

Gleason v. United States
Court No. 06-00089 Slip Op. 07-40 (CIT March 16, 2007)

FINAL RESULTS OF REDETERMINATION PURSUANT TO COURT REMAND

A. SUMMARY

The Department of Commerce (“Department”) has prepared these final results of redetermination pursuant to the remand order of the Court of International Trade (“Court”) in Gleason v. United States, Court No. 06-00089 Slip Op. 07-40 (CIT March 16, 2007) (“Gleason”). The Court issued a remand to the Department regarding the Final Scope Ruling for Hand Trucks and Certain Parts Thereof from the People’s Republic of China (February 15, 2006) (“Scope Ruling”) to reconsider its scope ruling on the following issues: 1) whether Central Purchasing Inc.’s (“Central Purchasing”) welding carts have a projecting edge that easily slides under a load; and 2) whether Central Purchasing’s welding carts are specifically included within the scope of the order due to the mention of “cylinder hand trucks.” In addition, Central Purchasing requested the Department to place any ex parte memoranda on the record for this case.

In accordance with the Court’s instructions, the Department has analyzed information on the record with respect to the remanded issues. Specifically, the Department has determined from information on the record that: 1) Central Purchasing’s welding carts have all the features, including a projecting edge or toe plate that is capable of sliding under a load, as required in the scope of the hand trucks order; and 2) Central Purchasing’s welding carts are cylinder hand trucks subject to the scope of the order. In the instant case, the Department has evaluated Central Purchasing’s welding carts in accordance with 19 C.F.R. 351.225(k)(1) and finds that the

descriptions of the merchandise obtained during the scope proceeding, including this remand proceeding, the order and the International Trade Commission (“ITC”) determination, are dispositive with respect to Central Purchasing’s welding carts. Further, the Department has determined that Central Purchasing’s welding carts are within the scope of the order.

B. BACKGROUND

On February 15, 2006, the Department determined that Central Purchasing’s welding carts, item 43615 and item 93851, were not covered by the antidumping duty order on hand trucks and certain parts thereof from the People’s Republic of China. See Scope Ruling. Gleason Industrial Products, Inc. and Precision Products, Inc. (“Gleason” or “Petitioners”) contested the Department’s scope ruling. On March 16, 2007, the Court issued its opinion with regard to the Department’s request for a voluntary remand to reconsider its scope ruling. In its decision, the Court remanded to the Department two issues surrounding the scope ruling for reconsideration. Specifically, the Court remanded the case to the Department to reconsider its scope ruling on the following issues: 1) whether Central Purchasing’s welding carts have a projecting edge that easily slides under a load; and 2) whether Central Purchasing’s welding carts are specifically included within the scope of the order due to the mention of “cylinder hand trucks.”

In its reconsideration of its scope ruling regarding Central Purchasing’s welding carts, the Department issued a questionnaire to Gleason and Central Purchasing regarding the role of the welding carts’ elevated toe plate or projecting edge and the definition of a cylinder hand truck. See “Questionnaire based on the Remand regarding the Scope Determination on the Antidumping Duty Order of Hand Trucks and Parts Thereof from the People’s Republic of China,” (April 9, 2007) (“Questionnaire”). Specifically, the Department requested: a) an industry definition of a

“toe plate” and “projecting edge;” b) the function of Central Purchasing’s welding carts; c) the function of the projecting edge of a cylinder hand truck; and (d) an industry definition of a cylinder hand truck. See Questionnaire.

On April 19, 2007, Gleason and Central Purchasing responded to the questionnaire. See Gleason’s Response to the Remand Questionnaire (April 19, 2007) (“Gleason Response”) and Central Purchasing’s Response to the Remand Questionnaire (April 19, 2007) (“Central Purchasing Response”). On April 25, 2007, Gleason and Central Purchasing submitted rebuttals; however, Gleason provided new factual information in its rebuttal. See Gleason’s Rebuttal to Central Purchasing’s Questionnaire Response (April 25, 2007) (“Gleason Rebuttal”) and Central Purchasing’s Rebuttal to Gleason’s Questionnaire Response (April 25, 2007). On April 26, 2007, Central Purchasing submitted a sur-rebuttal to Gleason’s Rebuttal. See Sur-Rebuttal Response in Light of the New Information Set Forth in Gleason’s Rebuttal (April 26, 2007) (“Central Purchasing Sur-Rebuttal”). In light of the Department’s voluntary remand to consider more information on whether Central Purchasing’s welding carts are hand trucks, the Department accepted both Gleason’s Rebuttal and Central Purchasing’s Sur-Rebuttal.

On April 30, 2007, Central Purchasing filed with the Court a partial consent motion to supplement the record with an ex parte memorandum concerning a meeting between the Department and Gleason after the Department’s scope ruling and prior to Gleason’s filing of this lawsuit. The Court denied the motion. According to Central Purchasing, the proper method to supplement the record would be to submit the information to the Department in the context of a remand proceeding; the Department can then decide whether to include the information in the remand record. See Remand Record Request from Central Purchasing, dated May 21, 2007.

Accordingly, Central Purchasing requested that the remand record include “all communications between the parties and the Department filed with the Department or records of meetings in the form of ex parte memoranda” subsequent to the Department’s scope ruling and prior to the filing of this case in the Court. See Remand Record Request from Central Purchasing, dated May 21, 2007. In its May 21, 2007 submission, Central Purchasing provided copies of certain documents for the Department to decide whether to include them in the remand record. The Department accepted these documents as part of this remand record.

On July 6, 2007, the Department released its draft results pursuant to the Court’s remand order (“Draft Results”) to Central Purchasing and Petitioners. On July 12, 2007, the Department received comments from Gleason and Central Purchasing.

C. FINAL RESULTS

1. WHETHER CENTRAL PURCHASING’S WELDING CARTS HAVE A PROJECTING EDGE THAT SLIDES UNDER A LOAD

The Court granted the Department’s request for a voluntary remand to reconsider whether Central Purchasing’s welding carts have a projecting edge or toe plate that slides under a load. The Department defined the scope of the investigation in its notice of initiation. This scope language carried forward without modification from the preliminary determination of sales at less than fair value to the antidumping duty order:

[T]he 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 8716.90.50.60 of the HTSUS. Although the HTSUS subheadings are provided for convenience and for customs purposes, 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.

See Notice of Initiation of Antidumping Duty Investigation: Hand Trucks and Certain Parts Thereof from the People’s Republic of China, 68 FR 68591 (December 9, 2003); and Notice of Antidumping Duty Order: Hand Trucks and Certain Parts Thereof From the People's Republic of China (“Order”), 69 FR 70122 (December 2, 2004).

a. INDUSTRY DEFINITION OF A “PROJECTING EDGE” OR “TOE PLATE”

On April 9, 2007, the Department issued to Gleason and Central Purchasing a questionnaire requesting the industry definition of a “projecting edge” and “toe plate” in its re-examination of its scope ruling on Central Purchasing’s welding carts. See Questionnaire. _____ Gleason states that there is no official industry definition of a toe plate or projecting edge. See Gleason Response at 2. Gleason reiterates the scope’s definition of a projecting edge or toe plate as a part of a hand truck that is perpendicular or angled to the vertical frame at or near the lower section of the vertical frame. See Gleason Response at 2. Though not providing an accepted industry definition, Central Purchasing submitted a definition of a “toe plate,” namely that the toe plate is the “bottom most shelf upon which the majority of the truck’s or the cart’s load is carried.” See Central Purchasing Response at 3.

Based on the responses from both parties, the Department has determined that there is no industry definition of a “toe plate” or a “projecting edge.” See Central Purchasing Response at 3-5 and Gleason Response at 2. Nonetheless, the Department has examined in the section below (“Whether Central Purchasing’s Welding Carts Have Projecting Edges or Toe Plates”) whether Central Purchasing’s welding carts have a projecting edge or toe plate that fits the language of the scope of the order.

b. WHETHER CENTRAL PURCHASING’S WELDING CARTS HAVE PROJECTING EDGES OR TOE PLATES

In its questionnaire, the Department also asked Gleason and Central Purchasing to explain the function of a “projecting edge” and “toe plate” as part of the Department’s re-examination of its scope ruling on Central Purchasing’s welding carts subject to this proceeding. See Questionnaire.

Central Purchasing argues that the welding carts subject to this proceeding, item 43615 and item 93851, have a projecting edge that is actually a tray attached to two bars, 1 1/4 inches high, with a downward edge that is perpendicular to the ground and parallel to any load that may be placed on the cart. See Central Purchasing Response at 5-6 (citing Scope Request at 2).¹ Also, Central Purchasing states that the projecting edge on its welding carts is attached to two bars on the outermost corners of the projecting edge. See Central Purchasing Response at 6.

Gleason uses the scope of the hand trucks order to explain that Central Purchasing carts have a projecting edge that is perpendicular or angled to the vertical frame at or near the lower section of the vertical frame. See Gleason Response at 2. Gleason then states that Central Purchasing's welding carts have a "formed edge, i.e., the front edge of the toe plate {that} is folded downward." See Gleason Response at 2.

Because the Department determined that there is no industry definition of a "projecting edge" or "toe plate" (as discussed above), we have relied upon the language of the scope, the ITC definition, and the parties' submissions to determine whether Central Purchasing's welding carts have a "projecting edge" or "toe plate." The language of the scope of the order states that the toe plate or projecting edge is "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." See Order. The Department also reviewed the ITC final investigation report to analyze its description of the physical characteristics of a toe plate or projecting edge on a hand truck. In its final investigation report, the ITC notes that "{a} load support nose member (which is also known as a base or toe plate) is connected to the lower front portion of the frame." See Hand Trucks and Certain Parts

¹The Department has attached Central Purchasing's scope request at Attachment 1 to provide a picture of Central Purchasing's welding carts.

Thereof from China, USITC Pub. 3737, Inv. No. 731-TA-1059 (Final), at I-4, N. 12 (November 2004) (“ITC Investigation”). In its final investigation report, the ITC noted the definition of a frame in the following text:

Every hand truck frame includes vertical side rails normally connected by laterally extended braces. The upper portion or rear portion of the vertically disposed frame incorporates a handling area for maneuvering the hand truck. The handling area can be a part of the frame, but it also can be attached to the upper portion of the frame and appear as a distinct appendage. A load support nose member (which is also known as a base or toe plate) is connected to the lower front portion of the frame. At least two wheels are connected to the lower rear portion of the vertically disposed frame. The wheels, unless they are casters, are normally connected by an axle.

See ITC Investigation. Using the ITC’s definition and examining the record, we have concluded that the base of Central Purchasing’s welding carts constitutes a projecting edge or toe plate that extends from the vertical frame. See ITC Investigation.

Additionally, both interested parties stated in their responses that the names “projecting edge” or “toe plate” describe the plate attached to the lower portion of the vertical frame of the welding cart. Although there does not appear to be an industry definition for either a “toe plate” or “projecting edge,” Central Purchasing’s welding carts, items 43615 and 93851, have a projecting edge or toe plate that extends from beyond the vertical frame, thus fitting the description of hand trucks covered in the scope of the order, meaning an edge “or toe plate, perpendicular or angled to the vertical frame, at or near the lower section of the vertical frame.”

See Attachment 1 and Order. Based on our examination of record evidence (i.e., pictorial exhibits of Central Purchasing’s welding carts), the tray or toe plate of Central Purchasing’s welding carts extends from the vertical frame at the lower portion of the frame, and the projecting edge or toe plate is perpendicular to the frame. See Attachment 1. Therefore, based on our analysis of record

evidence, we have determined that Central Purchasing's welding carts have a projecting edge or toe plate as described in the scope of the order.

c. WHETHER THE HEIGHT, HORIZONTAL STRUCTURE, AND DESIGN OF THE PROJECTING EDGE OR TOE PLATE OF CENTRAL PURCHASING'S CARTS RESTRICT A LOAD FROM SLIDING ONTO THE WELDING CART

This section addresses the arguments from both parties regarding whether the height, the horizontal structure, and design of the projecting edge of Central Purchasing's carts restrict the welding cart's ability to slide under a load.

Based on the height and horizontal structure of the projecting edges, Central Purchasing argues that both models of its welding carts carry loads that must be lifted and placed onto the toe plates, such that the projecting edge or toe plate of the welding carts does not facilitate the sliding of loads. See Central Purchasing Response at 4, 6, and 8. Central Purchasing states that a load must be lifted no less than 1 3/4 inches off the ground (the plate is 1 1/4 inches thick and 1/2 inch above the ground) and placed on their carts. See Central Purchasing Response at 8. Central Purchasing concludes that the height of the projecting edge restricts the carts from being pushed or tilted under a load. See Central Purchasing Response at 8.

Central Purchasing also describes projecting edges on hand trucks and carts in various forms, as being very thin or beveled to facilitate sliding a load onto a hand truck or cart. See Central Purchasing Response at 5. Central Purchasing notes that the recent Court decision regarding a garden cart's projecting edge states that "unlike a projecting edge of a hand truck, which is beveled to facilitate its sliding under a load, the edge of the stabilizing plate {of the garden cart} is a round steel wire that is not conducive to sliding under a load." See Central Purchasing Response at 5 citing Vertex Int'l Inc. v. United States, Slip Op. 06-10, 2006 WL

160295 (CIT Jan. 19, 2006) (“Vertex”). Central Purchasing then argues that the projecting edges of its welding carts are not thin-edged or beveled. See Central Purchasing Response at 5.

Gleason argues that the Court rejected Central Purchasing’s argument to compare the welding carts with the Vertex garden carts, and the Department should not consider the comparison. See Gleason Rebuttal at 12, citing Vertex. Additionally, Gleason states that the projecting edge supports the load from underneath to allow for the lifting and/or moving of the load, rebutting Central Purchasing’s argument that the loads must be placed onto the cart. See Gleason Response at 2. Gleason argues that the projecting edge of Central Purchasing’s welding carts is designed to add “structural rigidity and strength” to ensure that the cylinders stand upright and remain secure on the hand truck once the cylinders are on the hand truck. See Gleason Rebuttal at 8.

Regarding Central Purchasing’s comparison of its welding carts and the Vertex garden carts, the Department reiterates the Court’s opinion in this case. In this remand Central Purchasing argued to the Court that its welding carts do not have a beveled edge on the projecting edge or toe plate to facilitate the sliding of a load onto the carts similar to Vertex’ garden carts which also do not have a beveled edge, so the Court should find that Central Purchasing’s welding carts do not fit the scope of the hand trucks order. See Central Purchasing Response at 5. However, the Court specifically stated that Central Purchasing’s “reliance on Vertex {in this remand} is misplaced” in comparing its welding carts and Vertex’ garden carts because Central Purchasing’s “welding carts are drastically different than” Vertex’ garden carts. See Opinion at 10. The Court stated that Vertex highlighted the scope requirement that “a hand truck must be

able to slide under a load” but only answered that question with regard to the garden cart at issue in that case. See Opinion at 10. The Court noted that:

Vertex International frames the issue for this Court, but it hardly decides it. In this case, Commerce seeks remand to conduct a more searching factual examination of whether the elevated toe plates of the CP welding carts help to slide the carts under loads. In other words, Commerce is seeking leave **to conduct precisely the sort of inquiry that the Vertex International decision demands.** [emphasis added]

See Vertex at 10. As the Court noted, the Department requested a remand in order to examine more closely whether Central Purchasing’s welding carts slide under loads, as required by the order and in congruence with Court’s analysis in Vertex. The Department has conducted its examination and presents its findings in this remand determination.

After examining record evidence, we have concluded that the toe plate or projecting edge of Central Purchasing’s welding carts facilitates the moving and storage of welding equipment, *i.e.*, the toe plate allows the carts to slide under a load. In order to slide the elevated projecting edge or toe plate of their subject welding carts under a load, all one has to do is employ the practice of slightly tilting or tipping the load.

Additionally, as stated above, we have determined that Central Purchasing’s welding carts have a projecting edge or toe plate. Even though the welding carts have a projecting edge or toe plate that is not flush with the ground, the rise of the projecting edge or toe plate does not prevent it from sliding under a load. Central Purchasing’s raised toe plate does not prevent the welding cart from being maneuvered, so that the load can be slightly tipped and slid onto the welding cart. Moreover, the projecting edge or toe plate is horizontally flat and has a vertical edge on the outside of the plate that faces downward to facilitate sliding the welding cart’s toe plate under a load. Because the vertical edge of the toe plate faces downward, the user can both slide a load

onto the welding cart and slide the toe plate or projecting edge under a load without obstruction. Accordingly, the Department has determined that the projecting edge or toe plate of Central Purchasing's welding carts is structurally horizontal in order for it to slide under a load.

d. **WHETHER THE BARS THAT EXTEND TO THE OUTERMOST CORNERS OF CENTRAL PURCHASING'S WELDING CARTS RESTRICT A LOAD FROM SLIDING ONTO THE WELDING CART**

Central Purchasing argues that two bars attached to the frame and to the two opposite corners of the forward-leading edge of the projecting edge or toe plate restrict the toe plate's ability to slide to under a load. See Central Purchasing Response at 6. Central Purchasing argues that these bars act to restrict the projecting edge's ability to slide under a load, as addressed in the Department's scope ruling regarding this case. See Central Purchasing Response at 6. Thus, Central Purchasing argues that the Department recognizes a hand truck's ability to slide under a load can be affected by physical characteristics restricting the ability to carry a certain size of loads. See Central Purchasing Response at 7.

Gleason refutes that the bars that form the side of Central Purchasing's welding carts restrict the ability to slide under a load. Gleason argues that the side bars actually serve to hold the cylinders upright and as securely as possible to prevent shifting as they are being transported on the hand truck. See Gleason Rebuttal at 10. Gleason adds that the "edge on the open side of the toe plate" is designed to ensure that the user moves the cylinders onto the hand truck by tilting and rolling the cylinder on their bottom edges, such that the bars do not block the user's ability to slide the open side of the projecting edge under the cylinders. See Gleason Rebuttal at 8 and 10. Also, Gleason contends that the bars on the welding carts "do not block a user's ability to slide the open side of the projecting edge or toe plate under the cylinders as they move from the floor onto

the welding cart.” See Gleason Rebuttal at 10. In addition, Gleason considers that the side bars are additional physical characteristics of a hand truck and refers to the scope language stating that additional physical characteristics are not a basis for exclusion of a hand truck from the order. See Gleason Rebuttal at 10 and Order. Gleason supports its position by stating that “although the bars in question may prevent {Central Purchasing welding} carts from carrying wide loads, the bars do not prevent the carts from carrying types of loads for which the carts have been specifically designed (i.e., gas pressurized cylinders).” See Gleason Rebuttal at 10.

We have examined record evidence and have concluded that the bars extending to the toe plates do not restrict the ability of the projecting edge or toe plate to slide under a load. Specifically, the Department has concluded that the external bars do not prevent a user from sliding the load for which they were designed onto the welding carts in question because the bars do not block or hinder the load from being slid onto the projecting edge or toe plate. Further, after examining both models of Central Purchasing’s welding carts, we have determined that whether the vertical bars are additional features of a hand truck is irrelevant to whether they are subject to the scope. See Attachment 1. The scope of the hand trucks order states that although a “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, {these additional characteristics are} not a basis for exclusion of the hand truck from the scope of the order.” See Order. Accordingly, Central Purchasing’s argument regarding the two bars attached to the frame is not a basis for exclusion.

e. WHETHER A LOAD MUST “EASILY” SLIDE ONTO A HAND TRUCK

In its rebuttal, Gleason points out that the Department used the word “easily” to describe the function of a projecting edge in the scope ruling of Central Purchasing’s welding carts. See Gleason Rebuttal at 11. Gleason argues that the Department’s use of the word “easily” is not in the scope and contends the word “eviscerates” the antidumping duty order. See Gleason Rebuttal at 11.

After examining the language of the scope, the Department acknowledges that the word “easily” is not used in the scope of the order to qualify how the projecting edge or toe plate slides under a load.

2. WHETHER CENTRAL PURCHASING’S WELDING CARTS ARE SPECIFICALLY INCLUDED IN THE SCOPE OF THE ORDER, DUE TO THE MENTION OF CYLINDER HAND TRUCKS

The second issue for the Department to consider is whether Central Purchasing’s welding carts are cylinder hand trucks specifically included in the scope of the order due to the mention of “cylinder hand trucks.” As required by the Department’s regulations, the Department must analyze the physical characteristics of Central Purchasing’s welding carts with the characteristics of hand trucks covered by the order regardless of whether the welding carts are cylinder hand trucks. The scope of the order states that an example of a name commonly used to reference a hand truck is “cylinder hand truck.” Because the specific hand trucks in question clearly meet the physical description of hand trucks under the scope of this order, we need not reach the question of whether Central Purchasing’s welding carts are specifically included in the order due to its classification as a common type of hand truck that is exemplified in the order. Nevertheless, we

are addressing the issue of whether Central Purchasing's welding carts are cylinder hand trucks as covered by the order.

a. INDUSTRY DEFINITION OF A CYLINDER HAND TRUCK

The Department asked parties for an industry definition of a cylinder hand truck to compare the definition of a cylinder hand truck with Central Purchasing's welding carts. See Questionnaire.

Gleason contends that there is no official definition of a cylinder hand truck, but that it is a colloquial term to identify a category of hand trucks manufactured and marketed for a particular use, namely lifting and transporting cylindrical loads. See Gleason Response at 3. Gleason reports that it manufactures hand trucks that carry welding equipment, referred to as "standard welding cylinder trucks." See Gleason Response at 3. Gleason adds that the term "welding equipment" includes cylinders that contain pressurized oxygen and acetylene gases used to produce the flame for welding. See Gleason Rebuttal at 3.

Central Purchasing also does not provide an industry definition but bases its definition of a cylinder hand truck on its experience and research. See Central Purchasing Response at 9. Central Purchasing explains that cylinder hand trucks have two or four wheels, vertical or horizontal frames with toe plates that "can easily slide under a load or toe plates that cannot easily slide under a load" and are made of metal or polyethylene. See Central Purchasing Response at 9. Based on its research and its exhibits, Central Purchasing contends that the only common characteristic of cylinder hand trucks is that they are designed to carry metal cylinders. See Central Purchasing Response at 10.

Both parties stated that there is no industry definition of a cylinder hand truck. Thus, after examining the record, the Department determined that no industry definition of a cylinder hand truck exists. Nevertheless, the Department examined in the section below (see “Whether Central Purchasing’s Welding Carts Are Cylinder Hand Trucks”) whether Central Purchasing’s welding carts fall within the language of the scope of the order.

b. WHETHER CENTRAL PURCHASING’S WELDING CARTS ARE CYLINDER HAND TRUCKS

In determining whether Central Purchasing’s welding carts are “cylinder hand trucks” the Department asked parties to provide pictorial exhibits of “Cylinder Hand Trucks.” See Questionnaire.

Gleason provides exhibits variously labeled and marketed as “cylinder hand trucks” from manufacturers, such as Central Purchasing, Milwaukee Hand Truck (a division of Gleason), Harper Trucks, Dutro Company, and itself. See Gleason Response at Exhibits 1-5. Gleason argues that the Milwaukee Hand Truck and its own product are “virtually identical” to Central Purchasing’s welding carts. See Gleason Response at 4. Gleason also provided pictorial exhibits of cylinder hand trucks with projecting edges, e.g., Gleason medical cylinder hand trucks, Gleason delivery cylinder trucks, and Harper Series 700 cylinder hand trucks. See Gleason Response at Exhibits 2 and 4. Gleason argues that Central Purchasing’s pictorial exhibits of cylinder hand trucks demonstrate that Central Purchasing’s welding carts are similar to cylinder hand trucks. See Gleason Rebuttal at 3. Gleason states that Central Purchasing’s welding carts transport cylinders that contain pressurized gas used in welding and are a type of cylinder hand truck that is explicitly covered by the order. See Gleason Response at 4 and Rebuttal at 3.

Central Purchasing states that it does not sell cylinder hand trucks. See Central Purchasing Response at 8-9. However, Central Purchasing also provided pictorial exhibits of cylinder hand trucks. See Central Purchasing Response at 8 and Exhibit 3. Central Purchasing highlights that the toe plates in some of the pictorial exhibits appear to be flush with the ground to allow the toe plates to slide under a load. See Central Purchasing Response at 9. Central Purchasing also states that the Mobile Gas Cylinder Truck has similar characteristics to Central Purchasing's welding carts with a toe plate at the height of 1 1/4 inches to allow for easy loading and unloading. See Central Purchasing Response at 9.

Because there is no industry definition of a cylinder hand truck (see "Industry Definition of a Hand Truck," above), based on the descriptions provided by the parties, we find here that a cylinder hand truck will generally have a certain design feature that enables it to carry and transport cylindrical objects. We then examined whether Central Purchasing's welding carts fit the language of the scope of the order. In our examination of the record evidence, we compared each feature of Central Purchasing's welding carts to the scope of the order to ascertain whether Central Purchasing's welding carts have the same features as hand trucks subject to the order.

First, the scope of the order states that a hand truck is comprised of: 1) a vertical frame; 2) a handle or handle(s); 3) two or more wheels; and 4) a projecting edge or toe plate.

We have determined based on record evidence that Central Purchasing's welding carts are comprised of the remaining features as outlined in the language of the scope of the order: a vertical frame; a handle or handles; and two or more wheels. We based our determination on the examination of Central Purchasing's exhibits of welding carts that Central Purchasing depicted as cylinder hand trucks. See Attachment 1 and Central Purchasing Response at Exhibit 3. From the

exhibits, we observed that two of Central Purchasing's welding carts at issue have a vertical frame, a continuous handle, and two wheels. See Attachment 1 and Central Purchasing Response at Exhibit 3. Furthermore, as we determined above, Central Purchasing's welding carts have a projecting edge or toe plate. See above at 6.

Next, we analyzed whether the cylinder hand trucks in the exhibits submitted by the parties have the same features as Central Purchasing's welding carts. The Department notes that the exhibits of cylinder hand trucks submitted by both parties are for comparison purposes only and do not imply that the cylinder hand trucks in the exhibits are cylinder hand trucks that are covered by the hand trucks order. We looked to evidence placed on the record (e.g., Harper Series, AKRO-MILS, and Valley Craft) to determine whether these cylinder hand trucks have features similar to Central Purchasing's welding carts. See Central Purchasing Response at Exhibit 3 and Gleason Response at Exhibits 2-5. After examining the record, we saw that Central Purchasing's welding carts (i.e., item 43615 and item 93851) have the same features as the aforementioned cylinder hand trucks (i.e., Harper Series, AKRO-MILS, and Valley Craft), which appear to be designed to carry and transport cylindrical objects. Accordingly, because Central Purchasing's welding carts have the same features as the cylinder hand trucks placed on the record of this remand, we have determined that Central Purchasing's welding carts are a type of cylinder hand truck based on the record evidence.

Further, we compared the features of a cylinder hand truck (a hand truck having a design feature that enables it to carry and transport cylindrical objects) with the language of the scope. Not only are Central Purchasing's welding carts designed to carry and transport objects, in this case cylindrical objects, we have determined that Central Purchasing's welding carts also have the

same characteristics (i.e., vertical frame; a handle or handles; two or more wheels; and a projecting edge or toe plate) of hand trucks within the scope of the order. Therefore, because Central Purchasing's welding carts have all the same features as hand trucks described in the scope of the order, we have concluded that Central Purchasing's welding carts are a type of cylinder hand truck covered by the scope of the order.

The Department requested a voluntary remand to reconsider its determination whether Central Purchasing's welding carts, item 43615 and item 93851, are covered by the antidumping duty order on hand trucks and certain parts thereof from the People's Republic of China. Based on record evidence, and the descriptions of the merchandise, we have determined that Central Purchasing's welding carts are hand trucks covered by the scope of the order because the raised toe plate or projecting edge does not prevent it from sliding under a load, and the external bars do not prevent a user from sliding a load onto Central Purchasing's welding carts. Additionally, we have determined that Central Purchasing's welding carts are cylinder hand trucks and covered by the order because the welding carts have the same characteristics of a hand truck within the scope of the order, and not merely due to the mention of "cylinder hand trucks."

On July 6, 2007, the Department released its draft results and received comments from Gleason and Central Purchasing. The Department summarized the parties' comments and addressed them below.

SUMMARY OF COMMENTS

Issue 1: Whether Central Purchasing's Welding Carts Have a Projecting Edge That Easily Slides under a Load

The Court remanded this issue to the Department with instructions to review the record and further explain its decision whether Central Purchasing's welding carts have a projecting edge

that “easily slides” under a load. The Department has re-examined the record and concluded that the record supports a determination that Central Purchasing’s welding carts have a projecting edge that slides under a load. Additionally, the Department has determined that Central Purchasing’s “toe plate” is a horizontal projecting edge that is perpendicular or angled to the vertical frame and located at the lower section of the vertical frame. Further, the Department determines that the horizontal structure and height of Central Purchasing’s welding carts’ projecting edge is designed to slide under and transport a load. Therefore, the Department finds that Central Purchasing’s welding carts are within the scope of the hand trucks order.

Comment 1:

Central Purchasing argues that the Department should realize that the Court’s opinion in Vertex is critically important to the Department’s analysis of whether hand trucks or welding carts are covered by the scope of the order. See Central Purchasing’s Comments on Draft Results, “Hand Trucks and Certain Parts Thereof from the People’s Republic of China, A-570-891, Remand Proceeding: Comments on the Draft Determination on Remand in Gleason Industrial Products, Inc., et al. v. United States (Ct. No. 06-00089) (“Central Purchasing’s Draft Remand Results Comments”) (July 12, 2007). Central Purchasing states that the Court in Vertex interpreted the requirement that a toe plate must slide under a load for the purpose of carrying and/or moving the load. Central Purchasing further argues that the Court in Vertex did not limit its interpretation to the specific facts of that case. See Central Purchasing’s Draft Remand Results Comments at 2. Central Purchasing quotes the Court’s language that states “{t}he Order defines “projecting edge or toe plate” according to its function.” See Central Purchasing’s Draft Remand Results Comments at 2. Central Purchasing urges the Department to examine the specific purpose

of the horizontal projecting edge: to slide under a load to lift or move it. See Central Purchasing's Draft Remand Results Comments at 2. Central Purchasing states that the Court executed its judicial responsibility in interpreting the scope language, applied the interpretation to the circumstances of Vertex, and did not limit its interpretation to the specific circumstances of Vertex. See Central Purchasing's Draft Remand Results Comments at 3. To support this hypothesis, Central Purchasing further states that: (1) neither Gleason or the Department appealed the Vertex decision, and (2) the Department used the Court's analysis in Vertex in its May 18, 2007 scope ruling regarding Non-Typical Carts and Grizzly Carts. See Central Purchasing's Draft Remand Results Comments at 3 and 4, citing Memorandum from Hallie Noel Zink through Robert Bolling and Wendy Frankel to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, regarding the Final Scope Ruling for Expeditors Tradewin, LLC, on behalf of Ameristep Corporation, Inc. (May 18, 2007) ("Tradewin"). Citing to Tradewin, Central Purchasing contends that the Department disagreed with the effect Gleason gave to the phrase "slides under" to fixate the user's ability to maneuver the cart in such a way to place the load onto the horizontal frame as opposed to the ability of the horizontal frame to slide under the load. See Central Purchasing's Draft Remand Results Comments at 3-4 citing Tradewin). Central Purchasing, therefore, argues that the Department cannot rely on the Vertex analysis in one case and refuse to adopt the same analysis in another case, namely this remand. See Central Purchasing's Draft Remand Results Comments at 4.

Next, Central Purchasing argues that the Department recognized in the Tradewin scope ruling that "sliding under" and "sliding onto" are not the same and urges the Department to reconcile the difference for the final results of this remand. See Central Purchasing's Draft

Remand Results Comments at 4-5. Central Purchasing states that in this remand the Department made unsupported statements that the external bars do not prevent a user from sliding a load onto the welding carts. See Central Purchasing's Draft Remand Results Comments at 5-6. Central Purchasing argues that the Department did not address during this analysis whether the external bars block or hinder the toe plate's ability to slide under a load as provided in the scope language. See Central Purchasing's Draft Remand Results Comments at 6. Therefore, Central Purchasing requests that the Department address whether the bars block or hinder the toe plate from "sliding under" the load, as the scope language requires. See Central Purchasing's Draft Remand Results Comments at 5.

Also, Central Purchasing argues that the Department incorrectly concludes its welding carts are covered by the scope of the order based on the function of the toe plate or projecting edge, which is to slide a load onto the cart. See Central Purchasing's Draft Remand Results Comments at 5. Central Purchasing argues that the scope language requires for the toe plate to be designed to slide under a load as opposed to the load being slid onto or across the toe plate. See Central Purchasing's Draft Remand Results Comments at 6. Based on Tradewin, Central Purchasing states that certain toe plates of hand trucks are designed to slide under loads, others are designed to accommodate loads being slid onto them, and yet others are designed to slide under loads as well as accommodate loads being slid onto them. See Central Purchasing's Draft Remand Results Comments at 6.

Further, Central Purchasing argues that the Department concludes without factual support that the height of the top of the toe plate of its welding carts is 1 3/4 inches off the ground (1 1/4

inches thick toe plate that is 1/2 inch off the ground) and can slide under a load without the user having to lift the load. See Central Purchasing's Draft Remand Results Comments at 7.

Next, Central Purchasing contends that the Department limits its analysis to only one of Central Purchasing's welding carts, item 93851. See Central Purchasing's Draft Remand Results Comments at 6. Central Purchasing argues that the toe plate of its welding cart, item 43615, cannot be described as facing downward because all four sides of the toe plate form a tray with the sides upturned to a height of 1 1/4 inches off the ground. See Central Purchasing's Draft Remand Results Comments at 7-8. Thus, Central Purchasing requests the Department to address this fact in the final remand determination.

Gleason did not comment.

Central Purchasing argues that the Department should consider the Court's analysis in Vertex because the Court did not limit its interpretation to the circumstances of this case. As noted above, the Department has conducted an examination of Central Purchasing's welding carts in concurrence with the analysis required in Vertex.

Further, Vertex' garden carts can be distinguished from Central Purchasing's welding carts. First, the Court in Vertex stated that the Vertex garden cart has a warning that the garden cart is designed to be pulled only and pushing the garden cart may cause bodily injury. Also, the Court mentioned that the edge of the stabilizing plate is made of round steel wire that does not facilitate the plate to slide under a load unlike a typical solid metal plate that can carry heavy loads. The Court in Vertex also noted that the wire frame that projects from the top rack of the Vertex cart prevents the cart from "sliding under, and carrying, a taller load which would bump against the wire frame." Lastly in Vertex, the Court stated that the Vertex garden cart did not

have a central frame member against which a load can balance. Even though the Court acknowledged that a central frame member is not a specific requirement of the order, the “absence of an object against which a load can be balanced prevents the secure lifting or moving of a load.” Unlike Vertex’ garden carts, Central Purchasing’s welding carts have toe plates that are 1 1/4 inches thick and are designed to transport the weight of cylinders and welding cart equipment. Additionally, in our analysis, we determined that Central Purchasing’s welding carts have a toe plate or projecting edge that can slide under a load (see below also) which Vertex’ garden cart clearly does not have. Therefore, the Vertex garden cart is distinguishable from Central Purchasing’s welding carts. The Court’s analysis is Vertex is necessarily a function of the characteristics of the garden cart at issue.

Regarding the Department’s Tradewin analysis, the issue there was whether the Ameristep deer carts’ horizontal frame was a toe plate or projecting edge that slides under a load. See Tradewin at 7. In Tradewin the Department disagreed with Gleason’s conclusion that “sliding under” meant that the horizontal frame “can be placed in or into a position beneath a load so the load can be slid across the horizontal edge’s surface.” The Department determined that Gleason incorrectly “fixated on the user’s ability to maneuver the horizontal frame to slide a load in such a way to place a load onto the frame rather than the ability of the horizontal frame to slide under a load.” The Department also found that a user cannot position the deer cart to tip the load slightly because the rear portion of the deer cart will rise more than eight inches above the ground. Thus, the Department concluded that the user would have to tip the load to rise at least eight inches from the ground, making the operation not feasible.

“Slides under” versus “Slides onto or across”

It has always been the case that the scope of the order is the controlling basis by which the Department analyzes any scope ruling. Here, we have analyzed whether the toe plate or projecting edge of Central Purchasing’s welding carts slide under a load for the purpose of lifting and/or carrying a load and have found that they can. The fact that a cylinder can be slid onto or across the toe plate or projecting edge does not take away from the Department’s finding that the toe plate or projecting edge can slide under a load. We find that an additional function of the toe plate or projecting edge does not necessarily exclude the welding cart from a hand truck that is covered by this order. As we stated in our Draft Results, the toe plate or projecting edge of Central Purchasing’s welding carts facilitates the moving and storage of welding equipment, and the height of the toe plate does not restrict the ability of the toe plate to slide under a load.

External Bars

As stated above, the Department has already determined that the external bars are additional physical characteristics. The Department concluded that the external bars do not prevent a user from sliding a load onto the welding carts in question because the bars do not necessarily block or hinder the intended load from being slid onto the projecting edge or toe plate. In addition, the scope of the order does not address external bars; therefore, the Department determines the external bars are an additional physical characteristic, and the scope of the order states that additional physical characteristics are not a basis for exclusion. The scope of the hand trucks order requires that hand trucks have four physical characteristics to be covered under the order: vertical frame, a handle, two or more wheels, and a projecting edge or toe plate. Thus, Central Purchasing’s argument that the external bars block or hinder the toe plate’s or projecting

edge's ability to slide under is not relevant because, as we stated above, all one has to do is slightly tilt or tip the load in order for the projecting edge or toe plate to slide under.

Height of the Toe Plate or Projecting Edge

The language of the scope states that the toe plate must be at or near to the ground to facilitate sliding under a load for the purpose of lifting and/or carrying the load. Additionally, the language of the scope does not state that the toe plate or the projecting edge must be flush with the ground. Here, 1 3/4 inches is near the ground (1 1/4 inches thick toe plate that is 1/2 inch off the ground) and would not hinder a toe plate from being able to slide under the load. Therefore, the height of the top of the toe plate or projecting edge does not hinder the user from sliding the cart under a load.

Analysis of Both Models of Central Purchasing's Welding Carts

Central Purchasing argues that the Department did not analyze both of its welding carts, item 43615 and item 93851, and limited its analysis to item 93851. See Central Purchasing's Draft Remand Results Comments at 7. The Department disagrees with this conclusion because it based its analysis on the general features that can be found in both of Central Purchasing's carts, namely whether the welding carts exhibit characteristics of a vertical frame, a handling area, at least two wheels and a toe plate or projecting edge that is capable of sliding under a load for the purpose of lifting and/or carrying the load. However, the Department will address Central Purchasing's welding cart item 43615 more succinctly here. In its response to the Department's remand questionnaire, Central Purchasing asserts that its welding carts exhibit three characteristics that act to prohibit the toe plate or projecting edge from sliding under a load. Specifically, Central Purchasing describes its welding cart item 43615 as having a toe plate that is

1 1/4 inches high, perpendicular to the ground and parallel to any load, similar to the other welding cart in question. See Central Purchasing’s Draft Remand Results Comments at 7, citing Central Purchasing’s Response. In addition, Central Purchasing describes in its remand questionnaire response that this same toe plate on welding cart item 43615 is a tray that has four walls as opposed to item 93851's toe plate that is a tray with front and back walls but no side walls. See id. Central Purchasing adds that the walls of this welding cart are actually designed to keep the welding equipment from sliding off the cart and not designed to slide under a load. See id. As stated above, we have determined based on record evidence that Central Purchasing welding carts, both item 43615 and item 93851, have the essential characteristics for them to be covered by the order, namely a vertical frame, a handling area, at least two wheels, and a projecting edge or toe plate that slides under a load for the purpose of lifting and/or carrying the load. Therefore, contrary to Central Purchasing’s argument, the Department has analyzed the characteristics of Central Purchasing’s welding cart, item 43615 as well as 93851, in the final results of this remand.

Issue 2: Whether Central Purchasing’s Welding Carts Are Specifically Included within the Scope of the Order Based on the Reference to “Cylinder Hand Trucks”

In its remand instructions, the Court directs the Department to reconsider whether Central Purchasing’s welding carts are covered by the order based on the scope language that mentions “cylinder hand trucks.” For the reasons set forth below, the Department has determined that Central Purchasing’s welding carts are covered by the scope of the order based on the Department’s analysis of their physical characteristics as hand trucks that are covered by the order

and based on the Department's comparison of them to the pictorial exhibits submitted by Gleason and Central Purchasing depicting cylinder hand trucks.

Comment 2:

Gleason supports the Department's redetermination on remand that Central Purchasing's welding carts, item 43615 and item 93851, are covered by the antidumping duty order on hand trucks. See Gleason's Comment to the Draft Remand Results, "Antidumping Duty Order Covering Hand Trucks and Certain Parts Thereof from the People's Republic of China: Comments on Draft Redetermination on Remand" ("Gleason's Draft Remand Results Comments") (July 12, 2007). Gleason contends that the Department has found ample evidence on the record to support its redetermination. See Gleason's Draft Remand Results Comments at 1. Gleason points out that it submitted pictorial exhibits in the original petition to demonstrate the types of hand trucks that should be included in the order. See Gleason's Draft Remand Results Comments at 1-2. Gleason states that the evidence from the petition can provide valuable guidance to the interpretation of an order. See Gleason's Draft Remand Results Comments at 2, citing Duferco Steel, Inc. v. United States, 296 F.3d 1087, 1097 (Fed. Cir. 2002). Gleason states that Central Purchasing's welding carts look like and share the same characteristics as the hand truck identified on page 30 of the original petition. See Gleason's Draft Remand Results Comments at 2. Therefore, Gleason argues that the Department should issue a final redetermination on remand finding that Central Purchasing's welding carts, item 43615 and item 93851, are covered by the order on hand trucks from the People's Republic of China based on the evidence on the record and the original petition. See Gleason's Draft Remand Results Comments.

Central Purchasing argues that the Department has not justified its decision that Central Purchasing's welding carts are cylinder hand trucks that are covered by the order. See Central Purchasing's Draft Remand Results Comments. Central Purchasing states that the Department did not carefully analyze the physical characteristics of Central Purchasing's welding carts and appears to be setting precedent that U.S. Customs and Border Protection ("CBP") would collect deposits based solely on the name to which merchandise is commonly referred. See Central Purchasing's Draft Remand Results Comments at 9. In essence, Central Purchasing states that " 'cylinder hand trucks' cannot be included eo nomine in the scope of the order" because the logic would result in a conclusion that all hand trucks, referred to as "hand truck, convertible hand truck, appliance hand truck, cylinder hand truck, bag truck, dolly, or hand trolley," are specifically included in the order. See Central Purchasing's Draft Remand Results Comments at 10. Central Purchasing recognizes that the Department does not merely rely on the name of a hand truck in its analysis because the Department asked 22 physical characteristic and hand truck type questions in its antidumping duty questionnaire. See Central Purchasing's Draft Remand Results Comments at 11.

Therefore, Central Purchasing requests the Department to consider the following points in the final results: First, there are some types of hand trucks that are not specifically named in the example list as part of the scope of the order that should be, and there are types of hand trucks that are named in the scope of the order that do not exhibit the physical characteristics set forth in the scope. See id. Second, the mention of examples of hand trucks in the scope is intended to assist CBP and the public in identifying hand trucks that may be subject to the order. See id. Third, the Department's analysis that all of the types of hand trucks listed in the scope of the order are

covered by the order would lead an unscrupulous importer to name its product that would have been covered by the order, but for the current analysis, for a type of hand truck not listed in the order and therefore would not be affected by the imposition of duties. See id. Fourth, the Department used 22 physical model characteristics in its questionnaire during the investigation. See id. Thus, Central Purchasing requests that the Department conduct additional analyses and determine that the toe plate in its welding carts, item 43615 and item 93851, is not designed to slide under a load and that hand trucks cannot be included in the order without a thorough analysis of the physical characteristics. See id.

The Department disagrees with Central Purchasing's argument that we determined its welding carts were included in the hand trucks order solely based on the mention of "cylinder hand trucks" as common examples of hand trucks within the scope.

We agree with Central Purchasing that in order to be a hand truck under the scope, the Central Purchasing's welding carts must satisfy the requirements of the scope. In the final results, the Department determined that Central Purchasing's welding carts are covered by the hand trucks order based on an analysis of the characteristics of the welding carts, an analysis of party submissions, the original petition, the ITC investigation report, and prior Department rulings. Consistent with the Department's regulations, the Department has analyzed each characteristic of a hand truck as outlined in the scope of the order against the characteristics of Central Purchasing's welding carts. It is undisputed that Central Purchasing's welding carts have a vertical frame, a handling area, and two wheels. Additionally, the record evidence indicates and the Department determines that Central Purchasing's welding carts have a toe plate or projecting edge that slides under a load for the purpose of lifting and/or carrying a load, an essential

characteristic of a hand truck as outlined in the scope of the order. As stated above, the Department determines that Central Purchasing's raised toe plate does not prevent the welding cart from being maneuvered, so that the load can be slightly tipped and slid onto the welding cart. Moreover, the Department finds that the projecting edge or toe plate of Central Purchasing's welding carts is horizontally flat, so that it can slide under a load. Therefore, the Department determines that Central Purchasing's welding carts are covered by the order. Thus, Central Purchasing's welding carts have all the same features of a hand truck within the scope of the order, supporting the conclusion that Central Purchasing's welding carts are a type of cylinder hand truck, referred to in the scope of the order.

Issue 3: Whether the Department Submitted a Complete Administrative Record to the Court

Central Purchasing argues that the Department is avoiding its responsibility of maintaining a complete and accurate administrative record on the remand of this case. See Central Purchasing's Draft Remand Results Comments at 12. Citing 19 C.F.R. 351.103, Central Purchasing contends that the Department is responsible for maintaining a public and official record of all information in each antidumping duty proceeding. See id. In addition, Central Purchasing cites to the Court rules that require the Department to certify to the Court that the record contains all information in each proceeding before the Court. See id. In this case, Central Purchasing claims that it knows an ex parte meeting between the Department and Gleason took place and contends that it would not know if other ex parte meetings have taken place. Central Purchasing maintains that the Department must certify and transmit a complete administrative record of the scope ruling during this remand. See Central Purchasing's Draft Remand Results Comments at 12-13.

Gleason did not comment on this issue.

The Department disagrees with the arguments put forth by Central Purchasing that we have not maintained a complete administrative record in the Central Records Unit for this remand proceeding. The documents submitted by Central Purchasing have been added to the remand record. Central Purchasing's argument that there may be memoranda or documents that they are unaware of is inaccurate. The Department files all documents in the Central Records Unit located at the main building in room B-099. The Department will forward a complete administrative record to the Court for this scope remand, and Central Purchasing has the right to comment if it views the administrative record for this redetermination as incomplete.

FINAL RESULTS OF REDETERMINATION

Based on the analysis described above, the Department has determined that Central Purchasing's welding carts, item 43615 and item 93851, are covered by the hand trucks order. We have further determined that the toe plate or the projecting edge of Central Purchasing's welding carts fits the description and purpose of a toe plate or projecting edge as described in the order, namely a horizontal edge, perpendicular to the frame, at the lower section of the vertical frame that slides under a load for the purpose of lifting and/or moving the load. Accordingly, the Department concludes that Central Purchasing's welding carts, item 43615 and item 93851, are hand trucks based on the Department's analysis of the characteristics of hand trucks covered by the order and based on the pictorial exhibits placed on the record by Gleason and Central Purchasing that they purport to be cylinder hand trucks. Thus, Central Purchasing's welding carts are covered by the order regardless of the mention of "cylinder hand trucks" in the scope. For these reasons, the Department determines that Central Purchasing's welding carts, item 43615 and

item 93851, are cylinder hand trucks covered by the order on hand trucks from the PRC. These final results pursuant to remand are being issued in accordance with the order of the Court in Gleason.

David M. Spooner
Assistant Secretary
for Import Administration

Date