

MEMORANDUM TO: Carole Showers  
Acting Deputy Assistant Secretary  
for Import Administration

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

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited Five-Year (Sunset) Review of the Antidumping Duty Order on Hand Trucks and Certain Parts Thereof from the People's Republic of China

### Summary

We have analyzed the substantive response of the domestic interested party in the sunset review of the antidumping duty order covering hand trucks and certain parts thereof (hand trucks) from the People's Republic of China (PRC). We recommend you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this sunset review for which we received a substantive response:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margins likely to prevail

### Background

On December 2, 2004, the Department of Commerce (Department) published in the Federal Register the notice of an antidumping duty order with respect to imports of hand trucks from the PRC. 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). Since the issuance of the antidumping duty order, the Department has conducted three administrative reviews and two new shipper reviews<sup>1</sup> and is currently undertaking the fourth administrative review. There have been no changed circumstances reviews or duty absorption findings regarding this antidumping

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<sup>1</sup> Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Administrative Review and Final Results of New Shipper Review, 72 FR 27287 (May 15, 2007); Hand Trucks and Certain Parts Thereof from the People's Republic of China: Final Results of 2005-2006 Administrative Review, 73 FR 43684 (July 28, 2008); Notice of Rescission of Antidumping Duty Administrative Review: Hand Trucks and Certain Parts Thereof from the People's Republic of China, 73 FR 36300 (June 26, 2008); Hand Trucks and Certain Parts Thereof from the People's Republic of China: Final Results of 2006-2007 Semi-Annual New Shipper Review, 73 FR 47888 (August 15, 2008).

duty order. There have been 12 scope requests in which products were ruled as being covered in the scope; 21 scope requests in which products were ruled as being excluded from the scope; and two scope requests which are still subject to litigation.

On November 2, 2009, the Department initiated the instant sunset review of the antidumping duty order on imports of hand trucks from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See Initiation of Five-Year (“Sunset”) Reviews, 74 FR 56593 (November 2, 2009).

On November 9, 2009, the Department received a notice of intent to participate in the sunset review from one domestic interested party, Gleason Industrial Products, Inc. and Precision Products, Inc. (Gleason), in accordance with 19 CFR 351.218(d)(1)(i). Gleason claimed interested party status under section 771(9)(C) of the Act, as a manufacturer and producer of the domestic like product. On November 24, 2009, we received a complete substantive response from Gleason within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i) (Gleason Substantive Response). The Department received no substantive response from any respondent. As a result, pursuant to section 751(c)(3)(B) and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of this order.

### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether revocation of this antidumping duty order would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the periods before and after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (the Commission) the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of the domestic interested party.

#### 1. Likelihood of Continuation or Recurrence of Dumping

### Interested Party Comments

Gleason asserts that revocation of the antidumping duty order covering hand trucks from the PRC would likely lead to a recurrence of dumping because respondents have continued to dump notwithstanding the order. Gleason states dumping has continued at a level above de minimis since the issuance of the order and cites to the first and second administrative reviews to demonstrate that companies from the PRC have continued to dump. See Gleason Substantive Response at 4. Gleason cites to the adverse facts available decisions and the loss of separate rate status for a number of companies to further establish its claims. Id. at 6. Although Gleason

acknowledges the issuance of certain de minimis findings, Gleason argues such de minimis margins do not detract from the fact that dumping has continued at a level above de minimis after the issuance of the order. Id. at 4. Gleason says such de minimis margins do not require the Department to determine that continuation or recurrence of dumping is not likely.

Citing to Census data, Gleason claims statistics for imports of hand trucks under HTS 8716.80.5010, the HTS number used by the Commission in the investigation, demonstrates “that companies have continued to dump hand trucks in the United States even with the discipline of an antidumping duty order in place.” See Gleason’s substantive response dated November 24, 2009 (Gleason’s substantive response) at 5.

### Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (URAA), specifically the Statement of Administrative Action (SAA), H.R. Doc. No. 103-316, vol. 1 at (1994), the House Report, H. Rep. No. 103-82b, pt 1 (1994) (House Report) and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department’s determination of likelihood of continuation or recurrence is made on an order-wide basis. SAA at 879 and House Report at 56. In addition, the Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of an order and import volumes for the subject merchandise declined significantly. See SAA at 889-890, House Report at 63-64, Senate Report at 52.

In accordance with the foregoing, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where, inter alia, dumping continued at any level above de minimis after the issuance of the order. The Department has conducted reviews since issuance of the order in which it found that dumping continued. Therefore, we continue to collect and assess dumping duties on entries of subject merchandise. The Department therefore concurs with Gleason’s conclusion that Chinese producers and exporters are currently subject to margins that are above de minimis. Given that dumping at levels above de minimis has continued over the life of the order, and that the levels of imports have declined since the initiation of the order,<sup>2</sup> the Department determines that dumping would likely continue or recur if the order were revoked.

## 2. Magnitude of the Margin Likely to Prevail

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<sup>2</sup> See Memorandum to the File dated March 2, 2010 entitled, “Import Volumes for the Final Results of the Expedited Five-Year (“Sunset”) Review of the Antidumping Duty Order on Hand Trucks and Certain Parts Thereof (Hand Trucks) from the People’s Republic of China (PRC).”

## Interested Party Comments

Gleason argues the Department “should provide to the ITC the corresponding individual company rates for Qingdao Huatian Hand Truck Co., Ltd. and True Potential Co. from the original investigation, as well as the PRC-wide rate from the investigation, as probative of the behavior of manufacturers, producers and exporters absent the discipline of the antidumping duty order because these margins are the only rates calculated absent the discipline of the order.”

See Gleason’s substantive response at 6. With respect to Shandong Machinery Import & Export Group Corp., Qingdao Future Tool Inc., and Qingdao Taifa Group Co., Ltd., Gleason argues that the individual company rates from the investigation should not be reported to the Commission in light of the subsequent reviews which found these companies to be part of the PRC-wide entity. Id. Instead, Gleason urges the Department to report to the Commission the PRC-wide rate of 383.60 percent with respect to Shandong Machinery Import & Export Group Corp., Qingdao Future Tool Inc., and Qingdao Taifa Group Co., Ltd.

## Department's Position

Section 752(c)(3) of the Act provides that the Department will report to the Commission the magnitude of the margin of dumping likely to prevail if the order were revoked. Both the SAA at 890 and the House Report at 64 provide that the Department will normally select a margin “from the investigation, because that is the only calculated rate that reflects the behavior of exporters . . . without the discipline of an order or suspension agreement in place.” Therefore, the Department normally will provide to the Commission the margins that were determined in the final determination in the original investigation. Exceptions to this policy, where appropriate, include the use of more recently calculated dumping margins and consideration of duty absorption determinations (see the SAA at 890-91, the House Report at 63-64, and the Senate Report at 52), or in situations where the Department did not issue a final determination (e.g., because the investigation was suspended and continuation was not requested). Specifically, the Department will normally provide the company-specific margin from the investigation for each company regardless of whether the margin was calculated using a company’s own information or based on best information available, or facts available. Furthermore, in light of the legislative history discussed above, for companies not specifically investigated, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the all others rate from the investigation. In addition, the Department normally will provide to the Commission a list of companies excluded from the order based on zero or de minimis margins, if any, or subsequently revoked from the order, if any.

The Department disagrees with Gleason’s claims with respect to Shandong Machinery Import & Export Group Corp., Qingdao Future Tool Inc., and Qingdao Taifa Group Co., Ltd., that the individual company rates from the investigation should not be reported to the Commission. The Department believes in this case it is appropriate to report the margins received by each company in the original investigation to the Commission as the magnitude of the margin likely to prevail if the order were revoked because these margins are the only calculated rates that reflect

the behavior of exporters without the discipline of an order in place. Id.; see also House Report at 64. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the Commission. See section 752(c)(3) of the Act and Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands, 65 FR 65294 (November 1, 2000) and accompanying Issues and Decision Memorandum at Comment 3; but see Pressure Sensitive Plastic Tape From Italy: Final Results of Expedited Sunset Review, 74 FR 40811 (August 13, 2009) and accompanying Issues and Decision Memorandum at Comment 2. In this case, for the reason identified above, the Department finds no reason to depart from its normal practice which is to report to the Commission the margins received by each company in the original investigation as the magnitude of the margin likely to prevail if the order were revoked. It is also not the Department's normal practice to report a non-calculated margin when determining the likely margin to occur. See 74 FR 56749. With regard to Shandong Machinery Import & Export Group Corp., Qingdao Future Tool Inc., and Qingdao Taifa Group Co., Ltd, the Department disagrees with Gleason that the margin to be reported to the Commission should be 383.60 percent because these companies lost their separate rate status in more recent review periods. See 72 FR at 27289 and 73 FR at 43686.

Additionally, the Department believes that in this sunset review, it would not be appropriate to report Since Hardware's or New-Tec Integration's zero or de minimis margins obtained in their respective new shipper reviews as the likely margin to occur if the order were to be revoked. The Department concurs with Gleason's arguments that the Department is not required to regard a zero or de minimis margin, in itself, as indicating that continuation or recurrence of dumping is not likely. See Gleason's substantive response at 5. The Department's normal practice in such cases is to provide a margin based on the all others rate in the investigation "because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order." See Cut-to-Length Carbon Steel Plate From Belgium, Brazil, Finland, Germany, Mexico, Poland, Romania, Spain, Sweden, and the United Kingdom and Carbon Steel Plate From Taiwan; Second Five-year (Sunset) Reviews of Antidumping Duty Orders and Antidumping Finding; Final Results, 71 FR 11577 (March 8, 2006). Therefore, the Department will allow its usual practice and report to the Commission the all others rate for those companies which were not investigated.

Final Results of Sunset Reviews

We determine that revocation of the antidumping duty order on hand trucks from the PRC would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

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- Manufacturers/Exporters/Producers	Weighted-Average Margin (Percent)
Qingdao Taifa Group Co., Ltd.	26.49 percent
True Potential Co.	33.68 percent
Qingdao Huatian Hand Truck Co., Ltd.	46.48 percent
Shandong Machinery Import & Export Group Corp.	32.76 percent
Qingdao Future Tool Inc.	32.76 percent
PRC-wide rate	383.60 percent

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Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the positions discussed above. If these recommendations are accepted, we will publish the final results of this sunset review in the Federal Register.

AGREE\_\_\_\_\_

DISAGREE\_\_\_\_\_

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Carole Showers  
Acting Deputy Assistant Secretary  
for Import Administration

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Date