

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-891]

Notice of Initiation of Antidumping Duty Investigation: Hand Trucks and Certain Parts Thereof from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of an Antidumping Duty Investigation.

EFFECTIVE DATE: December 9, 2003.

FOR FURTHER INFORMATION CONTACT: Audrey Twyman, Stephen Cho or Daniel J. Alexy at (202) 482-3534, (202) 482-3798, or (202) 482-1540 respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:**INITIATION OF INVESTIGATION:****The Petition**

On November 13, 2003, the Department of Commerce ("the Department") received a petition filed in proper form by Gleason Industrial Products, Inc. On November 18, 2003, the Department received an amendment to the petition filed in proper form by Gleason Industrial Products, Inc. On November 19, 2003, the Department sent a supplemental questionnaire to Gleason Industrial Products, Inc. and received a response on November 25, 2003. On December 1, 2003, Gleason Industrial Products, Inc. filed an amendment to the petition to include Precision Products Inc. as a co-petitioner ("the petitioners").¹ On December 2, 2003, the Department received a letter from the China Chamber of Commerce for Import & Export of Machinery & Electronics on behalf of their members who produce hand trucks in China claiming that the petitioners do not meet the industry support requirement of section 732(c)(4)(A) of the Tariff Act of 1930, as amended ("the Act"). On December 3, 2003, Gleason Industrial Products, Inc. submitted a response to the China Chamber of Commerce's allegations. Also on December 3, 2003, the

Department received a letter from the United Food & Commercial Workers International Union in support of the petition on behalf of their members, some of whom work in Gleason Industrial Products, Inc.'s manufacturing facilities.

In accordance with section 732(b)(1) of the Act, the petitioners allege that imports of hand trucks and certain parts thereof ("hand trucks") from the People's Republic of China ("the PRC") are, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that imports from the PRC are materially injuring, or are threatening to materially injure, an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and have demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department to initiate. *See infra*, "Determination of Industry Support for the Petition."

Scope of Investigation

For the purpose of this investigation, the 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 8716.90.5060 of the HTSUS. Although the HTSUS subheadings are provided for convenience and for the purposes of U.S. Customs and Border Protection, 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.

As discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

¹ Gleason Industrial Products, Inc. and Precision Products Inc. are both members of the Gleason Group companies. Gleason Industrial Products, Inc. manufactures and sells hand trucks. Precision Products Inc. also manufactures hand trucks, but sells all its hand trucks through Gleason Industrial Products, Inc.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.²

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like,

most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the "Scope of Investigation" section above. The Department has no basis on the record to find this definition of the domestic like product to be inaccurate. The Department, therefore, has adopted this domestic like product definition.

In their initial petition and subsequent submissions, the petitioners state that they comprise more than 50 percent of U.S. hand truck production. Based on all available information, we agree that the petitioners comprise more than 50 percent of the domestic hand truck production and accordingly, determine that the petition has been filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See* Initiation Checklist dated December 3, 2003 (public version on file in the Central Records Unit of the Department of Commerce, Room B-099) ("*Initiation Checklist*").

Period of Investigation

The anticipated period of investigation ("POI") is April 1, 2003, through September 30, 2003.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate this investigation. The sources of data relating to export price ("EP"), normal value ("NV"), and factors of production ("FOP") are discussed in greater detail in the *Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we may re-examine the information and revise the margin calculations, if appropriate.

Regarding an investigation involving a non-market economy ("NME") country, the Department presumes, based on the extent of central government control in an NME, that a single dumping margin, should there be one, is appropriate for all NME exporters in the given country. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of a country's NME status and the granting of separate rates to individual exporters. *See, e.g., Notice of*

Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585, 22586-87 (May 2, 1994).

Export Price

The petitioners based the export price on price quotes from a Chinese producer of hand trucks to unaffiliated purchasers in the United States within the POI as reported in Exhibit 19 of the November 13, 2003 petition. The petitioners claim that the two price quotes obtained were for two models of hand trucks that are among the most prevalent of the models imported from China. Accordingly, we found that the gross unit prices provided by the petitioners represent information that reasonably reflected prices to the United States. Therefore, we relied on the gross unit prices provided in the petition. The prices were quoted FOB Qingdao, the PRC, and the petitioners were conservative because they did not deduct Chinese inland freight from the quoted prices.

Normal Value

The petitioners assert that the PRC is an NME country, and note that in all previous investigations the Department has determined that the PRC is an NME. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000). The PRC will be treated as an NME unless and until its NME status is revoked. *See* section 771(18)(C)(i) of the Act. Because the PRC's status as an NME remains in effect, the petitioners estimated the dumping margin using an NME methodology.

The petitioners assert that India is the most appropriate surrogate country for the PRC, claiming that India is: 1) at a level of economic development comparable to the PRC in terms of per capita gross national product, and 2) a significant producer of comparable merchandise. The petitioners provided recent U.S. import statistics of hand trucks from India and a report by a researcher in India hired by the petitioners to study the hand truck industry. The report shows that there is significant production of hand trucks in India. Based on the information provided by the petitioners, we believe that the petitioners' use of India as a surrogate country is appropriate for the purpose of initiating this investigation.

The petitioners estimated the quantities of inputs required to produce hand trucks in the PRC based on the petitioners' own experience and their extensive analysis of the two representative hand trucks they acquired from the PRC. Based on the

² *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 642-44 (Ct. Int'l Trade 1988).

information provided by the petitioners, we believe that the petitioners' FOP methodology represents information reasonably available to the petitioners and is appropriate for purposes of initiating this investigation.

In accordance with section 773(c)(4) of the Act, the petitioners valued FOP, where possible, on reasonably available, public surrogate data from India. The petitioners valued all direct materials (with the exception of ball bearings and tires), packing materials, and scrap based on Indian import values, as published in the 2002 *Monthly Statistics of Foreign Trade of India*. These values were inflated to the current POI using the Indian wholesale price index ("WPI") as reported in the International Monetary Fund's *International Financial Statistics* ("IFS"), and converted to U.S. dollars using the U.S. Federal Reserve exchange rates for India.

Concerning ball bearings and tires for the hand truck, the petitioners valued these inputs using price quotes they obtained from India for ball bearings and tires as surrogate values for the ball bearings and tires for the hand truck. The Department accepted these values as being representative of hand truck ball bearings and tires.

The petitioners valued direct and packing labor using the regression-based wage rate for the PRC provided by the Department, in accordance with section 351.408(c)(3) of the Department's regulations. The petitioners based the amount of energy used on its own experience. Electricity was valued using the Indian Tata Energy Research Institute *Energy Data Directory and Yearbook (2000/2001)*, and adjusted for inflation to reflect a POI value using the Reserve Bank of India *RBI Bulletin*. Natural gas was valued from an article at www.indiaonline.com, and adjusted for inflation based on the Indian WPI.

The petitioners calculated financial ratios using four public financial statements of Indian producers of hand trucks. The Department did not find adequate evidence that one of the Indian firms, Excellent Engineering & Allied Services Private Limited, is a producer of hand trucks because: (1) it is not included in the list of producers of hand trucks submitted by the Indian researcher; (2) its financial statements do not indicate that it is a manufacturer of hand trucks; (3) its direct material costs are lower than the other companies; and (4) its financial statements refer to raw materials as "trading materials." Therefore, we have removed this company's financial ratios from the calculation of normal value. Based on the information provided by

the petitioners, we believe that the surrogate values represent information readily available to the petitioners and are acceptable for purposes of initiating this investigation.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of hand trucks from the PRC are being, or are likely to be, sold at less than fair value. As a result of a comparison of EP to NV, based on our recalculations described above, the estimated dumping margins range from 314.97 percent to 401.21 percent.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of imports of the subject merchandise sold at less than fair value.

The petitioners contend that the industry's injured condition is evidenced by the loss of sale opportunities, depressed and/or suppressed domestic prices, reduced market share, and reduced profitability. The allegations of injury and causation are supported by relevant evidence including affidavits of company officials, U.S. Census Bureau import statistics, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See *Initiation Checklist*.

Initiation of Antidumping Investigation

Based upon our examination of the petition on hand trucks, we have found that it meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of hand trucks from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended pursuant to section 733(b)(1)(A) of the Act, we will make our preliminary determination no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the government of the PRC.

ITC Notification

We have notified the ITC of our initiation as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine no later than December 29, 2003, whether there is a reasonable indication that imports of hand trucks from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: December 3, 2003.

James J. Jochum,
Assistant Secretary for Import
Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-412-803]

Notice of Final Results of Antidumping Duty Changed Circumstances Review: Industrial Nitrocellulose from the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Changed Circumstances Review.

SUMMARY: On October 16, 2003, the Department of Commerce (the Department) published a notice of preliminary results of its changed circumstances review of the antidumping duty order on industrial nitrocellulose (INC) from the United Kingdom in which we preliminarily determined that Troon Investments Limited (TIL) is the successor-in-interest to Imperial Chemical Industries, PLC (ICI).¹ See *Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Industrial Nitrocellulose from the United Kingdom*, 68 FR 59584, 59585 (October 16, 2003) (*Preliminary Results*). We gave interested parties, TIL and Green Tree Chemical Technologies, Inc. (Green Tree), the sole U.S. producer of INC and the petitioner in this proceeding, the

¹ Note: TIL purchased ICI's INC business on December 31, 2002.