

UNITED STATES COURT OF INTERNATIONAL TRADE

WORLDWIDE DOOR COMPONENTS,  
INC.,

Plaintiff,

v.

UNITED STATES,

Defendant,

and

ALUMINUM EXTRUSIONS FAIR  
TRADE COMMITTEE AND ENDURA  
PRODUCTS, INC.,

Defendant-Intervenors.

Before: Timothy C. Stanceu, Judge

Court No. 19-00012

OPINION

[Sustaining an agency decision submitted in response to court order.]

Dated: December 16, 2022

*John M. Foote*, Kelley Drye & Warren LLP, of Washington, DC, for plaintiff.

*Aimee Lee*, Assistant Director, Civil Division, U.S. Department of Justice, of New York, NY, for defendant. With her on the brief were *Brian M. Boynton*, Principal Deputy Assistant Attorney General, *Patricia M. McCarthy*, Director, and *Tara K. Hogan*, Assistant Director. Of counsel on the brief was *Nikki Kalbing*, Attorney, Office of the Chief Counsel for Trade Enforcement & Compliance, U.S. Department of Commerce, of Washington, DC.

*Robert E. DeFrancesco, III*, Wiley Rein LLP, of Washington, DC, for defendant-intervenors. With him on the brief were *Alan H. Price* and *Elizabeth S. Lee*.

Stanceu, Judge: Plaintiff Worldwide Door Components, Inc. (“Worldwide”) brought this action to contest a decision (the “Scope Ruling”) by the International Trade Administration, U.S. Department of Commerce (“Commerce” or the “Department”) on its imported “door thresholds,” each of which is an assembly containing an aluminum extrusion among various other components. In this litigation, Commerce previously took the position that an aluminum extrusion component within each door threshold is within the scope of antidumping and countervailing duty orders on aluminum extrusions from the People’s Republic of China (the “Orders”).

Before the court is the Department’s most recent decision (“Third Remand Redetermination”), which Commerce submitted in response to the court’s opinion and order in *Worldwide Door Components, Inc. v. United States*, 46 CIT \_\_\_, 589 F. Supp. 3d 1185 (2022) (“*Worldwide III*”). Responding to the court’s order, Commerce decided in the Third Remand Redetermination, under protest, that the imported door thresholds, in the entirety, are excluded from the scope of the Orders.

Plaintiff has commented in favor of the Third Remand Redetermination. Defendant-intervenors, the Aluminum Extrusions Fair Trade Committee and Endura Products, Inc., a U.S. producer of aluminum extrusions, have commented in opposition.

The court sustains the decision in the Third Remand Redetermination that the door thresholds are excluded from the scope of the Orders.

## I. BACKGROUND

Background on this litigation is presented in the court's previous opinions and is summarized and supplemented herein. *Id.*, 46 CIT at \_\_, 589 F. Supp. 3d at 1187–92; *Worldwide Door Components, Inc. v. United States*, 45 CIT \_\_, \_\_, 537 F. Supp. 3d 1403, 1405–11 (2021) (“*Worldwide II*”); *Worldwide Door Components, Inc. v. United States*, 44 CIT \_\_, \_\_, 466 F. Supp. 3d 1370, 1372–73 (2020) (“*Worldwide I*”).

The decision plaintiff contests in this litigation is *Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Final Scope Rulings on Worldwide Door Components Inc., MJB Wood Group Inc., and Columbia Aluminum Products Door Thresholds*, P.R. Doc. 36 (Int'l Trade Admin. Dec. 19, 2018) (“*Scope Ruling*”). The *Scope Ruling* construed the scope of *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 Fed. Reg. 30,650 (Int'l Trade Admin. May 26, 2011) (“*AD Order*”), and *Aluminum Extrusions From the People's Republic of China: Countervailing Duty Order*, 76 Fed. Reg. 30,653 (Int'l Trade Admin. May 26, 2011) (“*CVD Order*”).

The court remanded the *Scope Ruling* to Commerce in *Worldwide I*, ruling that Commerce had misinterpreted the scope language of the Orders in two respects. Commerce submitted a new determination in response (the “*First Remand Redetermination*”). *Final Results of Redetermination Pursuant to Ct. Remand* (Dec. 23,

2020), ECF No. 64-1 (“*First Remand Redetermination*”). In *Worldwide II*, the court again issued a remand to the agency. In response, Commerce filed another determination (the “*Second Remand Redetermination*”) with the court on December 13, 2021. Final Results of Redetermination Pursuant to Ct. Remand, ECF No. 85-1 (“*Second Remand Redetermination*”). The court remanded the Second Remand Redetermination to Commerce in *Worldwide III*.

Commerce filed the Third Remand Redetermination on September 9, 2022, in response to the court’s opinion and order in *Worldwide III*. Final Results of Redetermination Pursuant to Ct. Remand, ECF No. 101-1 (“*Third Remand Redetermination*”). Plaintiff submitted comments in support on September 26, 2022. Pl.’s Comments in Supp. of Commerce’s Third Remand Redetermination, ECF No. 103. That same day, defendant-intervenors filed their comments in opposition. Def.-Intervenors’ Comments on Final Results of Third Remand Redetermination Pursuant to Ct. Remand, ECF No. 104. Defendant replied to the comments on October 6, 2022. Def.’s Resp. to Comments on Third Remand Redetermination, ECF No. 106.

## II. DISCUSSION

### A. Jurisdiction and Standard of Review

The court exercises subject matter jurisdiction under section 201 of the Customs Courts Act of 1980, 28 U.S.C. § 1581(c), which grants jurisdiction over civil actions

brought under section 516A of the Tariff Act of 1930 (“Tariff Act”), 19 U.S.C. § 1516a.<sup>1</sup>

Among the decisions that may be contested according to section 516A is a determination of “whether a particular type of merchandise is within the class or kind of merchandise described in an . . . antidumping or countervailing duty order.” *Id.* § 1516a(a)(2)(B)(vi). In reviewing the Scope Ruling, the court must set aside any determination, finding, or conclusion found “to be unsupported by substantial evidence on the record, or otherwise not in accordance with law.” *Id.* § 1516a(b)(1)(B)(i).

**B. The Court’s Decisions in *Worldwide I*, *Worldwide II*, and *Worldwide III***

The Orders apply generally to “aluminum extrusions,” which are defined in the Orders as “shapes and forms, produced by an extrusion process.” *AD Order*, 76 Fed. Reg. at 30,650; *CVD Order*, 76 Fed. Reg. at 30,653. As the court’s previous decisions have recognized, the door thresholds at issue in this litigation are not themselves aluminum extrusions. *Worldwide II*, 45 CIT at \_\_, 537 F. Supp. 3d at 1411 (“Worldwide’s door thresholds are not ‘aluminum extrusions’ at the time of importation” (citing *Worldwide I*, 44 CIT at \_\_, 466 F. Supp. 3d at 1357)). Nevertheless, the Orders contain a provision (the “subassemblies” provision) that enlarges the scope of the Orders to include aluminum extrusion components present in certain imported “partially assembled merchandise.”

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<sup>1</sup> Citations to the United States Code and to the Code of Federal Regulations are to the 2018 editions.

*AD Order*, 76 Fed. Reg. at 30,651; *CVD Order*, 76 Fed. Reg. at 30,654. Another provision in the scope language of the Orders, the “finished merchandise exclusion,” excludes from the scope of the Orders certain assembled and completed merchandise containing aluminum extrusions as parts. *AD Order*, 76 Fed. Reg. at 30,651; *CVD Order*, 76 Fed. Reg. at 30,654.

At issue in this litigation are eighteen models of imported door thresholds, each of which is not itself an aluminum extrusion but is instead an assembly of various components, including polyvinyl chloride, other plastics, wood, or steel. *Worldwide I*, 44 CIT at \_\_, 466 F. Supp. 3d at 1373. One of those components in each door threshold is fabricated from a single piece of extruded aluminum and, were it imported separately, would be described by the scope language of the Orders. *Id.*

The court in *Worldwide I* held that the contested Scope Ruling, in determining that the aluminum extrusion component in each door threshold is subject to the Orders, misinterpreted the scope language of the Orders in three respects and discussed these errors in detail. 44 CIT at \_\_, 466 F. Supp. 3d at 1373–79. Among these errors was the Department’s refusal to consider whether *Worldwide*’s door thresholds were excluded from the scope of the Orders under the “finished merchandise exclusion.” *Id.*, 44 CIT at \_\_, 466 F. Supp. 3d at 1376–78. This express exclusion from the scope applies to “finished merchandise containing aluminum extrusions as parts that are fully and

permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels.” *AD Order*, 76 Fed. Reg. at 30,651; *CVD Order*, 76 Fed. Reg. at 30,654.

Commerce concluded in the Scope Ruling that “the express inclusion of ‘door thresholds’ within the scope of the *Orders* (regardless of whether the door thresholds are ready for use at the time of importation) renders the reliance of *Worldwide* . . . upon the finished merchandise exclusion inapposite.” *Scope Ruling* at 35–36; *see also AD Order*, 76 Fed. Reg. at 30,651 & *CVD Order*, 76 Fed. Reg. at 30,654 (“Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks . . .”). The court in *Worldwide I* rejected the Department’s reasoning because it misinterpreted the scope language of the *Orders*. 44 CIT at \_\_\_, 470 F. Supp. 3d at 1376 (“The scope language does not expressly include all door thresholds in which there is an extruded aluminum component. Instead, as the court has discussed, the inclusion of ‘door thresholds’ in the scope language as an exemplar is confined to door thresholds that *are* aluminum extrusions.” (citing *AD Order*, 76 Fed. Reg. at 30,651; *CVD Order*, 76 Fed. Reg. at 30,654)).

*Worldwide I* concluded, further, that Commerce “erred in reasoning that ‘finding door thresholds excluded under the finished merchandise exclusion would render the

express inclusion of “door thresholds” meaningless.” 44 CIT at \_\_, 470 F. Supp. 3d at 1376 (quoting *Scope Ruling* at 36). As the court stated, “[d]oor thresholds that are fabricated from aluminum extrusions are ‘extrusions’ for purposes of the scope language and are expressly included in the scope by operation of the reference to ‘door thresholds’; other door thresholds, which are not themselves ‘extrusions’ for purposes of the Orders, are not.” *Id.*, 44 CIT at \_\_, 466 F. Supp. 3d at 1376–77. The court in *Worldwide I* added that:

Rather than rendering the express inclusion of door thresholds meaningless, excluding the assembled goods at issue from the Orders according to the finished merchandise exclusion would have no effect at all on the express inclusion of door thresholds, for a straightforward reason: a door threshold that is fabricated from an aluminum extrusion could never qualify under the finished merchandise exclusion in the first place because the finished merchandise exclusion applies only to assembled goods.

44 CIT at \_\_, 466 F. Supp. 3d at 1377 (citing *AD Order*, 76 Fed. Reg. at 30,651; *CVD Order*, 76 Fed. Reg. at 30,654).

In light of the multiple errors the court identified, the court in *Worldwide I* ordered Commerce to reconsider the *Scope Ruling* and to give “full and fair” consideration to the issue of whether the finished merchandise exclusion applies to *Worldwide’s* door thresholds “upon making findings that are supported by substantial record evidence.” 44 CIT at \_\_, 466 F. Supp. 3d at 1380.



In response to the court's opinion and order in *Worldwide I*, Commerce submitted the First Remand Redetermination on December 23, 2020. In it, Commerce disagreed with the court that the finished merchandise exclusion was relevant to the Department's analysis but addressed, under protest, the issue of whether this exclusion applied to Worldwide's door thresholds. Commerce concluded that it did not.

Based on its factual findings on the applications for which Worldwide's door thresholds are produced, Commerce reached two conclusions in the First Remand Redetermination. Commerce concluded, first, that these products do not qualify for the finished merchandise exclusion because they are "partially assembled merchandise" and "intermediate products" for purposes of the subassemblies provision in the Orders. *Worldwide II*, 45 CIT at \_\_\_, 537 F. Supp. 3d at 1411 (citing *First Remand Redetermination* at 23).<sup>2</sup> Second, Commerce concluded that because they were described by the

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<sup>2</sup> The subassemblies provision states that "[t]he scope includes the aluminum extrusion components that are attached (e.g., by welding or fasteners) to form subassemblies, i.e., partially assembled merchandise unless imported as part of the finished goods 'kit' defined further below." *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 Fed. Reg. 30,650, 30,651 (Int'l Trade Admin. May 26, 2011) ("AD Order"); *Aluminum Extrusions From the People's Republic of China: Countervailing Duty Order*, 76 Fed. Reg. 30,653, 30,654 (Int'l Trade Admin. May 26, 2011) ("CVD Order"). The reference to the "kit" is a reference to the "finished goods kit" exclusion, under which the antidumping and countervailing duty orders exclude an imported good in unassembled form that includes all the parts required for assembly of a final finished good. *AD Order*, 76 Fed. Reg. at 30,651; *CVD Order*, 76 Fed. Reg. at 30,654. Because the door thresholds at issue are imported in fully assembled, not disassembled, form, this exclusion does not apply.

subassemblies provision, Worldwide's door thresholds could not qualify for the finished merchandise exclusion. According to the First Remand Redetermination, "[a] subassembly is merchandise which is designed for the sole purpose of becoming part of a larger whole"; Commerce concluded that each of Worldwide's door thresholds, which "must work in tandem with other components to be functional" and is "a component of a larger downstream product," cannot, for those reasons, qualify for the finished merchandise exclusion. *First Remand Redetermination* at 24 (citation omitted).

The court in *Worldwide II* rejected certain of the reasoning by which Commerce supported its ultimate conclusion in the First Remand Redetermination that the aluminum extrusion components within the door thresholds were subject to the Orders. "Under the Department's analysis, only goods that are not 'designed for the sole purpose of becoming part of a larger whole' . . . can satisfy the finished merchandise exclusion, but this rationale is contrary to the terms by which that exclusion is expressed in the scope language." *Worldwide II*, 45 CIT at \_\_\_, 537 F. Supp. 3d at 1414 (quoting *First Remand Redetermination* at 24). The court pointed to two of the exemplars of products the scope language listed as qualifying for the finished merchandise exclusion, finished windows with glass and doors with glass or vinyl, as products that "are specifically designed for the sole purpose of becoming part of a larger whole." *Id.*

The court stated that “[e]ven the products Commerce itself considered to satisfy the finished merchandise exclusion, i.e., a complete, assembled door unit, and a ‘final finished door with glass,’ . . . do not ‘function on their own,’ . . . and cannot function until incorporated into a wall or other part of a building.” *Id.* The court concluded that “[t]he [First] Remand Redetermination does not offer a plausible explanation of why the articles mentioned in the ‘door’ and ‘window’ exemplars of the finished merchandise exclusion satisfy that exclusion but that Worldwide’s door thresholds . . . do not.” *Id.*

In the First Remand Redetermination, Commerce, relying solely on statements by defendant-intervenors that did not pertain specifically to Worldwide’s door thresholds, and despite certain record evidence that *did* pertain to Worldwide’s products, inferred from these statements, but did not expressly find, “that the particular door thresholds at issue in this litigation . . . are so designed and manufactured as to require cutting or machining prior to assembly of a door unit or other structure.” *Worldwide II*, 45 CIT at \_\_\_, 537 F. Supp. 3d at 1412. The court attached significance to whether Worldwide’s imported door thresholds required cutting or machining prior to use because that issue “is directly relevant to the applicability of the finished merchandise exclusion, which pertains to ‘finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled *and completed* at the time of entry.’” *Id.*, 45 CIT at \_\_\_, 537 F. Supp. 3d at 1413 (quoting *AD Order*, 76 Fed. Reg. at 30,651; *CVD Order*, 76 Fed.

Reg. at 30,654). The court directed Commerce to reach “a finding from the record evidence that the door thresholds at issue in this case either are, or are not, so designed and produced as to require cutting or machining prior to use.” *Id.*, 45 CIT at \_\_, 537 F. Supp. 3d at 1414.

In response to the court’s opinion and order in *Worldwide II*, Commerce issued the Second Remand Redetermination. In the Second Remand Redetermination, Commerce determined, under protest, that Worldwide’s door thresholds were outside the scope of the Orders. *Second Remand Redetermination* at 16.

The court in *Worldwide III* explained that the Second Remand Redetermination was not a decision in a form the court could sustain because it “is not the actual scope ruling or determination Commerce plans to issue,” so “the Second Remand Redetermination would not be self-effectuating should the court sustain it, and the agency decision that would follow if it were sustained would escape direct judicial review.” 46 CIT at \_\_, 589 F. Supp. 3d at 1192. Instead of providing the scope ruling intended to be issued, Commerce in the Second Remand Redetermination stated that “[s]hould the court sustain these Final Results of Redetermination, we will issue a revised scope ruling accordingly.” *Second Remand Redetermination* at 16. The court held “the Department’s proposed resolution of this litigation unsatisfactory” because “[n]ot only would it deny the court the opportunity to review the agency’s actual decision on

remand, it also would not allow the parties to comment on that decision before the court reviews it.” *Worldwide III*, 46 CIT at \_\_\_, 589 F. Supp. 3d at 1192. The court directed “Commerce to issue a third remand redetermination that, like the agency determination contested in this litigation, is a scope ruling or determination for the court’s review, and it must be in a form that would go into effect if sustained upon judicial review.” *Id.*, 46 CIT at \_\_\_, 589 F. Supp. 3d at 1193.

The court in *Worldwide III* also took issue with the Second Remand Redetermination “in presenting no reasoning for ruling that the door thresholds are outside the scope of the Orders other than its incorrect conclusion that the court ordered Commerce to do so.” *Id.* The court observed that “Commerce devoted most of the substantive discussion in the Second Remand Redetermination to its disagreements with certain of the issues the court decided previously” and explained how the Department’s interpretation of *Worldwide II* erred in three respects. *Id.*, 46 CIT at \_\_\_, 589 F. Supp. 3d at 1193–94. The court ordered Commerce to submit a third redetermination upon remand that complies with *Worldwide III*. 46 CIT at \_\_\_, 589 F. Supp. 3d at 1195.

### C. The Third Remand Redetermination

In the Third Remand Redetermination, Commerce decided once again, under protest, that *Worldwide*’s door thresholds, in the entirety, fall outside the scope of the

Orders. *Third Remand Redetermination* at 3. Commerce stated in the Third Remand Redetermination that it “do[es] not intend to issue a scope ruling or other agency determination subsequent to this Court’s review of this remand redetermination” and that “if the CIT [Court of International Trade] affirms this redetermination, a *Federal Register* notice will be published stating that, consistent with the Court’s holdings, Worldwide’s door thresholds are excluded from the scope of the *Orders*.” *Id.* “Relevant instructions to U.S. Customs and Border Protection (CPB) giving effect to that determination, as appropriate, will also be issued at that time.” *Id.*

As the court explained in *Worldwide III*, Commerce was required to make a decision on whether the goods are within the scope of the Orders based on the record as a whole. Commerce has now done so in the Third Remand Redetermination in a form the court is able to sustain. The essential agency findings supporting the decision that the door thresholds, in the entirety, are outside the scope of the Orders are supported by substantial evidence on the record of this case. *See id.* at 8–16.

Defendant-intervenors’ comments in opposition to the Third Remand Redetermination are unconvincing and merely reiterate arguments the court has rejected in its previous opinions and orders. Def.-Intervenors’ Comments on Final Results of Third Redetermination Pursuant to Ct. Remand 1–3 (Sept. 26, 2022), ECF No. 104.

Defendant-intervenors argue, first, that the contested Scope Ruling correctly found Worldwide's door thresholds to be expressly included within the scope of the Orders. *Id.* at 1–2. They maintain that because of this express inclusion, “the agency’s determination that the ‘finished merchandise’ exclusion is inapplicable to these products was correct.” *Id.* As the court concluded in *Worldwide I*, and as the scope language of the Orders makes clear, the express reference in the scope language to “door thresholds” as an exemplar refers to door thresholds that are aluminum extrusions, not assemblies such as those at issue here. 44 CIT at \_\_, 470 F. Supp. 3d at 1376.

They argue, next, that “Commerce’s first redetermination, under respectful protest, that even considering the exclusion, door thresholds are ‘subassemblies’ within the meaning of the scope and not excludable as ‘finished merchandise’ was also supported by substantial evidence and in accordance with law.” Def.-Intervenors’ Comments 2. As discussed above, the Department’s reasoning that “subassemblies” cannot qualify for the finished merchandise exclusion because they are goods “designed for the sole purpose of becoming part of a larger whole” was rejected by the court in *Worldwide II* as “contrary to the terms by which that exclusion is expressed in the scope language,” which includes exemplars of products the scope language listed as qualifying for the finished merchandise exclusion even though they “are specifically

designed for the sole purpose of becoming part of a larger whole.” 45 CIT at \_\_, 537

F. Supp. 3d at 1414 (quoting *First Remand Redetermination* at 24).

Third, referring to Worldwide’s door thresholds, defendant-intervenors argue that “substantial record evidence also demonstrated that these products generally require further finishing and fabrication after importation and prior to use, such that the thresholds would also fail to meet the [finished merchandise] exclusion requirements in this regard.” Def.-Intervenors’ Comments 2–3. This argument is also meritless. Commerce permissibly concluded that the evidence upon which defendant-intervenors rely for this argument did not pertain to the specific door thresholds at issue in this proceeding. Upon reassessing the record evidence, Commerce concluded in the Third Remand Redetermination that “the record does not support the conclusion that Worldwide’s specific door thresholds require cutting or fabrication after importation into the United States.” *Third Remand Redetermination* at 15.



**III. CONCLUSION**

For the reasons discussed in the foregoing, the court will enter judgment sustaining the decision in the Third Remand Redetermination that Worldwide's door thresholds are not within the scope of the Orders.

/s/ Timothy C. Stanceu  
Timothy C. Stanceu, Judge

Dated: December 16, 2022  
New York, New York