; attached to a card; hanked (i.e., coiled or bundled); packaged in boxes, trays or bags; or configured as skeins, balls, bateaus or folds; and/or
- be included within a kit or set such as when packaged with other products, including but not limited to gift bags, gift boxes and/or other types of ribbon. Narrow woven ribbons subject to the order include all narrow woven fabrics, tapes, and labels that fall within this written description of the scope of this order.

Excluded from the scope of the order are the following:

- (1) formed bows composed of narrow woven ribbons with woven selvedge;
- (2) "pull-bows" (i.e., an assemblage of ribbons connected to one another, folded flat and equipped with a means to form such ribbons into the shape of a bow by pulling on a length of material affixed to such assemblage) composed of narrow woven ribbons;
- (3) narrow woven ribbons comprised at least 20 percent by weight of elastomeric yarn (i.e., filament yarn, including monofilament, of synthetic textile material, other than textured yarn, which does not break on being extended to three times its original length and which returns, after being extended to twice its original length, within a period of five minutes, to a length not greater than one and a half times its original length as defined in the Harmonized Tariff Schedule of the United States ("HTSUS"), Section XI, Note 13) or rubber thread;
- (4) narrow woven ribbons of a kind used for the manufacture of typewriter or printer ribbons;
- (5) narrow woven labels and apparel tapes, cut-to-length or cut-to-shape, having a length (when measured across the longest edge-to-edge span) not exceeding eight centimeters;
- (6) narrow woven ribbons with woven selvedge attached to and forming the handle of a gift bag;
- (7) cut-edge narrow woven ribbons formed by cutting broad woven fabric into strips of ribbon, with or without treatments to prevent the longitudinal edges of the ribbon from fraying (such as by merrowing, lamination, sono-bonding, fusing, gumming or waxing), and with or without wire running lengthwise along the longitudinal edges of the ribbon;
- (8) narrow woven ribbons comprised at least 85 percent by weight of threads having a denier of 225 or higher;
- (9) narrow woven ribbons constructed from pile fabrics (i.e., fabrics with a surface effect formed by tufts or loops of yarn that stand up from the body of the fabric);
- (10) narrow woven ribbon affixed (including by tying) as a decorative detail to non-subject merchandise, such as a gift bag, gift box, gift tin, greeting

card or plush toy, or affixed (including by tying) as a decorative detail to packaging containing non-subject merchandise;

(11) narrow woven ribbon that is (a) affixed to non-subject merchandise as a working component of such non-subject merchandise, such as where narrow woven ribbon comprises an apparel trimming, book marker, bag cinch, or part of an identity card holder, or (b) affixed (including by tying) to non-subject merchandise as a working component that holds or packages such non-subject merchandise or attaches packaging or labeling to such non-subject merchandise, such as a “belly band” around a pair of pajamas, a pair of socks or a blanket;

(12) narrow woven ribbon(s) comprising a belt attached to and imported with an item of wearing apparel, whether or not such belt is removable from such item of wearing apparel; and

(13) narrow woven ribbon(s) included with non-subject merchandise in kits, such as a holiday ornament craft kit or a scrapbook kit, in which the individual lengths of narrow woven ribbon(s) included in the kit are each no greater than eight inches, the aggregate amount of narrow woven ribbon(s) included in the kit does not exceed 48 linear inches, none of the narrow woven ribbon(s) included in the kit is on a spool, and the narrow woven ribbon(s) is only one of multiple items included in the kit.

The merchandise subject to this order is classifiable under the HTSUS statistical categories 5806.32.1020; 5806.32.1030; 5806.32.1050 and 5806.32.1060. Subject merchandise also may enter under subheadings 5806.31.00; 5806.32.20; 5806.39.20; 5806.39.30; 5808.90.00; 5810.91.00; 5810.99.90; 5903.90.10; 5903.90.25; 5907.00.60; and 5907.00.80 and under statistical categories 5806.32.1080; 5810.92.9080; 5903.90.3090; and 6307.90.9889. The HTSUS statistical categories and subheadings are provided for convenience and customs purposes; however, the written description of the merchandise under the order is dispositive.⁸

Department’s Analysis

The issue presented in this scope inquiry request is for the Department to confirm that cut-edge ribbon is excluded from the above-mentioned orders. We note that the petition and the International Trade Commission’s final determination include the same exclusion language for cut-edge ribbon as presented in the Antidumping Duty Orders and the Countervailing Duty Order.⁹ The specific scope exclusion language states:

⁸ See Antidumping Duty Orders, 75 FR at 56982-83 and Countervailing Duty Order, 75 FR at 53642-43.

⁹ See Petition for Countervailing Duty and Antidumping Duty on Imports of Narrow Woven Ribbons With Woven Selvedge (July 9, 2009) at 5-6, Amendment II to Petition on Narrow Woven Ribbons With Woven Selvedge (July 21, 2009) at 4-7, and See Narrow Woven Ribbons with Woven Selvedge from China and Taiwan, USITC Investigation Nos. 701-TA-467 and 731-TA-1164-11765 (Final), Inv., USITC Publication 4180 (August 2010) at 4-7.

(7) cut-edge narrow woven ribbons formed by cutting broad woven fabric into strips of ribbon, with or without treatments to prevent the longitudinal edges of the ribbon from fraying (such as by merrowing, lamination, sono-bonding, fusing, gumming or waxing), and with or without wire running lengthwise along the longitudinal edges of the ribbon.¹⁰

Money Tree and Golden Art describe their cut-edge ribbon in a similar fashion.¹¹ Thus, the cut-edge ribbon produced and exported by Money Hill and Golden Art, as stated in the Scope Inquiry Letter, is essentially the same cut-edge ribbon that is excluded from the scope of the orders.

Conclusion

In accordance with 19 CFR 351.225(d) and (k)(1), based on the exclusion language of cut-edge ribbon stated in the Antidumping Duty Orders and the Countervailing Duty Order and our examination of the information submitted by Money Hill and Golden Art, we conclude that Money Hill and Golden Art's cut-edge ribbon, to the extent it matches the exclusion language stated in the scope of the orders, is excluded from the Antidumping Duty Orders and the Countervailing Duty Order. Therefore, the Department is issuing a final scope ruling in regard to cut-edge ribbon.

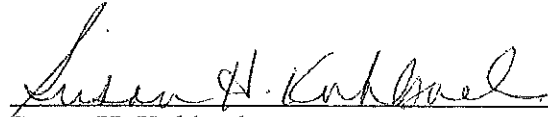
Recommendation

We recommend, based upon the foregoing analysis, that the Department confirm that Money Hill and Golden Art's cut-edge ribbon is outside the scope of the Antidumping Duty Orders and the Countervailing Duty Order, to the extent that it matches the scope exclusion language for cut-edge ribbon.



Agree

Disagree



Susan H. Kuhbach

Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations



Date

¹⁰ See Antidumping Duty Orders, 75 FR at 56983 and Countervailing Duty Order, 75 FR at 53643.

¹¹ See Scope Inquiry Letter at 2-3.