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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-932

Steel Threaded Rod from the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Results of Scope Ruling on Antidumping Duty Order and Notice of Amended Final Results of Scope Ruling on Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On September 22, 2014, the United States Court of Appeals for the Federal Circuit (CAFC) issued a decision that engineered steel coil rod (coil rod) imported by A.L. Patterson, Inc. (Patterson) was outside the scope of the antidumping duty order on certain steel threaded rod from the People's Republic of China on threaded rod from the PRC.¹ On December 29, 2014, the United States Court of International Trade (CIT or Court) issued an order for the Department to take action on remand in accordance with the CAFC's decision and to find that Patterson's engineered steel coil rod is outside the scope of the *AD Order*.² On March 3, 2015, the CIT issued final judgment in *A.L. Patterson, Inc. v. United States*, Consol. Court No. 11-00192, affirming the Department of Commerce's (the Department) final results of redetermination pursuant to remand.³

Consistent with section 516A of the Tariff Act of 1930, as amended (the Act), the Department is notifying the public that the final judgment in this case is not in harmony with the

¹ See *A.L. Patterson, Inc., v. United States*, 585 Fed. Appx. 778, 785-86 (Fed. Cir. 2014) (*Patterson CAFC 2014*); see also *Certain Steel Threaded Rod from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 17154 (April 4, 2009) (*AD Order*).

² See *A.L. Patterson, Inc. v. United States*, Court No. 11-00192 (CIT December 29, 2014) (*CIT Second Remand Order*).

³ See Results of Redetermination Pursuant to Remand, *A.L. Patterson v. United States*, Consol. Court No. 11-00192 (Jan. 26, 2015), available at: <http://enforcement.trade.gov/remands/> (Final Second Remand Redetermination).

Department's final results of the scope ruling on the antidumping duty order on certain steel threaded rod from the People's Republic of China, and is amending the final results with respect to coil rod imported by Patterson.

EFFECTIVE DATE: October 2, 2014

FOR FURTHER INFORMATION CONTACT: Anne Gillman, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-6433.

SUPPLEMENTARY INFORMATION:

Background

In our initial scope ruling, the Department found coil rod imported by Patterson within the scope of the *AD Order* on threaded rod from the PRC.⁴ In that scope ruling, the Department stated that the description of the product contained in the petition, the initial investigation, and the determinations by the Department (including prior scope determinations) and the International Trade Commission (ITC) were, in fact, dispositive with respect to Patterson's engineered steel coil rod.⁵ Therefore, the Department conducted the scope determination pursuant to 19 CFR 351.225(k)(1). Based on that analysis, as the scope language of the *AD Order* was clear in its requirement that subject merchandise consist of products with solid, circular cross sections, with threading along greater than 25 percent threading of their total length, and Patterson's coil rod met these specific requirements of the scope of *AD Order*, the Department found that Patterson's coil rod was within the scope of the *AD Order*.⁶

⁴ See *Certain Steel Threaded Rod from the People's Republic of China: A.L. Patterson Final Scope Ruling*, A-570-932 (May 24, 2011) (Final Scope Ruling); see also *AD Order*.

⁵ See Final Scope Ruling at 5.

⁶ *Id.*, at 5-6.

Patterson challenged the Department's Final Scope Ruling in the CIT. On August 6, 2012, the CIT remanded the Final Scope Ruling to the Department to reconsider its decision that the engineered steel coil rod imported by Patterson falls within the scope of the *AD Order*.⁷ Specifically, the Court held that: 1) the Department's decision that the scope language encompasses Patterson's product is not supported by substantial evidence; (2) if there is no finding of injury or sales at less-than-fair-value (LTFV) for Patterson's product, the Department's determination is not in accordance with law; and (3) the Department failed to adequately explain the reasons for its determination.⁸ The CIT instructed the Department on remand "to reconsider whether the language of the order includes Patterson's coil rod, following the interpretive procedure established in 19 CFR 351.225(k)(1)."⁹

On remand, the Department re-examined the language of the petition, prior scope determinations, and original investigations of the Department and ITC, and the Department continued to find that Patterson's coil rod is within the scope of the *AD Order*.¹⁰ After reviewing the petition, the ITC reports, and the original investigations, the Department found that Patterson's coil rod matched the physical description of the same class or kind of merchandise previously considered by the Department and the ITC based on carbon content, threading along the rod, and circular cross-section.¹¹ Accordingly, the Department found that Patterson's coil rod was within the scope of the *AD Order* under an analysis conducted pursuant to 19 CFR 351.225(k)(1).¹²

⁷ See *A.L. Patterson, Inc. v. United States*, 34 Int'l Trade Rep. (BNA) 1894 (CIT 2012) (*CIT First Remand Order*).

⁸ See *CIT First Remand Order* at 9-17.

⁹ *Id.*, at 18.

¹⁰ See Final Results of Redetermination Pursuant to Remand (December 4, 2012) at 14 (First Remand Redetermination).

¹¹ *Id.*, at 14 and 16-19.

¹² *Id.*, at 14.

On May 22, 2013, the CIT sustained the Department's First Remand Redetermination.¹³ Patterson appealed the CIT's judgment to the CAFC.

On September 22, 2014, the CAFC reversed the CIT's judgment sustaining the First Remand Redetermination. As detailed below, the CAFC concluded, among other things, that substantial evidence did not support the Department's determination that the coil rod at issue was part of the ITC's domestic industry analysis during its investigation.¹⁴ Specifically, the CAFC found that "the record before us shows that the investigations that supported the antidumping order was {sic} not on Patterson's coil rod but rather other kinds of steel threaded rods."¹⁵ Therefore, the CAFC concluded that "there is insufficient evidence to conclude that Patterson's coil rod, a distinctly different product than steel threaded rod, was part of the {ITC}'s material injury investigation," and as such, found that Patterson's engineered steel coil rod is not subject to the AD order.¹⁶ On December 29, 2014, the CIT issued an order for the Department to take action on remand in accordance with the CAFC's decision in *Patterson CAFC 2014* and to find that Patterson's engineered steel coil rod is outside the scope of the *AD Order*.¹⁷ In the Final Second Remand Redetermination, and in following the express directive of the *CIT Second Remand Order*, which instructed the Department to act in accordance with the CAFC's decision in *Patterson CAFC 2014*, the Department found that the *AD Order* did not cover Patterson's coil rod.¹⁸ The CIT affirmed the Department's Final Second Remand Determination in its entirety on March 3, 2015, and entered judgment.¹⁹

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¹³ See *A.L. Patterson, Inc. v. United States*, Court No. 11-00192 (CIT May 22, 2013).

¹⁴ See *A.L. Patterson, Inc., v. United States*, 585 Fed. Appx. 778, 785-86 (Fed. Cir. 2014) (*Patterson CAFC 2014*).

¹⁵ *Id.*; *Cf. Sango Int'l, L.P. v. United States*, 484 F. 3d 1371, 1380-1 (CAFC 2007).

¹⁶ See *Patterson CAFC 2014* at 15.

¹⁷ See *CIT Second Remand Order*.

¹⁸ Final Second Remand Determination.

¹⁹ See *A.L. Patterson, Inc. v. United States*, Court No. 11-00192 (CIT March 3, 2015).

The CAFC's decision in *Patterson CAFC 2014* and the CIT's March 3, 2015, judgment affirming the Final Second Remand Determination constitutes final court decisions that are not in harmony with the Final Scope Ruling. This notice is published in fulfillment of the statutory publication requirements.

Amended Final Results

Because there is now a final court decision, the Department is amending the Final Scope Ruling with respect to Patterson's coil rod as redetermined in the Final Second Remand Redetermination and finds engineered steel coil rod imported by imported by A.L. Patterson, Inc. to be outside the scope of the *AD Order*.

Cash Deposit Requirements

Because we now find that the scope of the *AD Order* does not cover Patterson's coil rod, no cash deposits for estimated antidumping duties on future entries of Patterson's coil rod merchandise will be required.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1) and 777(i)(1) of the Act.

Dated: March 27, 2015.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

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