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Scope Ruling: VantagePoint Barn Door Hardware

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May 19, 2017

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

THROUGH: Scot Fullerton
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SUBJECT: Antidumping and Countervailing Duty Orders on Aluminum
Extrusions from the People's Republic of China: Final Scope
Ruling on VantagePoint Industries LLC's Barn Door Hardware
Kits

SUMMARY

On November 9, 2016, the Department of Commerce (the Department) received a scope ruling request from VantagePoint Industries LLC¹ (VantagePoint), requesting that the Department find that the company's Barn Door Hardware Kits are outside the scope of the antidumping duty and countervailing duty orders on aluminum extrusions from the People's Republic of China (PRC).² On the basis of our analysis, we determine that VantagePoint's Barn Door Hardware Kits are excluded from the scope of the *Orders*.

¹ See Letter from VantagePoint, "Aluminum Extrusions from the People's Republic of China – Request for Scope Ruling for Barn Door Hardware Kit," dated November 9, 2016 (Scope Request).

² 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*).

BACKGROUND

On May 26, 2011, the Department published the *Orders* on aluminum extrusions from the PRC.³ On November 9, 2016, VantagePoint submitted its Scope Request asking that the Department issue a scope ruling finding that the company's Barn Door Hardware Kits are outside the scope of the *Orders*.⁴ On that same day, JELD-WEN, Inc. (JELD-WEN), a U.S. company that purchases Barn Door Hardware Kits imported into the United States by VantagePoint, submitted comments in support of VantagePoint's Scope Request.⁵ On December 19, 2016, the Department issued a supplemental questionnaire requesting additional clarification from VantagePoint.⁶ VantagePoint timely responded to the Department's supplemental questionnaire on January 5, 2017.⁷ On February 23, 2017, the Department informed VantagePoint of filing deficiencies in its Supplemental Response, and on February 27, 2017, VantagePoint corrected those deficiencies by refiled its Supplemental Response.⁸ On April 14, 2017, the Department extended the deadline for issuing this scope ruling, until May 15, 2017.⁹ On May 15, 2017, the Department extended the deadline for issuing this scope ruling by an additional 14 days, until May 30, 2017.¹⁰

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

³ See the *Orders*.

⁴ See Scope Request.

⁵ See Letter from JELD-WEN, "Aluminum Extrusions from the People's Republic of China - Comments in Support of Ruling to Exclude VantagePoint Industries' Barn Door Hardware Kit from Antidumping and Countervailing Duty Orders – PUBLIC DOCUMENT," dated November 9, 2016 (JELD-WEN Supporting Statement).

⁶ See Letter to VantagePoint, "Aluminum Extrusions from the People's Republic of China (PRC): Scope Ruling Request – Barn Door Hardware Kits," dated December 19, 2016 (Supplemental Questionnaire).

⁷ See Letter from VantagePoint, "Aluminum Extrusions from the People's Republic of China – Scope Ruling Request Supplemental Questionnaire Response," dated January 5, 2017 (Supplemental Response).

⁸ See Letter from the Department to VantagePoint, "Aluminum Extrusions from the People's Republic of China: Notice of Improper Filing," dated February 23, 2017; see also Supplemental Response, refiled on February 27, 2017.

⁹ See Extension Letter to VantagePoint, dated April 14, 2017.

¹⁰ See Extension Letter to VantagePoint, dated May 15, 2017. This date reflects the next business day after the deadline of May 29, 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).

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, swaged, 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 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 *Orders* 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 the *Orders* 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): 6603.90.8100, 7616.99.51, 8479.89.94, 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.¹¹ 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.¹² If the Department determines that 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.¹³

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

The merchandise at issue in VantagePoint's Scope Request is the company's Barn Door Hardware Kits. According to VantagePoint, its Barn Door Hardware Kits are intended to be installed in a doorway and result in the door opening and closing by sliding parallel to the wall as a barn door. The Barn Door Hardware Kits are designed for a specific range of door sizes. The kit, when assembled, is meant to provide hanging stability and the ability to slide a door shut. The Barn Door Hardware Kits include mechanisms which allow for a soft close, much like those in certain drawers.¹⁴ VantagePoint further describes its Barn Door Hardware Kits as including only the hardware necessary to install a barn door, and do not include the door itself or the

¹¹ See *Walgreen Co. v United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

¹² See 19 CFR 351.225(k)(1).

¹³ See 19 CFR 351.225(d).

¹⁴ See Scope Request, at 7.

backer board, which provides a surface upon which the hardware can be secured.¹⁵ VantagePoint reports that these kits are classified under the subsection 8302.41.6080 of the Harmonized Tariff Schedule of the United States.¹⁶

The parts included in the kits, which are not fasteners or tools, are as follows:

- 1 steel track;
- 2 steel passive end stops;
- 2 plastic and steel soft close mechanisms;
- 2 extruded aluminum rails;
- 4 aluminum end caps;
- 2 steel anti-jump rods;
- 2 steel hangers;
- 1 steel handle;
- 1 steel finger pull.¹⁷

The kits also include various fasteners and tools for assembly of the product.

RELEVANT SCOPE DETERMINATIONS

Geodesic Domes Kits Scope Ruling¹⁸

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 the ruling, the Department explained that the product at issue met the “initial requirements for inclusion into the finished goods kit exclusion.”¹⁹ 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.”²⁰ 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.²¹

¹⁵ See Supplemental Response, at 2.

¹⁶ See Scope Request, at 2.

¹⁷ *Id.*, at Exhibit 1.

¹⁸ See Memorandum, “Final Scope Ruling on J.A. Hancock, Inc.’s Geodesic Structures,” dated July 17, 2012 (Geodesic Domes Kits Scope Ruling); *see also* Memorandum, “Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China: Prior Scopes Rulings Relevant to the Vantage Point Barn Door Hardware Kits Scope Ruling,” dated concurrently with this scope ruling (Prior Scopes Memorandum).

¹⁹ See Geodesic Domes Kits Scope Ruling, at 7.

²⁰ *Id.*

²¹ *Id.*

SMVC Kits Scope Rulings²²

At issue in the scope ruling were certain side-mount valve controls (SMVC) kits that are used in pumping apparatuses that attached to fire engines. The requestor argued that an SMVC kit, as imported, contains all the components necessary to complete the product and that all SMVC components and hardware are fully fabricated and require no further finishing or fabrication prior to being assembled. On this basis, the requestor argued that the product in question met the exclusion criteria for “finished goods kits.”²³

In the scope ruling, the Department explained that, upon further reflection of the language in the scope of the *Orders*, it was revising the manner in which it determines whether a given product is “finished merchandise” or a “finished goods kit.” The Department explained that it identified a concern with its prior analysis, namely that it may lead to unreasonable results. The Department explained that an interpretation of “finished goods kit” which requires all parts to assemble the ultimate downstream product may lead to absurd results, particularly where the ultimate downstream product is, for example, a fire truck. The Department explained that such an interpretation may expand the scope of the *Orders*, which are intended to cover aluminum extrusions.²⁴

The Department determined that the scope, taken as a whole, indicates that “subassemblies” (*i.e.*, “partially assembled merchandise”) may be excluded from the scope provided that they enter the United States as “finished merchandise” or a “finished goods kits” and that the “subassemblies” require no further “finishing” or “fabrication.” Therefore, the Department analyzed whether the SMVC kits at issue constituted a subassembly that enters the United States as a “finished goods kit.” In order for the SMVC kit to be excluded from the scope of the *Orders*, the Department found that: (1) the SMVC kit must contain all of the parts necessary to assemble a complete SMVC; (2) all of the components and hardware of the SMVC kit must be fully fabricated and required no further finishing or fabrication prior to being assembled; and (3) once assembled, the SMVC must be ready for use in conjunction with the downstream product upon installation.²⁵ Based on this analysis, the Department found that the SMVC kits at issue met the exclusion criteria for subassemblies that enter the United States as “finished goods kits.”²⁶

Motorized Arm Set Kits Scope Ruling²⁷

At issue in this ruling were Pacific Product’s motorized arm set kits used for retraction and opening of recreational vehicle (RV) or trailer awnings (rather than by manual crank). As

²² See Memorandum, “Initiation and Preliminary Scope Ruling on Side Mount Valve Controls,” dated September 24, 2012 (Preliminary SMVC Kits Scope Ruling), unchanged in Memorandum, “Final Scope Ruling on Side Mount Valve Control Kits,” dated October 26, 2012 (together, SMVC Kits Scope Rulings); *see also* Prior Scopes Memorandum.

²³ See Preliminary SMVC Kits Scope Rulings, at 2.

²⁴ *Id.*, at 7.

²⁵ *Id.*

²⁶ *Id.*, at 7-8.

²⁷ See Memorandum, “Final Scope Ruling on Pacific Product Solutions’ Motorized Arm Set Kits,” dated November 4, 2015 (Motorized Arm Set Kits Scope Ruling); *see also* Prior Scopes Memorandum.

imported, the motorized arm set kits consisted of two fully-assembled motorized arms and all hardware necessary for installation of the arms to RVs or trailers, comprised of sixteen parts made of copper, zinc, aluminum, steel, and plastic. The motorized arm kits were not imported with the awning canopies or roller bars as the motorized arms are sold as stand-alone products at all levels of distribution and retail. Pacific Product argued that its motorized arm kits should be excluded from the *Orders* as finished goods kits.²⁸ The Department found that the motorized arm sets meet the exclusion criteria for “finished goods kits” because: (a) they contained, upon importation, non-aluminum extrusion components beyond fasteners; (b) they were subassemblies, imported as a packaged kit, containing all of the components needed to fully assemble a final “finished good” motorized arm which can be installed on an RV; and (c) the awnings and roller bars were interchangeable with other such awnings and roller bars such that it would be unreasonable to require the inclusion of roller bars and awnings at the time of importation (awnings in particular being customizable pieces to be added or changed by end users according to changing preferences).²⁹

Banner Stands and Back Wall Kits Scope Ruling³⁰

This ruling addressed banner stands and back wall kits, used to showcase graphics and other marketing materials. The requestor argued that the banner stands and back wall kits fell outside the scope of the *Orders* because they met the exclusion criteria of the scope of the *Orders*, namely that the products at issue constituted “finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry.”

In the ruling, the Department found that the banner stands and back wall kits met the exclusion criteria.³¹ The Department explained that the products at issue contained all of the parts required to assemble a completed exhibition frame on which printed graphical materials may be hung and, thus, met the exclusion criteria in the scope of the *Orders* for “finished goods kits.”³²

Furthermore, the Department agreed with the requestor’s claim that the products at issue were analogous to completed picture frames, which are explicitly excluded from the scope of the *Orders*.³³ Specifically, the Department found that the products at issue were designed to incorporate interchangeable graphical materials that can change with users’ needs. Therefore, the Department concluded it would be unreasonable to require that the products at issue be accompanied at the time of importation with affixed graphical material that could not be removed or altered at a later date.³⁴

²⁸ See Motorized Arm Set Kits Scope Ruling, at 6.

²⁹ *Id.*, at 11-12.

³⁰ See Memorandum, “Final Scope Ruling on Banner Stands and Back Wall Kits,” dated October 19, 2011 (Banner Stands and Back Wall Kits Scope Ruling); see also Prior Scopes Memorandum.

³¹ See Banner Stands and Back Wall Kits Scope Ruling, at 9-10.

³² *Id.*, at 9.

³³ *Id.*, at 10.

³⁴ *Id.*

Lockfast's Banner Stands Scope Ruling³⁵

This ruling addressed banner stands used to showcase graphics and other marketing materials. The requestor argued that its banner stands fell outside the scope of the *Orders* because they met the exclusion criteria of the scope of the *Orders*, namely that the products at issue constituted a “finished goods kit” because they contain all of the parts required to assemble a completed exhibition on which a replaceable graphical banner may be displayed.³⁶

In the ruling, the Department found that the banner stands met the exclusion criteria.³⁷ The Department explained that the products at issue (1) contained all of the parts required to assemble a finished banner stand at the time of importation, and (2) required no re-sorting or re-packaging of components upon importation, nor did they require further finishing or fabrication prior to use. Accordingly, the Department concluded that the products met the exclusion criteria in the scope of the *Orders* for “finished goods kits.”

Furthermore, the Department agreed with the requestor's claim that the products at issue were analogous to banners that were also found to be excluded from the scope of the *Orders*.³⁸ Specifically, the Department found that the products at issue were designed to incorporate interchangeable graphical materials that can change with users' preferences. Therefore, the Department concluded it would be unreasonable to require that the products at issue be accompanied at the time of importation with affixed graphical materials (*i.e.*, custom graphic banners).³⁹

Solar Panel Mounting Systems Scope Ruling⁴⁰

At issue in this ruling were solar panels mounting systems comprised of extruded aluminum rails as well as extruded and cast aluminum kedges, galvanized steel posts, and various steel bolts, clamps, and brackets.⁴¹ In the ruling, the Department found that the products at issue contained, at the time of importation, all of the parts necessary to fully assemble a finished good without further fabrication. The Department also found that these products could be assembled “as is” into finished products for mounting solar panels. The Department further found that, like picture frames and banner stands and back wall kits, the mounting systems were designed to work with removable/replaceable components, and need not include these removable/replaceable components to constitute a finished good. Thus, the Department concluded that the products at issue were not subject to the *Orders* because they met the criteria for exclusion from the *Orders* as finished goods kits.⁴²

³⁵ See Memorandum, “Final Scope Ruling on Lockfast, Inc.'s Banner Stands,” dated June 16, 2016 (Lockfast's Banner Stands Scope Ruling); *see also* Prior Scopes Memorandum.

³⁶ See Lockfast's Banner Stands Scope Ruling, at 8.

³⁷ *Id.*, at 9.

³⁸ *Id.*, at 10.

³⁹ *Id.*

⁴⁰ See Memorandum, “Final Scope Ruling on Clenergy (Xiamen) Technology's Solar Panel Mounting Systems,” dated October 31, 2012 (Solar Panel Mounting Systems Scope Ruling); *see also* Prior Scopes Memorandum.

⁴¹ See Solar Panel Mounting Systems Scope Ruling.

⁴² *Id.*, at 8-9.

INTERESTED PARTY COMMENTS

VantagePoint's Comments

VantagePoint contends that the company's Barn Door Hardware Kits are excluded from the scope of the *Orders* as a "finished goods kit."⁴³ In its Scope Request, VantagePoint claims that the Barn Door Hardware Kits are complete kits which contain both extruded aluminum components, as well as non-extruded aluminum components beyond fasteners.⁴⁴ According to VantagePoint, the "non-extruded aluminum parts include pieces integral to the barn door functionality such as a hanger, soft close mechanism assembly, finger pull and door handle."⁴⁵ As for the screws and parts that would be considered "fasteners," VantagePoint argues that they "are not 'merely fasteners,' but... integral to the Barn Door Hardware Kit's functionality."⁴⁶ VantagePoint applies the test established in the Geodesic Domes Kits Scope Ruling,⁴⁷ that a kit must consist of more than just aluminum pieces and fasteners, and finds its Barn Door Hardware Kits more analogous to the products in the Motorized Arm Set Kits Scope Ruling.⁴⁸ VantagePoint states that its Barn Door Hardware Kits, like the products at issue in the Motorized Arm Set Kits Scope Ruling, contain extruded aluminum components and non-extruded aluminum parts integral to the product's functionality.⁴⁹

VantagePoint also claims that its Barn Door Hardware Kits include "all parts for installation at the time of importation" and do not "require any finishing or fabrication."⁵⁰ Furthermore, as VantagePoint states, all of the individual parts and components are "fully finished and packaged together in one box at the time of importation."⁵¹

Additionally, VantagePoint argues that its Barn Door Hardware Kits are completed subassemblies and excluded from the *Orders* as finished goods kits under the Department's approach in the SMVC Kits Scope Rulings.⁵² Quoting from those decisions, VantagePoint claims that "the Department has applied the finished goods exclusion to finished subassemblies that are incorporated into or with other articles after importation."⁵³ According to VantagePoint, its Barn Door Hardware Kits should, therefore, be excluded because they are "designed to be assembled by the customer and installed to a door opening with common tools, after importation, to form a barn style sliding door."⁵⁴

Finally, VantagePoint claims that although a door and backerboard are not included with the company's Barn Door Hardware Kit, the Department has previously found that the finished

⁴³ See Scope Request, at 7.

⁴⁴ *Id.*, at 5.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*, at 5 (citing Geodesic Domes Kits Scope Ruling).

⁴⁸ *Id.*, at 5 (citing Motorized Arm Set Kits Scope Ruling).

⁴⁹ *Id.*, at 5

⁵⁰ *Id.*

⁵¹ *Id.*, at 6.

⁵² *Id.*, at 6 (citing SMVC Kits Scope Rulings).

⁵³ *Id.*, at 6.

⁵⁴ *Id.*

goods kit exclusion allows for the use of customizable components with the kit.⁵⁵ According to VantagePoint, in the Motorized Arm Set Kits Scope Ruling, the Department concluded that customizable pieces may be modified in accordance with a customer's preference and are not necessary for a kit to be considered complete.⁵⁶ VantagePoint also references additional scope rulings in support of this argument, including the Banner Stands and Back Wall Kits Scope Ruling,⁵⁷ Lockfast's Banner Stands Scope Ruling,⁵⁸ and the Solar Panel Mounting Systems Scope Ruling.⁵⁹

JELD-WEN's Comments

JELD-WEN is a domestic supplier of window and door products, and purchaser of VantagePoint's Barn Door Hardware Kits. JELD-WEN argues that VantagePoint's Barn Door Hardware Kits satisfy all of the criteria of the "finished goods kit" exclusion to the *Orders*. According to JELD-WEN, VantagePoint's Barn Door Hardware Kits deliver "a complete hardware solution in one package for hanging doors."⁶⁰ JELD-WEN further claims that the consumer "need not perform any re-sizing or other modification of the barn door hardware."⁶¹ Indeed, the consumer only provides a door and backerboard, which JELD-WEN contends are never considered as hardware components in the industry.⁶²

Additionally, JELD-WEN points out that there is a high market demand for a product such as that imported by VantagePoint. As such, JELD-WEN argues that "any ruling by the Department that fails to exclude VantagePoint's Barn Door Hardware Kit from the increased import duty under the *Orders* would unduly hurt U.S. purchasers and the ultimate U.S. consumer."⁶³

No other interested parties, including the Aluminum Extrusions Fair Trade Committee, submitted comments on this scope ruling request.

DEPARTMENT'S POSITION

We examined the language of the *Orders* and the description of the products contained in the Scope Request, as well as previous rulings made by the Department. We find that the description of the products, the scope language, and 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, we find 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, VantagePoint's Barn Door Hardware Kits, meet the exclusion criteria for a "finished goods kit" covered by the scope of the *Orders*.

⁵⁵ *Id.*, at 7 (citing Motorized Arm Set Kits Scope Ruling); *see also* Supplemental Response, at 2.

⁵⁶ *Id.*

⁵⁷ *Id.*, at 7 (citing Banner Stands and Back Wall Kits Scope Ruling).

⁵⁸ *Id.*, at 7 (citing Lockfast's Banner Stands Scope Ruling).

⁵⁹ *Id.*, at 7 (citing Solar Panel Mounting Systems Scope Ruling).

⁶⁰ *See* JELD-WEN Supporting Statement, at 2.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

While JELD-WEN discusses the market demand for this product and the potential negative effects a non-favorable scope ruling would have on consumers, under 19 CFR 351.225(k)(1), we do not consider the downstream purchaser in determining if a product is within or outside the scope of an order. The only issue before the Department in this case is if the product for which a scope ruling was requested is or is not within the scope of the *Orders*.

In determining if the finished goods kit exclusion applies in this case, we analyzed whether the Barn Door Hardware Kits meet the test described in the Geodesic Domes Kits Scope Ruling, meaning that the product at issue contains, upon importation, non-aluminum extrusion components beyond mere fasteners. The list of components in VantagePoint's Scope Request, and affirmed in its Supplemental Response, demonstrates that, in addition to extruded aluminum components, the Barn Door Hardware Kits contain non-extruded aluminum parts beyond mere fasteners, such as a steel track, steel end stops, steel and plastic soft-close mechanisms, and steel hangers, which are all integral components of the kit.⁶⁴ Similar to the Department's determination in Motorized Arm Set Kits Scope Ruling, here, we find that VantagePoint's Barn Door Hardware Kits contain components that are composed of non-extruded aluminum material, which are integral to the product. For example, the steel track and steel hangers are necessary for the product's function of allowing the door to slide across the door opening.⁶⁵

Next, we considered whether VantagePoint's Barn Door Hardware Kits meet the definition of 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 and requires no further finishing or fabrication, such as cutting or punching, and is assembled "as is" into a finished product." Based on the description of the product in its assembled "kits" state, coupled with the corresponding photographs and rendering in VantagePoint's Scope Request,⁶⁶ we find that the parts contained in the Barn Door Hardware Kits are ready to be fully assembled into a final finished product in an "as is" state upon importation. Therefore, consistent with the Department's analysis in the Solar Panel Mounting Systems Scope Ruling and the Banner Stands and Back Wall Kits Scope Ruling, VantagePoint's Barn Door Hardware Kits are "finished goods kits," as that term is defined in the scope of the *Orders*.

Furthermore, we agree with VantagePoint's assessment that its kits are similar to the products at issue in the SMVC Kits Scope Rulings and Solar Panel Mounting Systems Scope Ruling, in that these are complete kits lacking only interchangeable items, which are designed to be chosen and customized by the end consumer.

Accordingly, we agree with VantagePoint that its Barn Door Hardware Kits meet the requirements of a "finished goods kit" and are excluded from the scope of the *Orders*. Because we find that VantagePoint's Barn Door Hardware Kits constitute "finished goods kits" we do not find it necessary to address VantagePoint's argument that its kits are subassemblies, which are later integrated into a larger product or downstream system.

⁶⁴ See Scope Request, at Exhibit 1; *see also* Supplemental Response, at 1.

⁶⁵ See Scope Request, at Exhibit 1.

⁶⁶ *Id.*, at Exhibit 2 and Exhibit 3.

RECOMMENDATION

For the reasons discussed above, and in accordance with 19 CFR 351.225(d) and 19 CFR 351.225(k)(1), we recommend finding that VantagePoint’s Barn Door Hardware Kit is imported as an unassembled kit that meets the criteria for a “finished goods kit,” and, therefore, this product is not subject to the scope of the *Orders*.

If the recommendation in this memorandum is 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).

Agree

Disagree

5/19/2017

X 

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations