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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-967; C-570-968]

Aluminum Extrusions from the People's Republic of China: Notice of Second Amended Final Scope Ruling Pursuant to Court Decision

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

SUMMARY: On May 22, 2018, the Court of Appeals for the Federal Circuit (the CAFC) reversed and remanded the Court of International Trade's (CIT) earlier decision regarding the Department of Commerce's (Commerce) scope ruling under the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (China) involving Meridian Products, LLC's (Meridian's) Type B door handles. The CAFC instructed the CIT to vacate Commerce's initial remand redetermination that the CIT had previously sustained, reinstate Commerce's original scope ruling, and remand for further proceedings consistent with its opinion. In the original scope ruling, Commerce found that Meridian's Type B door handles were covered by the scope of the AD and CVD orders. In Commerce's redetermination upon remand from the CAFC, Commerce found that the extruded aluminum component of each Type B handle is within the scope of the AD and CVD orders while the other components (plastic end caps and screws) are not. On April 6, 2020, the CIT sustained Commerce's remand redetermination. Accordingly, Commerce is issuing a second amended final scope ruling.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Eric Greynolds, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6071.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 2013, Commerce issued a final scope ruling in which it determined that three types of kitchen appliance door handles (Types A, B, and C) imported by Meridian are within the scope of the *Orders*¹ and do not meet the scope exclusions for “finished merchandise” and “finished goods kits.”² Meridian challenged Commerce’s final scope ruling at the CIT.

On December 7, 2015, the CIT affirmed, in part, Commerce’s Kitchen Appliance Door Handles Scope Ruling finding that Meridian’s Type A handles (consisting of a single piece of aluminum extrusion) and Type C handles (consisting of a single piece of aluminum extrusion packed as a “kit” with a tool and an instruction manual) are within the scope of the *Orders* based on a plain reading of the scope language.³ The CIT, however, remanded Commerce’s determination that Meridian’s Type B handles are also within the scope of the *Orders*. The CIT also instructed Commerce to provide clarification on its scope ruling in view of the CIT’s decision that Type B handles are “assemblies” not within the scope of orders, because the extruded aluminum handles are packaged with two plastic injection molded end caps and two screws.⁴ The CIT further found that, assuming *arguendo* that Meridian’s Type B handles were

¹ See *Aluminum Extrusions from the People’s Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011); *Aluminum Extrusions from the People’s Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (collectively, *Orders*).

² See Memorandum, “Final Scope Ruling on Meridian Kitchen Appliance Door Handles,” dated June 21, 2013 (Kitchen Appliance Door Handles Scope Ruling) at 12-15.

³ See *Meridian Products LLC v. United States*, Court No. 13-00246, Slip Op. 15-135 at 6-9.

⁴ *Id.* at 10-13.

covered by the scope language, Commerce erred in finding that the products did not satisfy the scope's "finished merchandise" exclusion.⁵

On March 23, 2016, Commerce issued its Final Results of Redetermination, in which it found, under respectful protest, that Meridian's Type B handles are not covered by the scope of the *Orders*, because the general scope language did not cover such products. As a result, Commerce did not consider whether Meridian's Type B handles were subject to the exclusion for "finished merchandise."⁶ On July 18, 2016, the CIT sustained Commerce's findings in the Final Results of Redetermination that Meridian's Type B handles are not covered by the scope of the *Orders*.⁷ Commerce subsequently published notice of the CIT's decision not in harmony with Commerce's final scope ruling and notice of amended final scope ruling pursuant to the CIT's decision.⁸

The Aluminum Extrusion Fair Trade Committee (AEFTC), the petitioner in the underlying investigations, appealed. On May 22, 2018, the CAFC reversed and remanded the CIT's final judgement, instructed the CIT to vacate Commerce's remand redetermination, and ordered the CIT to reinstate Commerce's original scope ruling and remand for further proceedings consistent with the opinion.⁹ The CAFC held that Commerce's original scope ruling determination (*i.e.*, that Type B handles are included within the general scope of the *Orders*) was reasonable and supported by substantial evidence.¹⁰ The CAFC remanded for Commerce to

⁵ *Id.* at 13-16.

⁶ See Final Results of Redetermination Pursuant to Court Remand, *Meridian Products, LLC v. United States*, Court No. 13-00246, Slip Op. 15-135 (CIT December 7, 2015) (Final Results of Redetermination).

⁷ See *Meridian Products, LLC v. United States*, Court No. 13-00246, Slip Op. 16-71 at 11.

⁸ See *Aluminum Extrusions from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision*, 81 FR 52402 (August 8, 2016).

⁹ See *Meridian Products, LLC v. United States*, 890 F.3d 1272, 1282 (CAFC 2018).

¹⁰ *Id.*, 890 F.3d at 1281.

clarify whether Type B handles are fully and permanently assembled at the time of entry.¹¹ The CAFC reasoned if Commerce determined that the Type B handles are imported unassembled, the original scope ruling controls, but if Commerce determined that the Type B handles were imported fully and permanently assembled, then Commerce must address whether the Type B handles are excluded from the scope as “finished merchandise.”¹²

On May 15, 2019, Commerce issued its Second Remand Redetermination in response to the CAFC’s remand order.¹³ In the Second Remand Redetermination, Commerce determined that the finished merchandise exclusion does not apply to the Type B handles and that the extruded aluminum component of each Type B handle is within the scope of the *Orders*, while the other components (plastic end caps and screws) are not.¹⁴ On April 6, 2020, the CIT sustained Commerce’s ruling in the Second Remand Redetermination.¹⁵ No party contested Commerce’s Second Remand Redetermination.¹⁶

Amended Final Scope Ruling

There is now a final court decision with respect to Commerce’s Kitchen Appliance Door Handles Scope Ruling. Therefore, Commerce issues this second amended final scope ruling and finds that the extruded aluminum component of each Type B handle is within the scope of the *Orders*, while the other components (plastic end caps and screws) are not.

Accordingly, Commerce will instruct U.S. Customs and Border Protection to continue to suspend liquidation of Meridian’s Type B handles until appropriate liquidation instructions are sent. As of the date of publication of this notice in the *Federal Register*, the cash deposit rate for

¹¹ *Id.*

¹² *Id.*

¹³ See Final Results of Second Remand Redetermination Pursuant to Court Remand, *Meridian Products, LLC v. United States*, 890 F. 3d 1272 (CAFC 2018) (Second Remand Redetermination).

¹⁴ *Id.*

¹⁵ See *Meridian Products, LLC v. United States*, Court No. 13-00246, Slip Op. 20-43 (CIT April 6, 2020).

¹⁶ *Id.*

entries of the extruded aluminum component of Meridian's Type B handles will be the applicable cash deposit rate of the exporters of the merchandise from China to the United States.

Notification to Interested Parties

This notice is issued and published in accordance with section 516A(c)(1) and (e)(1) of the Tariff Act of 1930, as amended.

Dated: May 18, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.
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