



C-570-968/A-570-967  
Scope Ruling:  
Eran Light Pole Kits  
Public Document  
E&C: DF/TB

April 17, 2017

MEMORANDUM TO: Gary Taverman  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

THROUGH: Scot Fullerton  
Director  
AD/CVD Operations, Office VI

Erin Kearney  
Program Manager  
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FROM: Tom Bellhouse  
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Antidumping and Countervailing Duty Operations

SUBJECT: Antidumping and Countervailing Duty Orders on Aluminum  
Extrusions from the People's Republic of China: Final Scope  
Ruling on Eran Light Poles

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## **Summary**

On September 9, 2015, the Department of Commerce (the Department) received a scope ruling request from Eran Financial Services LLC<sup>1</sup> (Eran), requesting that the Department find that Eran's Finished Light Poles and Light Pole Kits<sup>2</sup> are outside the scope of the antidumping and countervailing duty orders on aluminum extrusions from the People's Republic of China (PRC).<sup>3</sup>

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<sup>1</sup> See Letter from Eran Financial Services LLC to the Secretary of Commerce entitled, "Eran Scope Request: Complete Light Pole Kits – Aluminum Extrusions from the People's Republic of China (A-570-967/C-570-968)," dated September 10, 2015 and received via ACCESS on September 9, 2015 (Scope Request).

<sup>2</sup> While Eran refers to the products for which it is requesting scope exclusion as "Complete Light Pole Kits," we note that because the scope request is specific to both finished merchandise and finished goods kits, hereinafter, we refer to the subject products separately as "Finished Light Poles" and "Light Pole Kits."

<sup>3</sup> See *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011) and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (collectively, the *Orders*).

Based on our analysis, we find that Eran’s Finished Light Poles and Light Pole Kits are excluded from the scope of the *Orders*.

## **Background**

On May 26, 2011, the Department published the *Orders* on aluminum extrusions from the PRC.<sup>4</sup> On September 9, 2015, Eran submitted its request for a scope ruling finding that Eran’s Light Poles are outside the scope of the *Orders*.<sup>5</sup> On January 15, 2016,<sup>6</sup> April 6, 2016,<sup>7</sup> May 2, 2016,<sup>8</sup> September 26, 2016,<sup>9</sup> and February 10, 2017,<sup>10</sup> the Department issued supplemental questionnaires to Eran. Eran responded the Department’s supplemental questionnaires on March 23, 2016,<sup>11</sup> April 27, 2016,<sup>12</sup> June 29, 2016,<sup>13</sup> September 30, 2016,<sup>14</sup> and March 2, 2017,<sup>15</sup> respectively. On October 26, 2015,<sup>16</sup> December 9, 2015,<sup>17</sup> and August 15, 2016,<sup>18</sup> November 14,

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<sup>4</sup> See the *Orders*.

<sup>5</sup> See Scope Request.

<sup>6</sup> See Letter to Eran regarding, “Aluminum Extrusions from the People’s Republic of China: Supplemental Questionnaire on Eran Light Pole Kits,” dated January 15, 2016.

<sup>7</sup> See Letter to Eran regarding, “Aluminum Extrusions from the People’s Republic of China: Supplemental Questionnaire on Eran Light Pole Kits,” dated April 6, 2016.

<sup>8</sup> See Letter to Eran regarding, “Aluminum Extrusions from the People’s Republic of China: Supplemental Questionnaire on Eran Light Pole Kits,” dated May 2, 2016.

<sup>9</sup> See Letter to Eran regarding, “Aluminum Extrusions from the People’s Republic of China: Supplemental Questionnaire on Eran Light Pole Kits,” dated September 26, 2016.

<sup>10</sup> See Letter to Eran regarding, “Aluminum Extrusions from the People’s Republic of China: Supplemental Questionnaire on Eran Light Pole Kits,” dated February 10, 2017.

<sup>11</sup> See Letter from Eran regarding, “*Eran Scope Request: Response to Supplemental Questions – Aluminum Extrusions from the People’s Republic of China (A-570-967/C-570-968)*,” dated March 23, 2016 (First Supplemental Response).

<sup>12</sup> See Letter from Eran regarding, “*Eran Scope Request: Second Supplemental Questionnaire Response – Aluminum Extrusions from the People’s Republic of China (A-570-967/C-570-968)*,” dated April 27, 2016 (Second Supplemental Response).

<sup>13</sup> See Letter from Eran regarding, “*Eran Scope Request: Response to Supplemental Questions – Aluminum Extrusions from the People’s Republic of China (A-570-967 / C-570-968)*,” dated June 29, 2016 (Third Supplemental Response).

<sup>14</sup> See Letter from Eran regarding, “*Eran Scope Request: Fourth Supplemental Questionnaire Response – Aluminum Extrusions from the People’s Republic of China (A-570-967 / C-570-968)*,” dated September 30, 2016 (Fourth Supplemental Response).

<sup>15</sup> See Letter from Eran regarding, “*Eran Scope Request: Fourth Supplemental Questionnaire Response – Aluminum Extrusions from the People’s Republic of China (A-570-967 / C-570-968)*,” dated March 2, 2017 (Fifth Supplemental Response).

<sup>16</sup> See Letter to Eran regarding, “Aluminum Extrusions from the People’s Republic of China: Extension of Time for Scope Ruling,” dated October 26, 2016.

<sup>17</sup> See Letter to Eran regarding, “Aluminum Extrusions from the People’s Republic of China: Extension of Time for Scope Ruling,” dated December 9, 2016.

<sup>18</sup> See Letter to Eran regarding, “Aluminum Extrusions from the People’s Republic of China: Extension of Time for Scope Ruling,” dated August 15, 2016.

2016,<sup>19</sup> and December 29, 2016,<sup>20</sup> the Department extended the deadline for this scope ruling. The current deadline for issuing this scope ruling is April 17, 2017.<sup>21</sup>

## SCOPE OF THE ORDERS

The merchandise covered by the *Orders* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including brightdip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window

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<sup>19</sup> See Letter to Eran regarding, “Aluminum Extrusions from the People’s Republic of China: Extension of Time for Scope Ruling,” dated November 14, 2016.

<sup>20</sup> See Letter to Eran regarding, “Aluminum Extrusions from the People’s Republic of China: Extension of Time for Scope Ruling,” dated December 29, 2016.

<sup>21</sup> This date reflects the next business day after the deadline of April 16, 2017. See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The 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. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation. The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes 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. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a “finished goods kit.” A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled “as is” into a finished product. An imported product will not be considered a “finished goods kit” and therefore excluded from the scope of the investigation merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 millimeters (“mm”) or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of this order are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 9031.90.90.95, 7616.10.90.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99, as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Orders* is dispositive.

## LEGAL FRAMEWORK

When a request for a scope ruling is filed, the Department examines the scope language of the order at issue and the description of the product contained in the scope-ruling request.<sup>22</sup> Pursuant to the Department's regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from the investigations, and prior scope determinations made for the same product.<sup>23</sup> If the Department determines that

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<sup>22</sup> See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

<sup>23</sup> See 19 CFR 351.225(k)(1).

these sources are sufficient to decide the matter, it will issue a final scope ruling as to whether the merchandise is covered by an order.<sup>24</sup>

Conversely, where the descriptions of the merchandise in the sources described in 19 CFR 351.225(k)(1) are not dispositive, the Department will consider the five additional factors set forth at 19 CFR 351.225(k)(2). These factors 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. The determination as to which analytical framework is most appropriate in any given scope proceeding is made on a case-by-case basis after consideration of all evidence before the Department.

## **DESCRIPTION OF THE MERCHANDISE SUBJECT TO THIS SCOPE REQUEST**

Eran requested that the Department find that certain Finished Light Poles and Light Pole Kits imported as finished merchandise and finished goods kits, respectively, are outside the scope of the *Orders*.<sup>25</sup> In its scope request, Eran describes its Finished Light Poles and Light Pole Kits as “consist{ing} of exterior lighting poles that are entered into the United States under HTS 7610.90.00 with all components necessary for installation.”<sup>26</sup> According to Eran, its Finished Light Poles and Light Pole Kits, in their condition as they are imported, do not require additional manufacturing, finishing, or fabrication after entry into the United States.<sup>27</sup> Eran further states that its Light Pole Kits are imported as a kit containing detached arms/tenons that are assembled onto the light poles with fasteners.<sup>28</sup> According to Eran, these arms/tenons are made of Series 6 extruded aluminum; these arms/tenons are assembled onto the light poles after importation.<sup>29</sup> Eran states that the Light Pole Kits contain arms/tenons, but the Finished Light Poles do not.<sup>30</sup>

Additionally, Eran states that each light pole in both the Finished Light Poles and Light Pole Kits is “made of extruded aluminum using T6 Heat Treated Series 6 aluminum alloy, and contain{s} a number of components not covered by the scope of this case.” Eran further notes that its Finished Light Poles and Light Pole Kits can be classified into three separate pole series: Architectural, Highway, or Direct Burial.<sup>31</sup>

Architectural Series: Eran explains that the Finished Light Poles and Light Pole Kits within the Architectural Series are designed to have a more “architectural” or aesthetic appearance and are often used, for example, to illuminate pathways in parks. These light poles range from six to 20 feet in length, and can be either straight or slightly curved.<sup>32</sup>

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<sup>24</sup> See 19 CFR 351.225(d).

<sup>25</sup> See Fourth Supplemental Response, at 1.

<sup>26</sup> See Scope Request, at 2.

<sup>27</sup> *Id.*, at 3.

<sup>28</sup> *Id.*

<sup>29</sup> See Fourth Supplemental Response, at 1.

<sup>30</sup> See Scope Request, at 3.

<sup>31</sup> See Fourth Supplemental Response, at 4.

<sup>32</sup> *Id.*, at 3.

Highway Series: Eran explains that the Finished Light Poles and Light Pole Kits within the Highway Series are used for illuminating highways and other types of roadways. These light poles range from 20 to 40 feet in length, and can be either straight, L-shaped, or slightly curved.<sup>33</sup>

Direct Burial Series: Eran explains that the Finished Light Poles and Light Pole Kits in the Direct Burial Series are designed to be partially buried underground and as such, have a high-density polyethylene casing installed on the bottom portion to protect against corrosion from the soil. These poles do not have a base plate, and come in a variety of styles typically used for more decorative purposes.<sup>34</sup>

In addition to the Series 6 extruded aluminum light poles and arms/tenons, the chart below identifies the components included in each light pole series upon importation.<sup>35</sup>

<b>Eran Light Pole Components</b>		
<b>Architectural Series</b>	<b>Highway Series</b>	<b>Direct Burial Series</b>
Base plate of die casted AL356 aluminum alloy (welded)	Base plate of die casted AL356 aluminum alloy (welded)	High-Density Polyethylene (HDPE) protective casing
Top cover of die casted AL356.0 aluminum alloy or Injection Molded Nylon / Polyamide	Top cover of die casted AL356.0 aluminum alloy or Injection Molded Nylon / Polyamide	Top cover of die casted AL356.0 aluminum alloy or Injection Molded Nylon / Polyamide
Ground log of Series 5 extruded aluminum alloy	Ground log of Series 5 extruded aluminum alloy	Ground log of Series 5 extruded aluminum alloy
Internal wiring	Internal wiring	Internal wiring

Eran states that the Finished Light Poles enter the United States fully assembled, including each of the components noted above for each light pole series. Eran further states that the Light Pole Kits also include each of the components noted above, but that a companion arm/tenon is imported as a separate component from each Light Pole but on the same Customs and Border Protection (CBP) 7501 entry summary form.<sup>36</sup> Light Pole Kits also include stainless steel bolts, washers and nuts.<sup>37</sup> As Eran indicates that all Finished Light Poles and Light Pole Kits are imported with stainless steel allen-key bolts.<sup>38</sup>

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*, at 3; *see also* First Supplemental Response, at 1.

<sup>36</sup> *See* Fourth Supplemental Response, at 1-2.

<sup>37</sup> *See* Third Supplemental Response, at 2; *see also* Fifth Supplemental Questionnaire Response, at 1-2.

<sup>38</sup> *See* Fourth Supplemental Response, at 1.

## RELEVANT SCOPE DETERMINATIONS

### Geodesic Domes Kits<sup>39</sup>

At issue in the ruling were certain geodesic dome frame kits consisting solely of extruded aluminum parts along with nuts, bolts, and washers. The requestor argued that the products at issue constituted finished goods kits because the kits contained all the components necessary to assemble a final finished geodesic dome playground set. It further argued that the products at issue required no further fabrication and are assembled “as-is” from the components provided in the kits.

In its scope ruling, the Department explained that the product at issue met the “initial requirements for inclusion into the finished goods kit exclusion.”<sup>40</sup> However, the Department noted that the scope of the *Orders* states that an “imported product will not be considered a ‘finished goods kit’ ... merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.”<sup>41</sup> Accordingly, the Department found that because the products at issue consisted solely of extruded aluminum and fasteners, they did not meet the exclusion criteria for a finished goods kit.<sup>42</sup>

### Disappearing Door Screens Scope Ruling<sup>43</sup>

At issue were certain disappearing door screens which were comprised of both extruded aluminum and non-subject parts. Included in the disappearing door screens were aluminum top and bottom tracks, a track protector, and a side profile. Additionally, there was a mesh screen, a rubber magnet, and an accessory kit.<sup>44</sup> At the time the kit was imported, the like parts were packaged together rather than as complete kits in a single box. All of the necessary parts arrived as part of the same shipment and no additional pieces were added from any other sources after entry.<sup>45</sup> The requestor cited many previous scope rulings, including *Solar Panel Mounting Systems*, where products which were not imported in a single package were found to be excluded from the scope. There were no petitioner comments.

The Department found that disappearing screen doors in question were within the scope of the *Orders* as they did not meet the first criterion of the scope exclusion.<sup>46</sup> In other words, the disappearing screen door kits did not form “a packaged combination of parts that contains, at the

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<sup>39</sup> See Memorandum from Brooke Kennedy to Christian Marsh regarding, “Final Scope Ruling on J.A. Hancock, Inc.’s Geodesic Structures,” dated July 17, 2012 (Geodesic Domes Kits Scope Ruling); see also Memorandum to the File regarding, “Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China: Prior Scopes Rulings Relevant to the Eran Light Poles Scope Ruling,” dated concurrently with this scope ruling (Prior Scopes Memorandum).

<sup>40</sup> See Geodesic Domes Kits Scope Ruling, at 7.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> See Memorandum from Andrew Medley to Christian Marsh entitled, “Final Scope Ruling on Law St. Enterprises, LLC’s Disappearing Door Screens,” dated September 12, 2013 (Disappearing Door Screens Scope Ruling), at 5.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*, at 6.

<sup>46</sup> *Id.*, at 9.



time of importation, all of the necessary parts to fully assemble a final finished good.”<sup>47</sup> The Department explained:

Law St. imports multiple packages of disappearing screen parts as part of a single entry but does not package them as individual sets that would allow the final U.S. customers, to assemble individual, finished disappearing screens directly from the Law St.’s shipment and import packaging. Specifically, the merchandise, as described in the request, at the time of importation, does not constitute a packaged combination of parts to fully assemble a disappearing screen. Rather, the merchandise constitutes separately packaged parts that, after importation, must be un-packaged, re-arranged, and re-packaged before being sold to the end user as a finished goods kit that includes all of the parts needed to fully assemble finished disappearing screens.<sup>48</sup>

#### Anodes Scope Ruling<sup>49</sup>

At issue in the ruling were aluminum anodes for water heaters. The water heater anodes at issue consisted of a rod made of aluminum alloy formed around a stainless steel or carbon steel core with a carbon steel cap. The requestor argued that a water heater anode is a finished downstream product that functions separately from a water heater and, thus, the product satisfied the exclusion criteria for finished merchandise.<sup>50</sup>

In the ruling, the Department found that the water heater anodes at issue were finished merchandise and thus excluded from the scope of the *Orders*. In reaching its decision, the Department concluded that the water heater anodes are finished products because they contain all the components of a water heater anode (*i.e.*, the aluminum, the steel/carbon steel rod, and the carbon steel cap) which are permanently assembled, completed and ready to use as an aluminum anode which works to prevent corrosion in a water heater.<sup>51</sup>

#### Solarmotion Controllable Sunshades Scope Ruling<sup>52</sup>

Construction Specialties Inc. (“CS Group”), an importer of Solarmotion controllable sunshades, stated that its kits constituted finished merchandise because after importation they were intended to be inserted directly into a frame (albeit one shipped separately and already attached to a building). According to CS Group, these components could not be treated as a single part of a

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<sup>47</sup> *Id.*

<sup>48</sup> *Id.*, at 10.

<sup>49</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Aluminum Anodes for Water Heaters,” dated October 17, 2012 (Anodes Scope Ruling); *see also* Prior Scope Ruling Memorandum.

<sup>50</sup> *Id.*, at 1.

<sup>51</sup> *Id.*, at 5-7.

<sup>52</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Solarmotion Controllable Sunshades,” dated August 17, 2012 (Sunshades Scope Ruling); *see also* Prior Scopes Memorandum.

larger system. Petitioner responded that the sunshades CS Group imported from the PRC were merely components of the complete sunshade system it sold. They highlighted a CBP ruling determining that parts needed for the sunshades to rotate and track the sun throughout the day (*i.e.*, necessary parts to assemble a final finished good) were missing from the imported kits. Petitioner also pointed out that CS Group’s marketing materials advertised a complete system as including components not present in the kit.

Approximately five weeks after its initial filing, CS Group submitted a revised scope request. This filing stated that the sunshades would now be shipped from the PRC to Canada and consolidated with Canadian-manufactured parts to form a finished goods kit before entry into the United States. The new kit would contain all parts necessary (*e.g.*, blade frames, motors, brackets) to assemble a final finished good. Owing to their large size, each kit could not be transported in a single trailer, but would be imported in the same shipment and with the same commercial invoice, bill of lading, and CBP 7501 form.

The Department determined that CS Group’s original kit did not constitute finished merchandise or a finished goods kit.<sup>53</sup> However, the Department found that the revised kit included the components necessary to qualify as a finished goods kit as described in the scope of the *Orders*.<sup>54</sup> That the revised kit was to be imported from Canada in a single shipment with the same commercial invoice, bill of lading, and CBP 7501 form further supported this conclusion, according to the Department. In addition, the Department found that the revised kit was not subject to the *Orders* merely because it was shipped in separate containers.<sup>55</sup> This was because, in addition to being listed on a single CBP 7501 form, the revised kit ultimately contained all of the necessary parts to assemble a final finished good. Therefore, the Department ruled that the revised kits should fall outside the scope of the *Orders*.

## INTERESTED PARTY COMMENTS

### Eran’s Scope Request Supplemental Responses

Eran contends that its Finished Light Poles and Light Pole Kits should be excluded from the scope of the *Orders* as both “finished merchandise” and “finished goods kits,”<sup>56</sup> respectively. Eran points out that the product at issue may be imported as a fully assembled article (without arms/tenons), or as a complete, unassembled kit (with arms/tenons).

Eran indicates that each arm/tenon component is imported unattached to, but along with, a companion pole component, thereby constituting a “finished goods kit.”<sup>57</sup> Additionally, Eran indicates that fastener hardware (*e.g.*, bolts, washers, and nuts) is imported with the arms/tenons. Eran notes that while the Finished Light Poles and Light Pole Kits subject to its Scope Request

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<sup>53</sup> See Sunshades Scope Ruling, at 11.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*, at 11-12.

<sup>56</sup> See Fourth Supplemental Response, at 1; see also Fifth Supplemental Questionnaire Response, at 1.

<sup>57</sup> *Id.*

are designed to be used with a variety of fixtures, the poles do not require any additional manufacturing, finishing, or fabrication after entry into the United States.<sup>58</sup>

Eran claims that each series of its Finished Light Poles and Light Pole Kits contains the following non-extruded aluminum pieces: base plate, top cover, ground log, and internal wiring.<sup>59</sup> In its Second Supplemental Response, Eran maintains that for both Finished Light Poles and Light Pole Kits, the non-extruded aluminum components are imported together with subject aluminum extrusions as a fully-assembled unit.<sup>60</sup>

No other parties submitted comments.

## DEPARTMENT'S POSITION

The Department examined the language of the *Orders* and the description of the products contained in Eran's Scope Request, as well as previous rulings made by the Department. We find that the description of the products, the scope language, and the Department's prior rulings are, together, dispositive as to whether the products at issue are subject merchandise, in accordance with 19 CFR 351.225(k)(1). Accordingly, for this determination, the Department finds it unnecessary to consider the additional factors specified in 19 CFR 351.225(k)(2). For the reasons set forth below, we find that the merchandise at issue, Light Poles, meet the exclusion criteria covered by the scope of the *Orders*.

The scope of the *Orders* excludes "finished merchandise containing aluminum extrusions *as parts* that are fully and permanently assembled and completed at the time of entry..." (emphasis added). Thus, the scope language describes excluded finished merchandise as "containing aluminum extrusions *as parts*..." We take this language to mean that the excluded "finished merchandise" must contain aluminum extrusions "as parts," plus an additional non-extruded aluminum component. Otherwise, this specific language (*i.e.*, "as parts") would be read out of the scope, resulting in the different condition "containing aluminum extrusions that are fully and permanently assembled and completed at the time of entry." Thus, to give effect to this "as parts" language, we find that to qualify for the finished merchandise exclusion, the product must contain aluminum extrusions as parts, and must include some non-extruded aluminum component.

This interpretation is supported by the illustrative examples of excluded "finished merchandise" contained in the scope, all of which contain extruded aluminum and non-extruded aluminum components (*e.g.*, finished windows with glass, doors with glass or vinyl, *etc.*). In comparison, we note that those products specifically included in the *Orders*, such as window frames and door frames, do not constitute finished merchandise because they cannot be considered to "contain {} aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry."<sup>61</sup> Rather, the in-scope window frames and door frames are the only parts of the product.

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<sup>58</sup> See Scope Request, at 3; *see also* Second Supplemental Response, at 1-2.

<sup>59</sup> See Scope Request, at 2; *see also* First Supplemental Response, at 1.

<sup>60</sup> See Second Supplemental Response, at 2.

<sup>61</sup> See the *Orders*.

Moreover, we find that the term “as parts” in the scope exclusion necessarily requires a plural construction, rather than encompassing both the singular “part” and plural “parts,” given the context provided by other terms in the exclusion, such as “containing” and “assembled,” as well as the examples of excluded finished merchandise, all of which contain at least an aluminum extrusion component and non-extruded aluminum component.

In its supplemental responses, Eran states that Light Poles may be imported as a fully assembled product or as an unassembled kit.<sup>62</sup> In addition to the description of the merchandise at issue, Eran provides pictures and diagrams of the poles and various components that comprise the product at issue.

### Finished Light Poles

Eran argues that the Finished Light Poles qualify as finished merchandise under the scope exclusion contained in the *Orders*.<sup>63</sup> We find that, similar to the Anodes Scope Ruling, Light Poles that are imported as a finished product that contain finished parts, including those composed of extruded and non-extruded aluminum components, beyond mere fasteners, are fully and permanently assembled and completed at the time of importation.<sup>64</sup> For example, photographs submitted as part of the Scope Request show that the products are completely assembled when they enter the United States, and are ready for installation.<sup>65</sup> In this state, the Light Poles meet the scope definition of “finished merchandise” because they contain aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry.<sup>66</sup> In its finished merchandise form, the product at issue contains aluminum extrusions “as parts” (*i.e.*, the T6 heat treated Series 6 aluminum alloy pole) plus additional non-extruded aluminum components (*e.g.*, internal wiring,<sup>67</sup> die casted base plate,<sup>68</sup> or HDPE protective casing<sup>69</sup>). For these reasons, the Light Poles, which are imported as an assembled product, meet the exclusion requirement of finished merchandise.

### Light Pole Kits

With regard to the Light Pole Kits, we first examine whether, consistent with our test established in Geodesic Domes Kits Scope Ruling, the product consists of aluminum extrusions beyond mere fasteners (*e.g.*, screws, bolts, *etc.*). As mentioned above, Eran’s Light Pole Kits contain both extruded and non-extruded aluminum components. In particular, as a finished goods kit,

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<sup>62</sup> See Second Supplemental Response, at 1-2.

<sup>63</sup> *Id.*; see also First Supplemental Response, at 11 and Third Supplemental Response, at 1.

<sup>64</sup> See Scope Request, at 3; see also Third Supplemental Response, at 1.

<sup>65</sup> See Attachment 1.

<sup>66</sup> *Id.*; see also Scope Request, at 3 and Exhibits 1-5 and Third Supplemental Response, at 1.

<sup>67</sup> Poles in each of the series are pre-wired with wiring running from the ground log to the top cover. See Scope Request, at 4.

<sup>68</sup> Used with both the Architectural and Highway Series of poles, the base plate is made of die casted AL356 aluminum alloy. It is welded to the bottom of the pole to stabilize its placement on concrete block. See Scope Request, at 3.

<sup>69</sup> The Direct Burial Series of pole uses a high density polyethylene protective casing, which is applied to the bottom portion of the poles in order for them to be placed directly into the ground. See Scope Request, at 4.

the Light Pole Kits include extruded aluminum parts (*i.e.*, the Series 6 extruded aluminum pole<sup>70</sup> and the arms/tenons that are shipped along with the pole),<sup>71</sup> as well as non-extruded aluminum products (*i.e.*, die-cast base plates and internal wiring). We find that the die-cast base plates and internal wiring components go beyond mere fasteners, a requirement of the exclusion language in the scope of the *Orders* and analyzed in the Geodesic Domes Kits Scope Ruling.

Next, we consider whether the unassembled Light Pole Kits meet the definition of a “finished goods kit.” The language of the scope defines a finished goods kit as a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good, which requires no further finishing or fabrication, such as cutting or punching, and which is assembled “as is” into a finished product. In the case of Light Pole Kits, according to Eran, each arm/tenon is not attached to the assembled Light Poles; instead, they are included in the same shipment, but are unattached to the companion assembled Light Poles.<sup>72</sup>

As determined by the Department in the Sunshades Scope Ruling, merchandise not imported in the same packaging may be considered a kit in certain circumstances. Light poles and arms/tenons in Eran’s Light Pole Kits are imported in separate packaging, but in the same shipping container and on the same CBP 7501 entry form, and contain all the necessary components to fully assemble a final finished good.<sup>73</sup> Additionally, we find that the large size of the Light Pole Kit components (*e.g.*, the poles and the arms/tenons) would make them difficult to contain in a single package. In this respect, we find Light Pole Kits to be similar to the merchandise in the Sunshades Scope Ruling, rather than merchandise which is “imported piecemeal and subsequently assembled and sold in the United States as a kit.”<sup>74</sup>

Furthermore, in the Disappearing Door Kits Scope Ruling, the Department found the product at issue to be within the scope because, as imported, the like parts of the product were packaged together, rather complete kits each packaged together in in single box. The Department found that the merchandise in the Disappearing Door Kits Scope Ruling had to be “un-packaged, re-arranged, and re-packaged” after importation, before being sold to the end user as a complete kit.<sup>75</sup> We find the facts of the instant case to be distinguishable from the facts in the Disappearing Door Kits Scope Ruling. Specifically, the record shows that the individual components of Eran’s Light Pole Kits are not packaged with like parts together upon importation, and the components do not require being un-packaged, re-arranged, and re-packaged before being sold to the end user.<sup>76</sup>

We find that the parts contained in these Light Poles packages are ready to be fully assembled (*i.e.*, by attaching the arms/tenons to the already assembled Light Poles) into a final finished product in an “as-is” state upon importation, requiring no further finishing or fabrication. Based

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<sup>70</sup> See First Supplemental Response, at 1.

<sup>71</sup> See Fourth Supplemental Response, at 1.

<sup>72</sup> See Second Supplemental Response, at 1; *see also*, Fourth Supplemental Response, at 1-2 and Fifth Supplemental Response, at 1-2.

<sup>73</sup> See Fourth Supplemental Response, at 1-2; *see also* Attachment 1.

<sup>74</sup> See Sunshades Scope Ruling, at 11.

<sup>75</sup> See Disappearing Door Kits Scope Ruling.

<sup>76</sup> See Attachment 1.

on the foregoing, we find that Eran's unassembled Light Poles satisfy the exclusion criteria for finished goods kits.

**RECOMMENDATION**

For the reasons discussed above, and in accordance with 19 CFR 351.225(d) and 19 CFR 351.225(k)(l), we recommend finding that: 1) the Eran's Finished Light Poles which are imported as a fully assembled product meet the criteria for "finished merchandise," and 2) Eran's Light Pole Kits which are imported as an unassembled kit meet the criteria for a "finished goods kit" and, therefore, these products are not subject to the scope of the *Orders*.

If the recommendations in this memorandum are accepted, we will serve a copy of this determination to all interested parties on the scope service list *via* first-class mail, as directed by 19 CFR 351.225(d).

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Agree

\_\_\_\_\_  
Disagree

4/17/2017

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Signed by: GARY TAVERMAN

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Gary Taverman  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

# **Attachment 1**





Records:3402413-EX G-570-860 000 - Scope Inquiry - Iron Night Pole Kits



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