



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

A-570-803

Scope Inquiry  
**Public Document**  
IA/NME/IX: PW

May 23, 2005

MEMORANDUM TO: Barbara E. Tillman  
Acting Deputy Assistant Secretary  
for Import Administration

FOR PUBLIC FILE

FROM: James Doyle  
Office Director  
AD/CVD Operations, Office 9

REGARDING: Antidumping Duty Orders on Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China

SUBJECT: Final Scope Ruling – Request by Olympia Industrial Inc., for a Scope Ruling on Cast Tampers

**SUMMARY**

Pursuant to section 351.225(k)(1) of the Department's regulations, we recommend that the Department of Commerce (the "Department") determine that cast tampers are outside the scope of the antidumping duty orders covering one of the four classes or kinds of merchandise of heavy forged hand tools ("HFHTs") from the People's Republic of China ("PRC"). See Antidumping Duty Orders: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles from the People's Republic of China, 56 FR 6622 (February 19, 1991) ("HFHT Orders").

**BACKGROUND**

On September 24, 2004, Olympia Industrial Inc. ("Olympia") requested that the Department determine whether cast tampers are within the scope of the HFHT Orders. According to Olympia, cast tampers typically have heads of 8" x 8" or 10" x 10". A cast tamper has an eye hole to support a handle. Olympia states that the cast tampers it imports are made of steel and manufactured using a casting process.

On November 9, 2004, the Department initiated a formal scope inquiry, pursuant to section 351.225(e) of the Department's regulations, and requested comments from all interested parties. Ames True Temper (the "Petitioner") submitted comments on December 6, 2004, and rebuttal comments on December 13, 2004. On February 4, 2005, the Department issued a supplemental



questionnaire to Olympia. On March 24, 2005 the Department issued a second supplemental questionnaire to Olympia. On February 11 and March 28, 2005, respectively, Olympia responded to the Department's questionnaires.

### **APPLICABLE REGULATIONS**

The regulations governing antidumping duty scope determinations can be found at section 351.225 of the Department's regulations. The Department's initial bases for determining whether a product is included within the scope of an order are the descriptions of the product contained in the petition, the less-than-fair-value ("LTFV") investigation, and the prior determinations of the Secretary (such as prior scope rulings) as well as the determinations of the International Trade Commission ("ITC"). See 19 CFR 351.225(d) and 351.225(k)(1). Of these, the language in the antidumping duty order is the "predicate for the interpretative process." Duferco Steel, Inc. v. United States, 296 F.3d 1087, 1097 (Fed. Cir. 2002) ("Duferco").

Scope determinations may take place with or without a formal scope inquiry. See 19 CFR 351.225(d) and 351.225(e). If the Department determines that the descriptions in the order, petition, LTFV investigation, and prior Department and ITC determinations are dispositive of the matter, it will issue a final scope ruling as to whether or not the merchandise in question is covered by the order. See 19 CFR 351.225(d). Conversely, where the descriptions of the merchandise contained in the petition, the LTFV investigation, and the determinations of the Secretary (including prior scope determinations) and the ITC are not dispositive, the Department will consider the additional factors set forth at 19 CFR 351.225(k)(2).

The additional factors are: (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. See Diversified Products Corp. v. United States, 6 CIT 155, 572 F. Supp. 883 (1983) ("Diversified Products"). 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.

### **PRODUCT DESCRIPTIONS**

The Department's antidumping duty orders on HFHTs from the PRC define the scope of these orders as follows:

The products covered by these investigations are HFHTs comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds) ("hammers/sledges"); (2) bars over 18 inches in length, track tools and wedges ("bars/wedges"); (3) picks and mattocks ("picks/mattocks"); and (4) axes, adzes and similar hewing tools ("axes/adzes").

HFHTs include heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and **tampers**; and steel wood splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to the required length, heated to forging temperature and formed to the final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following *Harmonized Tariff System* ("HTS") subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded from these investigations are hammers and sledges with heads 1.5 kg. (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under (emphasis added).

See HFHT Orders, 56 FR 6622.

The Petition describes the HFHT covered as follows: (1) hammers and sledges, with or without their handles, with heads over 1.5 kg (3.25 pounds) each; (2) crowbars, track tools, and wedges; (3) picks and mattocks; and (4) axes, adzes, and hewing tools other than machetes. See Antidumping Petition of Woodings-Verona Tool Works, Inc. for the Imposition of Antidumping Duties on Heavy Forged Hand Tools, with or without Handles, from the People's Republic of China, dated April 4, 1990 ("Petition"), at 11.<sup>1</sup> The Petition also identifies certain types of HFHTs that are specifically excluded from the scope. According to the Petition, the products excluded are "(1) hoes and rakes in HTSUS 8201.30.00 are not heavy forged hand tools and are not subject to investigation, and (2) bars eighteen inches and under in HTSUS 8205.59.30 are not heavy hand tools and are not subject to investigation." *Id.* Lastly, the Petition also stated that:

This Petition covers products imported with or without handles, whether painted or unpainted....This Petition covers merchandise even if it is transhipped through third countries, where it is finished, by painting, handle insertion, and other minor finishing operations. The process of attaching a handle and painting a head is a minor assembly and finishing operation.

See Petition at 12. Additionally, the Petition describes the production process for HFHTs as follows: "{Heated steel} is formed to final shape on forging equipment such as drop hammers, mechanical forging presses or upsetters using closed dies, or a straight side forging press using open dies." See Petition at 14. Indeed, the Petition is replete with references to "heavy forged hand tools," and, for example, calculates normal value by deriving an amount attributable to the labor costs associated with forging.

---

<sup>1</sup> In their December 6, 2004 submission, the Petitioner placed several documents on the record of this proceeding from previous segments. The Department will reference these documents according to their original titles.

The ITC stated in its final injury analysis that:

The HFHTs included in the scope of this investigation consist of the following products, finished or unfinished, with or without handles: (1) hammers, sledges, and mauls . . . ; (2) bars of over 18-inches in length . . . (3) picks and mattocks. . . ; (4) axes, adzes, and similar hewing tools . . .

See Heavy Forged Hand Tools from the People's Republic of China, Determination of Injury, USITC Publication 2357, February 1991 ("ITC Final Report") at A. The ITC Final Report makes no mention of tampers.

## ANALYSIS

### *Olympia's Comments*

Olympia notes that the Petitioner filed their antidumping duty Petition on April 4, 1990. Olympia states that the Petition was captioned "Heavy Forged Hand Tools, with or without Handles, from the People's Republic of China" and stated that "the products being imported from the PRC at LTFV which are causing material injury are generally heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be imported with handles; assorted finished and semi-finished bar products and steel wood splitting wedges." See Petition at 2.

Olympia also notes that the Petition defined four like product categories, stating:

The merchandise in question is all imports from the PRC currently classified under the following subheadings of Harmonized tariff Schedule of the United States ("HTSUS"), and before January 1, 1989, under item numbers of the Tariff Schedules of the United States Annotated ("TSUSA"):

.....

HTSUS 8205.59.30/TSUSA 651.2500 Crowbars, Track Tools, Wedges of Iron or Steel

.....

The four classification subheadings listed above provide the scope of this Petition and describe distinct like product groups (and class or kind of merchandise groups) except that (1) hoes and rakes in HTSUS 8201.30.00 are not heavy forged hand tools and are not subject to this investigation, and (2) bars eighteen inches and under in HTSUS 8205.59.30 are not heavy forged hand tools and are not subject to this investigation.

See Petition at 11. According to Olympia, the Petitioner described in detail the products which they produced, and did not identify cast tampers as products which they produced.<sup>2</sup> See Petition at 5. Olympia argues that cast tampers were not specifically identified in either the Petition or subsequent submissions by the Petitioner in the investigation.

Olympia notes that in defining the scope of the investigation, the Department adopted the Petition description to define HFHTs, stating:

Imports covered by these investigations are HFHTs comprising the following classes or kinds of merchandise: (1) hammers and sledges with heads over 1.5 kg (3.25 pounds) (“hammers/sledges”); (2) bars over 18 inches in length, track tools and wedges (“bars/wedges”); (3) picks and mattocks (“picks/mattocks”); and (4) axes, adzes and similar hewing tools (“axes/adzes”). HFHTs are currently provided for under the following Harmonized tariff System (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. These investigations do not include hammers and sledges with heads 1.5 kg (3.25 pounds) in weight and under, hoes and rakes, or bars 18 inches in length and under.

See Preliminary Determinations of Sales at less than Fair Value: Heavy Forged hand Tools, Finished or Unfinished, With or Without Handles, from the People’s Republic of China (“Preliminary Determination”) 55 FR 42420, October 19, 1990.

Olympia argues that cast tampers were not included in the scope language of the Preliminary Determination. However, Olympia contends that, in the final determination, the Department modified the scope language by adopting the following language from the Petition:

HFHTs include heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and **tampers**; steel wood splitting wedges.

See HFHT Orders, 56 FR 6622.

According to Olympia, the HFHT Orders elaborated on drilling hammers, sledges, axes, mauls, picks and mattocks (covered in earlier notices) to include those “which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles,” but provided no explanation for the belated inclusion of tampers. Olympia contends that the HFHT Orders did not indicate that cast tampers were included when the scope applied only to HFHTs. Olympia argues that the Petition never mentioned or included cast tampers in its scope language, nor did it indicate that the Petitioner even produced cast tampers.

---

<sup>2</sup>The Department notes that the Petition did mention tampers, but not cast tampers.

Olympia argues that the scope language of the HFHT Orders covers “assorted bar products and track tools including wrecking bars, digging bars, and tampers.” See HFHT Orders. From the position of the tampers insertion, the language would require tampers to be either a bar product or track tools. Olympia notes that CBP has classified cast tampers as striking tools, not bars/wedges. See Olympia’s September 24, 2004 submission at Exhibit 1. However, Olympia contends that the scope language for the AD orders for bars/wedges specifically includes “bars over 18 inches in length, track tools and wedges.” According to Olympia, tampers are not track tools, are not wedges and are less than 18 inches in length and therefore cannot be included in the scope of the HFHT Orders. See Olympia’s September 24, 2004 submission at 3.

#### *Petitioner’s Rebuttal Comments*

In their rebuttal comments, the Petitioner refutes Olympia’s claims that the Petition did not include cast tampers and that, during the investigation, the Petitioner did not identify tampers. The Petitioner notes that tampers are included on the first page of the Petition. The Petitioner argues that the Department borrowed language from the first page of the Petition in writing the final scope language. The Petitioner states that they included the Woodings Verona brochure in their December 6, 2004 submission to provide a description of cast tampers.

#### *Petitioner’s Comments*

The Petitioner contends that in determining whether a particular product is within the scope of an antidumping duty order, the Department will examine whether the language contained in the antidumping duty order is clear and can be read to include the product in question. See Duferco. According to the Petitioner, the Department’s regulations permit the Department to consider whether the underlying petition, the information gathered by the Department during the LTFV investigation and information gathered by the ITC covers the product in question. See 19 CFR 351.225(k)(1). The Petitioner argues that an examination of this material demonstrates that cast tampers are specifically named in the scope of the order.

According to the Petitioner, tampers are not a general class of tool covered by the orders, but a specific tool listed in the order. The Petitioner contends that it is clear that the Department intended to include tampers within the scope; however, it is not clear based on the scope language alone what a tamper is.<sup>3</sup> The Petitioner notes that tampers are listed in several parts of the Petition. See Petition at 1 and Exhibit A. The Petitioner argues that tampers are low-end products which are produced in a commercially viable manner, *i.e.*, casting and welding, not forging. The Petitioner asserts that the tampers listed in the product brochure attached to the Petition are made by non-forging methodologies. See Petitioner’s December 6, 2004 submission at Exhibit 2. The Petitioners contend that producing a forged tamper may be possible, but the cost would be prohibitive considering the shape of the tool. *Id.* The Petitioners argue that federal

---

<sup>3</sup> The Petitioner contends that a tamper should not be confused with a post-hole digger with a tamper, the items are distinct.

specifications for tampers (1955-1994) stipulate that tampers be either cast iron or welded from a steel plate. See Petitioner's December 6, 2004 submission at Exhibit 3.

According to the Petitioner, Olympia's request relies on two incorrect interpretations of Duferco: (1) that the scope language regarding the manufacturing process is exclusionary, and (2) that tampers are subject to the over 18-inch clause. The Petitioner argues that tampers are specifically named in the scope of the orders, so there would be no expansion of the scope by including cast tampers. The Petitioner contends that Duferco reaffirmed that the scope must be written in general terms and that the Department "enjoys substantial freedom to interpret and clarify its antidumping orders" in accordance with the methodology set forth in section 351.225 (k) of the Department's regulations, which includes consideration of the original petition and investigation. See Duferco at 1269.

The Petitioner notes that Olympia argues that the scope language refers to manufacturing through a hot forge operation. However, the Petitioner asserts that the Department has explicitly included within the order's scope merchandise that is not produced through a hot-forge method. According to the Petitioner, given that the scope language does not unequivocally specify one production method to the exclusion of another production method, it appears that these two classes in the same paragraph both include and exclude non-forged materials.

The Petitioner contends that in Duferco the court held that while the petition and investigation materials "cannot substitute for the language in the order in itself," the above-referenced information "may provide valuable guidance as to the interpretation of the final order." See Duferco at 1087, 1097. According to the Petitioner, Duferco applies and the language of the order controls if the language of the order is clear; however, regarding cast tampers, this is not the case. The Petitioner asserts that while a portion of the scope order suggests one method of production, the scope language also includes a type of merchandise that is produced using a different method of production. Thus, according to the Petitioner, Duferco is distinguishable because the Department cannot rely on the scope language in the order.

The Petitioner argues that given that a non-forged product is named in the scope, the Department must conduct a secondary analysis to determine how best to interpret the scope. The Petitioner contends that using these secondary materials, such as the Petition, the Department can only reasonably determine that cast tampers are subject merchandise. The Petitioner notes that Duferco permits the Department to interpret the scope of the orders as including subject merchandise only if they contain language that specifically includes the subject merchandise or may reasonably interpreted to include it. See Duferco at 1089.

The Petitioner argues that the Department has ruled in three separate administrative scope proceedings involving these orders that these antidumping orders cover products using methods other than hot-forging. See Petitioner's December 6, 2004 submission at 8 for a list of these scope rulings. According to the Petitioner, the Department should, as it has in the past, find again that the hot-forging method is illustrative and not an exclusory method of production. The

Petitioner asserts that the ITC Final Report did not limit the scope to exclusively forged merchandise when it stated that “the method used most often in the production of subject products is forging.” See ITC Final Report at A-3. The Petitioner contends that they included within the scope of the Petition “all imports” of merchandise imported under the applicable HTS import categories, not just those that were hot-forged. See Petition at 11. According to the Petitioner, they clarified that all merchandise subject to the four HTS classifications was included in the scope unless specifically excluded. See Petitioner’s April 17, 1990 letter at 2.

The Petitioner contends that Olympia’s argument that tampers are subject to the 18 inch and over requirement is erroneous. The Petitioner notes that bars 18 inches and under were excluded from the Petition because they cannot perform the heavy lifting functions of heavy bar tools. The Petitioner notes that this was recognized by the ITC, which stated that “the scope of the investigation included track tools and wedges of all lengths, and that it only makes distinction with respect to the length of bar tools.” See ITC Final Report at 11. However, the Department named a product that is always under 18 inches in length as subject merchandise. According to the Petitioner, given that tampers never exceed 18 inches, if the 18 inch exclusion were to apply to tampers, there would be no need to specifically name them in the Petition and the scope of the orders. The Petitioner argues that the Department faces a similar contradiction as it did in defining subject production methods, that it would not be reasonable to interpret the scope of the order on bars/wedges to specifically name tampers as a bar because tampers are always less than 18 inches. The Petitioner contends that Olympia’s assertions that tampers are neither track tools nor wedges, and must therefore be bars, is without merit.

The Petitioner argues that tampers are track tools rather than bar products. The Petitioner notes that in their product brochure attached to the Petition, tampers are not included in the bar tool listing. According to the Petitioner, tampers do not work by using leverage as a bar tools does, they are not used to destroy building materials as a wrecking bar does and they are not used to dig holes, instead, tampers are used to compact soil. The Petitioner contends that while tampers are similar to hammers, they are not striking tools because they are cast. According to the Petitioner, tampers have traditionally been used in the laying of railroad track since the track bed must be flattened before the track is laid. Therefore, the Petitioner argues, tampers should be considered track tools.

#### *Olympia’s Rebuttal Comments*

In their rebuttal brief, Olympia argues that Petitioner’s arguments are misplaced. According to Olympia, the mention of the word “tampers” on the first page of the Petition is merely a description of hardware quality HFHTs and is irrelevant to this scope inquiry. See Petition at 1. The Respondents note that the actual passage of the Petition adopted in the final scope language is the description of the products being imported from the PRC at LTFV causing material injury, which also makes no mention of cast tampers. Section I of the Petition stated that:



The products being imported from the PRC at LTFV which are causing material injury are generally heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be imported with handles; assorted finished and semi-finished bar products and steel wood splitting wedges. See Petition.

According to Olympia, the Petitioner's contention that the Woodings product brochure supports their claim that Woodings intended to include cast tampers is without merit because the product brochure is not controlling. Olympia notes that not everything in the brochure is within the scope, such as post-hole diggers. In addition, Respondents contend that a large number of items in the brochure were identified as "imported" and, therefore, not made by Woodings. See Petition at A for the Woodings product brochure. Finally, Olympia argues that the products in Woodings brochure were clearly items that Woodings was offering to sell, not necessarily items covered by the Petition.

Olympia argues that the Department erroneously included tampers in its scope language. According to the Respondents, Woodings did not identify tampers, cast or forged, as products they produced. Olympia notes that in neither the Petition, nor in subsequent submissions by Woodings during the course of the investigation were tampers specifically identified. Olympia also notes that tampers were not included in the scope language of the Preliminary Determination.

Olympia argues that cast tampers should be considered outside the scope of the AD order because cast tampers are not produced in a forging operation. Olympia notes that the scope language of the AD orders includes no reference to casting, and the cast tampers subject to this scope inquiry are made by a casting process, which is different and distinct from forging. The scope of the AD orders on HFHTs states:

HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size.

See HFHT Orders, 56 FR 6622.

The Respondents argue that cast tampers are not over 18 inches in length and are not subject to the length requirements for bars. The Respondents note that the scope language of the AD order covers "assorted bar products and track tools including wrecking bars, digging bars, and tampers." See HFHT Orders. From the position of the tampers insertion, the language requires tampers to be either bar products or "bar products" sold as track tools. Bars subject to the bars/wedges order must be over 18 inches in length. Wedges are not subject to length condition; however, tampers are not wedges.

### Department's Position:

We agree with Olympia that cast tampers are outside the scope of the HFHT Orders.

Olympia argues that forged tampers cannot exist due to cost considerations, however, the Department notes that the Petitioner has not placed any evidence on the record to substantiate the claim that tampers could not be made from a forging process. Indeed, the federal specifications for tampers (1955-1994), placed on the record by the Petitioner, states that tampers could be made from a casting process or from steel plate. The specifications make no mention of how that plate is produced, *i.e.*, whether the plate is forged from scrap. See Petitioner's December 6, 2004 submission at Exhibit 3. The Department notes that other HFHTs are made from scrap products. For example, scrap rail is forged into several different kinds of HFHT. See, *e.g.*, TMC's September 7, 2004 submission at 9. The Department also notes that the Petitioner has placed no information on the record concerning the costs of producing a forged tamper *versus* the costs of producing a cast tamper.

The scope of the HFHT Orders specifically identifies tampers as subject merchandise. However, the tampers imported by Olympia are made through a casting process. We reviewed the scope language to determine whether it may be interpreted to include cast tampers. Consistent with the Department's remand redetermination in Tianjin Machinery Import & Export Corporation v. United States, Court No. 03-00732 (July 20, 2004) ("Cast Picks Remand"), we find that product descriptions contained in the scope of the HFHT Orders to be dispositive, and the Petition and the ITC Final Injury Report are consistent with the HFHT Orders.

On April 25, 2003, Tianjin Machinery Import & Export Corporation ("TMC") requested that the Department issue a scope ruling as to whether the cast picks it exports to the United States are within the scope of the AD order on picks/mattocks from the PRC. On September 22, 2003, the Department issued a final scope ruling that TMC's cast picks are within the scope of HFHT Orders. TMC filed a summons on October 8, 2003, and filed a complaint on October 17, 2003, challenging the Department's final scope determination. The Petitioner entered their appearance with the Court on November 17, 2003. On February 2, 2004, TMC filed its motion for judgment on the agency record with the Court. In its memorandum in support of its motion for judgment, TMC challenged the Department's finding that cast picks are within the scope of the HFHT Orders. On March 29, 2004, the Department filed its motion requesting a remand in order to reconsider the analysis used in making the final scope determination. The Court order granting the remand was issued to the Department on April 8, 2004.

In the Cast Picks Remand the Department noted that the scope of the HFHT Orders states: "HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature and formed to final shape on forging equipment using dies specific to the desired product shape and size." See HFHT Orders, 56 FR 6622. The key element of this sentence is the part that identifies the production process used to produce subject

merchandise: “HFHTs are manufactured through a hot forge operation...” *Id.* The remainder of the sentence, “in which steel is sheared to required length, heated to forging temperature and formed to final shape on forging equipment using dies specific to the desired product shape and size,” merely describes the elements generally found within a typical forging production process. *Id.* The plain language of the key element of this sentence provides the basic characteristic of the merchandise covered by these orders, that they are manufactured through a “forge operation.” See Cast Picks Remand at 7. The Petition and the ITC Final Injury Report likewise consistently refer to “heavy forged tools.”

In addition, the Department stated in the Cast Picks Remand that the scope of the HFHTs orders covers many different products that are within four broad categories: axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks. In order to assist interested parties, U.S. Customs and Border Protection (“CBP”) and the general public in identifying tools covered by the scope of these orders, the scope includes a sentence that provides several illustrative examples of various types of tools contained within the four broad classes or kinds: “HFHTs include heads for drilling hammers, sledges, axes, mauls, bars, picks and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges.” See HFHT Orders. The tools identified in this sentence are **examples** of the products covered by the broader class or kind of merchandise subject to each of the four AD orders. These examples do not actually establish the characteristics that define subject merchandise. Instead, these examples only serve to illustrate the types of products that are considered subject merchandise. See Cast Picks Remand at 7. As stated above, the key characteristic of the subject merchandise is that they are manufactured through a “forge operation.” In other words, the identified tools are within the scope of the AD orders if they are produced through a forging process. Accordingly, and contrary to the Petitioner’s contention, the reference to “tampers” in the HFHT Orders does not create an inconsistency or ambiguity. Rather, the reference must be read in context. When read in context, the HFHT Orders plainly encompass the tools referenced to the extent such tools are manufactured through a forging process. Because Olympia’s cast tampers are not made through a “forge operation,” the Department finds that these cast tampers are not merchandise subject to the HFHT Orders. Because the Department has found the descriptions contained in the HFHT Orders, the Petition, and the ITC Final Injury Report to be dispositive, no Diversified Products analysis is required.

**RECOMMENDATION**

In accordance with 19 CFR 351.225(k)(1), as discussed above, our review of the record of this scope inquiry and the factual representations made by Olympia and the Petitioner supports the conclusion that cast tampers are outside the scope of the HFHT Orders. We recommend that the Department determine that Olympia's cast tampers are outside the scope of the antidumping duty orders on HFHTs from the PRC. If you agree, we will send a letter to interested parties enclosing this ruling and notify CBP of our determination.

Agree ✓

Disagree \_\_\_\_\_

Let's Discuss \_\_\_\_\_

*Barbara E. Tillman*

Barbara E. Tillman  
Acting Deputy Assistant Secretary  
for Import Administration

*May 23, 2005*

Date