



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

A-570-932
Scope Ruling
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August 11, 2010

MEMORANDUM TO: Edward C. Yang
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

THROUGH: *James C. Doyle*
Director, Office 9
Antidumping and Countervailing Duty Operations

FROM: Kabir Archuletta
Case Analyst
AD/CVD Enforcement, Office 9

RE: Certain Steel Threaded Rod from the People's Republic of China:
Elgin Fastener Group Final Scope Ruling

Summary

On October 28, 2009, the Department of Commerce ("Department") received a submission from Elgin Fastener Group ("Elgin") requesting a scope determination¹ on whether the hex collared stud it imports is outside the scope of the antidumping duty order on steel threaded rod ("CSTR") from the People's Republic of China ("PRC"). See Certain Steel Threaded Rod from the People's Republic of China: Notice of Antidumping Duty Order, 74 FR 17154 (April 14, 2009) ("Order").

Pursuant to an analysis under 19 CFR 351.225(k)(1), we recommend that the Department determine that the hex collared stud described in the Elgin Request is not within the scope of the Order on CSTR from the PRC.

Background

On October 28, 2009, Elgin submitted a scope request for its hex collared stud that it imports from the PRC. Elgin requested that the Department consider the product in question as outside the scope of the Order on CSTR from the PRC. See Elgin Request at 1. On February 25, 2010, Elgin submitted additional comments. On April 7, 2010, the Department received a sample of the product in question, and met twice with counsel for Vulcan Threaded Products, petitioner in the original investigation ("Petitioner"), to allow them to examine the sample and provide

¹ See Scope Ruling Request of Elgin Fastener Group, dated October 28, 2009 ("Elgin Request"), and Elgin submission dated February 25, 2010 ("February 25 Submission").



comments, which they did on April 27, 2010.² On June 9, 2010, the Department initiated a scope inquiry and, on June 29, 2010, received comments from Petitioner ("Petitioner Comments").

The product in question is a steel rod measuring 2-3/8 inches long and 1/2 inch in diameter that is threaded along its length, except for a 3/15 inch long and 3/4 inch in diameter hex bolt formed 5/8 inch down the shaft of the steel rod. See Elgin Request at Exhibits 3 and 4.

Scope of the Order

The merchandise covered by this order is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold-drawn, cold-rolled, machine straightened, or otherwise cold-finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to this order are non-headed and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Included in the scope of this order are steel threaded rod, bar, or studs, in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.012 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

² See Memorandum to the File, through Scot T. Fullerton, Program Manager, Office 9, from Steven Hampton, Analyst, Office 9, "Meeting with Vulcan Threaded Products, Inc. to View Product Sample," dated April 26, 2010, and Petitioner comments dated April 27, 2010.

Steel threaded rod is currently classifiable under subheading 7318.15.5050, 7318.15.5090, and 7318.15.2095 of the United States Harmonized Tariff Schedule (“HTSUS”). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Excluded from the scope of the order are: (a) threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total length; and (b) threaded rod, bar, or studs made to American Society for Testing and Materials (“ASTM”) A193 Grade B7, ASTM A193 Grade B7M, ASTM A193 Grade B16, or ASTM A320 Grade L7.

Parties’ Argument and Response

Elgin argues that the hex collared stud is explicitly excluded from the Order by the scope language, *i.e.*, “...the steel threaded rod, bar, or studs subject to this Order are non-headed...” Elgin claims that the hex collared stud is headed in the sense that it has been “cold headed,” or partially cold formed in a die, in the same manner as standard bolts not subject to the Order. See Elgin Request at 3 and 4. Further, Elgin claims that the product is “a special bolt with the head being situated down the shank instead of at the end of the part.” See Elgin Request at 4 and February 25 Submission at 1. Elgin also submitted email correspondence with a U.S. Customs and Border Protection (“CBP”) Senior Import Specialist in Chicago who was of the opinion that the product did not have a circular cross section and, therefore, is outside of the scope of the Order. See February 25 Submission at Exhibit 1.

Petitioner argues that Elgin’s hex collared stud is not headed in the sense intended by the scope. Petitioner interprets the scope to mean that subject merchandise will not have a “head or protrusion at either extremity of the threaded rod in the manner that a bolt or a screw has a head on one end of the article.” See Petitioner Comments at 2. Further, Petitioner contends that the scope addresses manufacturing processes and physical characteristics separately. Petitioner claims that the exclusion of “headed” studs relates to physical appearances while manufacturing processes are addressed in the portion discussing “forged, turned, cold drawn, cold rolled, machine straightened, or otherwise cold finished” *etc.* On this basis, Petitioner argues that Elgin cannot claim a product that has been cold headed as “headed” in the sense excluded by the scope. See Petitioner Comments at 2.

Legal Framework

The Department examines scope requests in accordance with the Department’s scope regulations. See 19 CFR 351.225. On matters concerning the scope of an antidumping duty order, the Department first examines the descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the United States International Trade Commission (“ITC”). See 19 CFR 351.225(k)(1). This determination may take place with or without a formal inquiry.

Where the descriptions of the merchandise are not dispositive, the Department will consider the five additional factors set forth at 19 CFR 351.225(k)(2). These criteria are: 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. *See* 19 CFR 351.225(k)(2). 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 evidence before the Department.

Analysis

For this inquiry, the Department evaluated Elgin's request in accordance with 19 CFR 351.225(k)(1) and finds that the description of the product contained in the petition, the initial investigation, and the determinations by the Secretary (including prior scope determinations) and the ITC are, in fact, dispositive with respect to Elgin's hex collared stud. Therefore, the Department finds it unnecessary to consider the additional factors in 19 CFR 351.225(k)(2).

We have determined that the hex collared stud does not have a circular cross section running the full length of the rod because the nut portion of the stud has a hexagonal cross section. Therefore, as the scope of the Order requires that CSTR must have a circular cross section, we find that the hex collared stud is outside of the Order. This determination is consistent with the Department's previous exclusion of a product based on a partial non-circular portion in its Mid-State Bolt & Nut Company scope ruling. *See* Memorandum to John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office 9, from Toni Dach, Analyst, Office 9, "Certain Steel Threaded Rod from the People's Republic of China: Mid-State Bolt & Nut Company, Inc. Final Scope Ruling," dated October 14, 2009.

We believe that this determination of a lack of a circular cross section obviates the necessity of ruling on whether the product in question is headed or non-headed. Although we note that the location of the nut on the hex collared stud falls outside of the plain meaning of what constitutes a head, the product has undergone an additional "cold heading" manufacturing process not included in the scope of the Order or in the original petition. However, as the product falls outside of the scope of the Order based on its non-circular cross section, we do not reach a conclusion on the headed issue.

Accordingly, as the scope language of the Order is clear in its requirement that subject merchandise consist of products with solid, circular cross sections and Elgin's hex collared stud fails to meet this specific requirement of the scope of Order, we find pursuant to section 351.225(k)(1) of the Department's regulations that Elgin's hex collared stud is not within the scope of the CSTR Order.

Recommendation

Based upon the foregoing analysis under 19 CFR 351.225(k)(1), we recommend finding that Elgin's imported hex collared stud is outside the scope of the Order on CSTR from the PRC.

✓

Agree

Disagree

Edward C. Yang

Edward C. Yang
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

8/11/2010

Date