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UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-570-875

Scope Review
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MEMORANDUM FOR:

Jeffrey May
Deputy Assistant Secretary
Import Administration

FROM:

Laurie Parkhill *LP*
Office Director
Import Administration

SUBJECT:

Final Scope Ruling - Antidumping Duty Order on Non-Malleable Pipe Fittings from the People's Republic of China

SUMMARY

On March 22, 2004, a U.S. importer, Thomas and Betts Corporation (Thomas and Betts), requested that the Department of Commerce ("the Department") issue a scope ruling finding that certain electrical conduit fittings are not subject to the antidumping duty order on non-malleable pipe fittings from the People's Republic of China (PRC) (Notice of Antidumping Duty Order: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China, 68 FR 16765 (April 7, 2003)), and Notice of Final Determination of Sales at Less than Fair Value: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China, 68 FR 7765 (February 18, 2003)). See Attachment 1.

In its March 26, 2004, submission, the petitioner stated that the merchandise description of the order clearly encompasses the electrical conduit fittings in question and that such an exclusion would necessitate re-writing the scope of the order, an act for which the Department lacks the authority. See Attachment 2.

In accordance with 19 CFR 351.225(c), we recommend that the Department determine that no scope inquiry is warranted. Further, pursuant to 19 CFR 351.225(k)(1), we recommend that the Department determine that the merchandise in question is within the scope of the antidumping duty order.



APPLICABLE REGULATIONS

The regulations governing the Department's antidumping scope determinations can be found at 19 CFR 351.225. On matters concerning the scope of an antidumping order, our initial basis for determining whether a product is included within the scope of an order are the descriptions of the product contained in the petition, the initial investigation, and the prior determinations of the Secretary (such as prior scope rulings) and the International Trade Commission (ITC). See 19 CFR 351.225(d) and 351.225(k)(1). Such scope determinations may take place with or without a formal scope inquiry. See 19 CFR 351.225(d) and 351.225(f)(4).

Conversely, where the descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the ITC are not dispositive, the Department will consider the additional factors set forth at 19 CFR 351.225(k)(2). These criteria are as follows: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. These factors are known commonly as the Diversified Products¹ criteria. The determination as to which analytical framework is most appropriate in any given scope inquiry is made on a case-by-case basis after consideration of all record evidence before the Department.

ANALYSIS

Pursuant to 19 CFR 351.225(c), the Department determines that no formal inquiry is warranted to decide whether electrical conduit fittings produced in the PRC are covered by the scope of the order. We have evaluated this request in accordance with 19 CFR 351.225(k)(1) because the descriptions of the products contained in the petition, the final determinations of the Secretary and the ITC, and the antidumping duty order are dispositive of the issue. Therefore, we have not referred to the additional factors found in section 351.225(k)(2).

The Department's order on non-malleable pipe fittings from the PRC defines the scope of this order as follows:

The products covered are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from 1/4 inch to 6 inches, whether threaded or unthreaded, regardless of industry or proprietary specifications. The subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings. These pipe fittings are also known as "cast iron pipe fittings" or "gray iron pipe fittings." These cast iron pipe fittings are normally produced to ASTM A-126 and ASME B.16.4 specifications and are threaded to ASME B1.20.1 specifications. Most building codes require that these products are Underwriters Laboratories (UL) certified. The scope does not include cast iron soil

¹ Diversified Products Corp. v. United States, 6 CIT 155, 572 F. Supp. 883 (1983).

pipe fittings or grooved fittings or grooved couplings.

Fittings that are made out of ductile iron that have the same physical characteristics as the gray or cast iron fittings subject to the scope above or which have the same characteristics and are produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 specifications, threaded to ASME B1.20.1 specifications and UL certified, regardless of metallurgical differences between gray and ductile iron, are also included in the scope of this petition. These ductile fittings do not include grooved fittings or grooved couplings. Ductile cast iron fittings with mechanical joint ends or push on ends, or flanged ends and produced to the American Water Works Association specifications AWWA C110 or AWWA C153 are not included.

Imports of covered merchandise are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7307.11.00.30, 7307.11.00.60, 7303.19.30.60 and 7307.19.30.85. HTSUS are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive. See Notice of Final Determination of Sales at Less than Fair Value: Non-malleable Cast Iron Pipe Fittings from the People's Republic of China, 68 FR 7765 (February 18, 2003).

In its scope ruling request, Thomas and Betts suggested that the Department revise the scope of the order to delete the phrase "regardless of industry" and to include the phrase "conduit fittings intended for use in the electrical industry" to the exclusions. As it is written currently, the only cast-iron pipe fitting products that are excluded from the scope of the order are cast iron soil pipe fittings or grooved fittings or grooved couplings, flanged ductile cast iron fittings and ductile fittings produced to AWWA C110 or AWWA C153 specifications.

The Department finds that these proposed revisions would be contrary to the definition of the subject merchandise as defined in the original petition and the ITC's rulings. Both of these documents state that, while the fire protection/sprinkler system market is by far the dominant use for the subject fittings in the United States (accounting for approximately 90-95 percent of shipments), pipe fittings that are used in other industries constitute approximately five percent of shipments. Because the electrical conduit fittings in question could fall under this five percent of "other uses" as described in the petition, the Department finds that the scope of the order was written specifically to include pipe fittings from all industries.

Thomas and Betts also argue that its electrical conduit pipe fittings should be excluded from the order because the petitioners in the case do not produce the same type of pipe fittings. We disagree. There is no statutory requirement that the petitioners produce all products covered by the scope. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan, 65 FR 42985 (July 12, 2000) and accompanying Issues and Decision Memorandum at Comment 1. In other words, petitioners are not required to produce every model of the foreign like product. During the investigation, the

Department and the ITC determined that the petitioners produced the domestic like product. See Antidumping Duty Order, 68 FR at 16765. Therefore, whether petitioners produce a model identical to the one Thomas and Betts produces is not relevant to the Department's scope ruling.

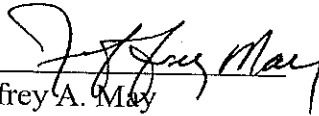
For the reasons discussed above, the Department finds that the imported electrical conduit pipe fittings in question are subject to the antidumping order.

RECOMMENDATION

Because the product description provides a sufficient basis for making a determination and the issue can be resolved by reference to the descriptions of the product contained in the petition, the final determinations of the Secretary and the ITC, we recommend determining that no formal inquiry is required.

Based on our analysis of the record and the comments submitted by the parties, we recommend making a final ruling that the electrical conduit fittings produced by Thomas and Betts are subject to the antidumping duty order.

Agree Disagree



Jeffrey A. May
Deputy Assistant Secretary
for Import Administration

Attachments