



A-570-932
Scope Ruling
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September 10, 2010

MEMORANDUM TO: Susan H. Kuhbach
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:
Hubbell Power Systems, Inc., Final Scope Ruling

Summary

On July 22, 2010, the Department of Commerce ("Department") received a submission from Hubbell Power Systems, Inc., ("Hubbell") requesting a scope determination¹ on whether the Double Arming Bolt ("DA Bolt") it imports is outside the scope of the antidumping duty order on certain 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 DA Bolt described in the Hubbell Request is within the scope of the Order on CSTR from the PRC.

Background

On July 22, 2010, Hubbell submitted a scope request for its DA Bolt that Hubbell imports from the PRC. On August 13, 2010, the Department received comments from counsel for Vulcan Threaded Products, petitioner in the original investigation ("Petitioner").² On August 24, 2010, Hubbell submitted additional comments in response to Petitioner's submission.³ On September

¹ See Scope Ruling Request of Hubbell Power Systems, Inc., dated July 22, 2010 ("Hubbell Request").

² See Comments submitted by Petitioner, dated August 13, 2010 ("Petitioner Comments").

³ See Comments on Scope Ruling Request submitted by Hubbell, dated August 24, 2010 ("August 24 submission").



2, 2010, the Department received additional comments from Petitioner.⁴

The product in question is a steel rod that has been threaded along its length, chamfered or rounded at both ends, and fitted with four nuts. The DA Bolt is sold in diameters of 1/2", 5/8", 3/4", 7/8", and 1", with typical lengths measuring 6" to 32".

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.

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

⁴ See Scope Inquiry – Response to Hubbell’s Comments submitted by Petitioner, dated September 2, 2010.

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

Hubbell notes that “pre-assembled threaded rods with square nuts and cone points” are not expressly included in the scope of the Order. See Hubbell Request at 3. Hubbell claims that the DA Bolt differs from CSTR because: 1) the DA Bolt has rounded or chamfered ends and is fitted with four square nuts; 2) the DA Bolt is cut to a pre-specified length at the factory rather than by contractors; and 3) CSTR cannot be substituted for the DA Bolt for those two reasons. See Hubbell Request at 4.

Hubbell argues that CSTR cannot be used for DA Bolt applications because CSTR would have to be shaped to a cone at the ends and cutting CSTR to length would result in a non-galvanized portion being exposed to the elements, shortening its life expectancy. Hubbell further claims that CSTR cannot be used as a substitute because the DA Bolt undergoes an additional manufacturing process, whereby the ends are sharpened to a cone point, and an additional assembly process, whereby four square nuts are “assembled onto them.” See Hubbell Request at 5.

Hubbell included analysis of the criteria specified by 19 CFR 351.225(k)(2), reiterating the foregoing points and stating that: 1) expectations of the DA Bolt consumer differ in that CSTR is expected to be used in multiple, non-critical applications while the DA Bolt is used solely for critical, utility industry applications; 2) the DA Bolt is sold by both distributors and end-users, while CSTR is sold almost exclusively through distributors; and 3) the DA Bolt is packaged in corrugated boxes while CSTR is typically packaged in tubes. In its August 24 submission, Hubbell also argues that Petitioner has not been active in the DA Bolt market and consequently cannot claim material injury by Hubbell’s imports of the DA Bolt.

Petitioner notes that Hubbell’s scope request identifies the DA Bolt as a “smaller subset of threaded rods,” and argues that the product’s physical characteristics (*i.e.*, removable nuts, threaded along its length) place it within the scope of the Order. Petitioner placed on the record comments from a Chinese producer and supplier of the DA Bolt, Gem-Year Industrial Co., Ltd. (“Gem-Year”), acknowledging that the DA Bolt is comprised of threaded rod fitted with four nuts.⁵ Petitioner submitted ZEPOL TradeIQ data demonstrating that Gem-Year is a supplier of “fasteners” to Hubbell and concludes that this is a generic reference to the DA Bolt. See Petitioner Comments at Exhibit 2. Petitioner notes that the Harmonized Tariff Schedule of the United States (“HTSUS”) subheading used by Hubbell is included in the Order. Lastly,

⁵ See Letter from Squire Sanders on behalf of Gem-Year to the U.S. Department of Commerce regarding Steel Threaded Rod from China, dated June 7, 2010.

Petitioner states that they have produced the DA Bolt in the past and are able to supply Hubbell with these products at their request. See Petitioner Comments at 4.

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. If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling as to whether or not the subject merchandise is covered by the order. See 19 CFR 351.225(d).

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 Hubbell's application for a scope ruling in accordance with 19 CFR 351.225(k)(1) and finds that the description of the product is, in fact, dispositive with respect to Hubbell's DA Bolt. With respect to Hubbell's argument that Petitioner is not materially injured by imports of the DA Bolt, we note that this is not one of the criteria examined by the Department in the context of a scope ruling. Our focus, rather, is whether or not the product falls within the scope of the Order. Pursuant to 19 CFR 351.225(d), a dispositive determination allows the Department to issue a final ruling without initiating a formal scope inquiry. Because the Department is able to make a dispositive determination based upon Hubbell's application for a scope ruling using the criteria set forth 19 CFR 351.225(k)(1), the Department finds it unnecessary to consider the additional factors noted in 19 CFR 351.225(k)(2).

The scope of the Order expressly includes threaded rod with a circular cross section. We disagree with Hubbell's argument that the pre-assembly of square nuts on the DA Bolt warrants an exclusion of this product from the Order. Because these nuts are removable and can be fitted before or after purchase, they do not modify the circular cross section of the product or affect its inclusion in the Order. Furthermore, the fact that the ends of the DA Bolt have been rounded or chamfered does not exclude the product from the Order because that is not an exclusion specified

by the scope of the Order and the product still has a circular cross section along its entire length.⁶ The scope of the Order is also clear in including CSTR “of any diameter, in any straight length.” The DA Bolt is a straight length regardless of where it has been cut-to-length.

Although Hubbell argues that cutting CSTR would expose a non-galvanized portion of the rod, the scope covers “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.” Therefore, the partial change in finish resulting from cutting of the CSTR would not impart a finish that would be outside the scope of the Order. Thus, this argument by Hubbell to differentiate the DA Bolt from subject merchandise is not persuasive. In any event, the issue here is not whether CSTR that does not have all the characteristics of a DA Bolt can be used as a DA Bolt, but whether a DA Bolt itself fits within the description of CSTR.

Lastly, although the HTSUS subheadings are not dispositive in terms of defining the scope, the Department notes that the HTSUS subheading under which Hubbell has entered the DA Bolt is a subheading that is included in the Order.

Accordingly, as the scope language of the Order is clear in the production processes and physical characteristics of subject merchandise, and Hubbell’s DA Bolt meets the requirements of the scope of Order, we find pursuant to section 351.225(k)(1) of the Department’s regulations that Hubbell’s DA Bolt is within the scope of the CSTR Order.

⁶ See Memorandum to Edward C. Yang, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office 9, from Kabir Archuleta, Case Analyst, Office 9, “Certain Steel Threaded Rod from the People’s Republic of China: Elgin Fastener Group Final Scope Ruling,” dated August 11, 2010; 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, Case 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.

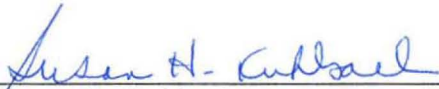
Recommendation

Based upon the foregoing analysis under 19 CFR 351.225(k)(1), we recommend finding that Hubbell's imported DA Bolt is included in the scope of the Order on CSTR from the PRC.




Agree

Disagree



Susan H. Kuhbach
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations



Date