

CIT Orders Commerce To Rethink Oven Door Handle Duties

By **Caroline Simson**

Law360, New York (December 8, 2015, 8:40 PM ET) -- A U.S. Court of International Trade judge on Monday ordered the Department of Commerce to reconsider whether anti-dumping and countervailing duties on Chinese aluminum extrusions apply to a certain type of oven door handle, but affirmed that the tariffs apply to two other types of appliance handles.

Remanding the matter in part, Chief Judge Timothy C. Stanceu concluded that Commerce had misinterpreted language within the orders and mistakenly concluded that a certain type of handle used for oven door assemblies, referred to as a Type B handle, was an "extrusion" as defined in the duty orders. The Type B handle includes certain other parts for assembly — including screws and end caps for installation — that aren't covered by the orders, according to the opinion.

Moreover, the department had relied on flawed logic to conclude that Type B handles wouldn't be exempt from the duties under an exclusion for so-called finished merchandise, which applies to imports containing aluminum extrusions as parts that are fully assembled, according to the ruling.

The judge sided in part with importer Meridian Products LLC, which had contested a 2013 ruling by the Commerce Department on the scope of anti-dumping and countervailing duty orders on aluminum extrusions from China.

"[T]he final scope ruling fails to demonstrate the reasonableness of the department's conclusion that the Type B handles do not satisfy the requirements of the finished merchandise exclusion when the scope language setting forth that exclusion is interpreted according to plain meaning," Judge Stanceu wrote.

The Type B handle is an assembled article consisting of the extrusion piece, two end caps, and two screws attaching the end caps to the extruded aluminum component, according to the opinion. Meridian had also challenged Commerce's ruling that the duties applied to two other types of handles it imports, one of which is used for oven door assemblies, and another of which is used as a freezer handle.

Judge Stanceu affirmed that the other two handles included in Meridian's suit were within the scope of the duties, finding that they are covered by the scope language because they consist of only one piece: the extrusion itself. Nor would the finished merchandise exclusion, or another exclusion for finished goods kits — which applies to articles imported unassembled in the form of a kit containing all parts necessary to assemble the completed good — be applicable, according to the opinion.

Crowell & Moring LLP partner Daniel Cannistra, who represented Meridian in the proceedings, told Law360 that he and his clients are pleased with the opinion.

"We are also hopeful that Commerce will use the remand order as an opportunity to meaningfully refine its analytical framework in the aluminum matters," he said.

Commerce had issued the duty orders at issue in the litigation in May 2011, and in January 2013, Meridian asked the department to clarify whether those orders applied to the appliance door handles at issue. Several months later, Commerce determined that all three types of door handles were within the scope of the orders, leading Meridian to file the instant suit in July 2013.

The orders apply to aluminum extrusions that are meant to be assembled after they are imported, but contain an exclusion applying to certain "finished merchandise" that are fully and permanently assembled at the time they are imported. So-called finished goods kits — which contain all the necessary parts to fully assemble a final finished good without any further finishing or fabrication, such as cutting or punching — are also excluded from the order, according to the opinion.

Meridian is represented by Daniel J. Cannistra of Crowell & Moring LLP.

The government is represented by Tara K. Hogan, Stuart F. Delery, Jeanne E. Davidson and Reginald T. Blades Jr. of the U.S. Department of Justice, and Jessica M. Link of the U.S. Department of Commerce.

The case is Meridian Products LLC v. United States, case number 1:13-cv-00246, in the U.S. Court of International Trade.

--Editing by Emily Kokoll.