



C-570-968/A-570-967

Scope Ruling:

Woodard Dining Chair Kits

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June 19, 2017

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

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

Erin Kearney
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FROM: Tom Bellhouse
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SUBJECT: Antidumping and Countervailing Duty Orders on Aluminum
Extrusions from the People's Republic of China: Final Scope
Ruling on Woodard Dining Chair Kits

Summary

On August 16, 2016, the Department of Commerce (the Department) received a scope ruling request from Woodard CM-LLC¹ (Woodard), requesting that the Department find that Woodard's Dining Chair Kits (Chair Kits) are outside the scope of the AD and CVD orders on aluminum extrusions from the PRC.² On the basis of our analysis of the comments received, we determine that Woodard's Dining Chair Kits are within the scope of the *Orders*.

¹ See Letter from Woodard CM-LLC, "Application for Scope Ruling – Corrected Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China (A-570-967 and C-570-968)," dated August 16, 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 August 16, 2016, Woodard submitted its request for the Department to issue a scope ruling finding that Woodard's Chair Kits are outside the scope of the *Orders*.³ On September 12, 2016, the American Home Furnishings Alliance (AHFA) submitted comments in support of Woodard's August 16, 2016, scope ruling request.⁴ On September 16, 2016, the Aluminum Extrusions Fair Trade Committee (the petitioner) submitted comments concerning Woodard's scope request.⁵ On September 26, 2016, Woodard responded to the petitioner's September 16, 2016, comments.⁶ On October 3, 2016,⁷ November 22, 2017,⁸ March 7, 2017,⁹ and April 27, 2017,¹⁰ the Department issued supplemental questionnaires to Woodard for clarification of its Scope Request, to which Woodard responded on October 10, 2016,¹¹ December 19, 2016,¹² March 13, 2017,¹³ and May 9, 2017,¹⁴ respectively.

³ See Scope Request.

⁴ See Letter from AHFA, "Aluminum Extrusions from the People's Republic of China: Comments in Support of Scope Ruling Request on Woodard CM-LLC Belden Dining Chair Kit," dated September 12, 2016 (AHFA Scope Request Comments).

⁵ See Letter from the petitioner, "*Aluminum Extrusions from the People's Republic of China: Comments on Woodard's Scope Determination Request*," dated September 16, 2016 (Petitioner Comments on Scope Ruling Request).

⁶ See Letter from Woodard CM-LLC, "Application for Scope Ruling – Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China (A-570-967 and C-570-911) Woodard CM-LLC Belden Dining Chair Kit Comments in Rebuttal," dated September 26, 2016 (Rebuttal to Comments on Scope Ruling Request).

⁷ See Letter to Woodard, "Aluminum Extrusions from the People's Republic of China: Supplemental Questionnaire on Woodard Dining Chair Kit," dated October 3, 2016 (First Supplemental Questionnaire).

⁸ See Letter to Woodard, "Aluminum Extrusions from the People's Republic of China: Second Supplemental Questionnaire on Woodard Dining Chair Kit," dated November 22, 2016 (Second Supplemental Questionnaire).

⁹ See Letter to Woodard, "Aluminum Extrusions from the People's Republic of China: Third Supplemental Questionnaire on Woodard Dining Chair Kit," dated March 7, 2017 (Third Supplemental Questionnaire).

¹⁰ See Letter to Woodard, "Aluminum Extrusions from the People's Republic of China: Fourth Supplemental Questionnaire on Woodard Dining Chair Kit," dated April 27, 2017 (Fourth Supplemental Questionnaire).

¹¹ See Letter from Woodard, "Application for Scope Ruling – Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China (A-570-967 and C-570-911) Woodard CM-LLC Belden Dining Chair Kit Response to Dept. of Commerce Questions," dated October 10, 2016 (First Supplemental Questionnaire Response).

¹² See Letter from Woodard, "Application for Scope Ruling – Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China (A-570-967 and C-570-968) Woodard CM-LLC Belden Dining Chair Kit Response to Dept. of Commerce Supplemental Questions," dated December 19, 2016 (Second Supplemental Questionnaire Response).

¹³ See Letter from Woodard, "Application for Scope Ruling – Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China (A-570-967 and C-570-968) Woodard CM-LLC Belden Dining Chair Kit Response to Dept. of Commerce Third Set of Supplemental Questions," dated March 13, 2017 (Third Supplemental Questionnaire Response).

¹⁴ See Letter from Woodard, "Application for Scope Ruling – Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China (A-570-967 and C-570-968) Woodard CM-LLC Belden Dining Chair Kit Response to Dept. of Commerce Fourth Set of Supplemental Questions," dated May 9, 2017 (Fourth Supplemental Questionnaire Response).

On January 30, 2017, the Department issued a letter to Woodard notifying them of the improper filing of certain documents on the record of this scope proceeding.¹⁵ Woodard corrected its filing of these documents on January 31, 2017.¹⁶

On October 20, 2016, the petitioner submitted comments regarding Woodard's First Supplemental Questionnaire Response.¹⁷ On March 22, 2017, the petitioner submitted comments regarding Woodard's Third Supplemental Questionnaire Response.¹⁸ On May 19, 2017, the petitioner submitted comments regarding Woodard's Fourth Supplemental Questionnaire Response.¹⁹

The current deadline for issuing this scope ruling is June 23, 2017.

SCOPE OF THE ORDERS

The merchandise covered by the order{s} 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.

¹⁵ See Letter to Woodard, "Aluminum Extrusions from the People's Republic of China: Notice of Improper Filing," dated January 30, 2017.

¹⁶ On January 30, 2017, Woodard corrected the record by filing its Scope Request and First Supplemental Questionnaire Response on the CVD and AD records for this case, respectively.

¹⁷ See Letter from the petitioner, "Aluminum Extrusions from the People's Republic of China: Comments on Woodard's Comments in Rebuttal," dated October 20, 2016 (Comments on First Supplemental Questionnaire Response).

¹⁸ See Letter from the petitioner, "Aluminum Extrusions from the People's Republic of China: Comments on Woodard's Supplemental Questionnaire Response," dated March 22, 2016 but filed March 22, 2017 (Comments on Third Supplemental Questionnaire).

¹⁹ See Letter from the petitioner, "Aluminum Extrusions from the People's Republic of China: Comments on Woodard's Supplemental Questionnaire Response," dated May 19, 2017 (Comments on Fourth Supplemental Questionnaire).

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 these *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 these *Orders* is dispositive.

LEGAL FRAMEWORK

When a request for a scope ruling is filed, the Department examines the scope language of the order{s} at issue and the description of the product contained in the scope-ruling request.²⁰ 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.²¹ 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.²²

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

Woodard’s Chair Kits, as imported, are composed of an aluminum frame consisting of seven components of series 6063 extruded aluminum profiles, as indicated in the following chart:²³

Item Number	Description	Quantity
13.340114H	Aluminum Low Back Rail Left	1
13.340124H	Aluminum Low Back Rail Right	1
13.50730	20-13/16" Aluminum Brace	1
13.6241RH	Aluminum Dining Side Right	1
13.62401LH	Aluminum Dining Side Left	1
13.50740M	21-1/4" Aluminum Brace	2

Woodard states that its “Chair Kit is for the Belden Sling Dining Chair, and consists of an aluminum frame. The pieces are fully formed in China.”²⁴ Woodard also states that “{n}o

²⁰ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

²¹ See 19 CFR 351.225(k)(1).

²² See 19 CFR 351.225(d).

²³ See First Supplemental Questionnaire Response, at 3.

²⁴ See Scope Request, at 4.

further manufacturing will be done to them, and the pieces will not change shape or function. The frame pieces will be painted or powder coated, polished and assembled in the United States.”²⁵

Woodard explains that the Chair Kits do not include any non-extruded aluminum components beyond mere fasteners at the time of importation.²⁶ Woodard further states that the Chair Kits are designed to be fitted with a woven textile fabric sling which is “made at Woodard’s factory using U.S. fabrics and is added to the frame after importation.”²⁷ The Chair Kits are also fitted with four stainless steel bolts, plastic end caps and plastic foot glides which are not included with the other component parts of the Chair Kits at the time of import.²⁸

Woodard states that the “nuts and bolts, plastic caps and powder paint are usually not in the imported kit but can be included,” and that “the powder paint is not a required part of the Chair Kit’s assembly and is added solely to make the final chair appeal to consumers in a fashion-driven market.”²⁹ Woodard adds that, in its Scope Request, the terms “powder painting” and “powder coating” “are the same and are used interchangeably.”³⁰

In its Fourth Supplemental Questionnaire Response, Woodard clarifies that it “imports no other miscellaneous bolts, nuts, plastic end caps or plastic foot glides as part of its existing Belden Sling Chair Kit,” adding that “these miscellaneous parts are not included with the existing Belden Chair Kit parts at the time of import.”³¹

Woodard further states that after importation, the “basic Chair Kit is assembled using small tack weld,” but that the “basic structure, shape and form of the Chair Kit’s parts are not changed in any manner post importation.”³²

RELEVANT SCOPE DETERMINATIONS

Geodesic Domes Kits³³

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.

²⁵ See Scope Request, at 4-5; see also First Supplemental Questionnaire Response, at 3.

²⁶ See First Supplemental Questionnaire Response, at 2.

²⁷ See Scope Request, at 5 and 8.

²⁸ See Fourth Supplemental Questionnaire Response, at 5.

²⁹ See First Supplemental Questionnaire Response, at 2.

³⁰ See Third Supplemental Questionnaire Response, at 3.

³¹ See Fourth Supplemental Questionnaire Response, at 8.

³² See First Supplemental Questionnaire Response, at 4.

³³ See Memorandum, “Final Scope Ruling on J.A. Hancock, Inc.’s Geodesic Structures,” dated July 17, 2012 (Geodesic Domes Kits Scope Ruling); see also Prior Scopes Memorandum.

In the ruling, the Department explained that the product at issue met the “initial requirements for inclusion into the finished goods kit exclusion.”³⁴ 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.”³⁵ The Department found that since the products at issue consisted solely of extruded aluminum and fasteners, the exception to the exclusion provision applied. Accordingly, the Department found that the products at issue did not meet the exclusion criteria for a finished goods kit.³⁶

Circle Glass Co. Patio Door Kits³⁷

This ruling addressed patio door kits, consisting of an extruded aluminum door frame without a screen, several non-extruded aluminum components beyond mere fasteners, and several fastener components. The patio door kit contained all components necessary to assemble a patio screen door and mount it to a doorway – except the screen, which is purchased separately. Circle Glass Co. (Circle Glass) argued that the fact that the patio door kit did not include the screen is insufficient to render the product unfinished. Circle Glass further argued that the screen was not essential to the structural integrity of the door and could be purchased separately by the end consumer, and thus the patio door kit should qualify for the finished goods kit exclusion.

In the pertinent ruling, the Department found that the patio door kits did not meet the exclusion criteria for a finished goods kit.³⁸ The Department found that the screen for the product at issue was akin to the glass or vinyl discussed in the scope of the *Orders*, and that without the screen, the patio door kits did not meet the exclusion criteria, *i.e.*, that “all of the necessary parts to fully assemble a final finished good” are included in the finished goods kit.³⁹

Circle Glass appealed the Department’s decision, and the Court of International Trade (CIT) affirmed the Department’s scope ruling. The CIT held that the product at issue was a kit for an “empty door frame,” and “not a ‘complete’ screen door,” meaning that the kits “do not fit within the ‘finished goods kits’ exclusion in the *Orders*.”⁴⁰

Scissor Struts Scope Ruling⁴¹

At issue in this ruling were three scissor strut products composed of either aluminum extrusions alone or aluminum extrusions attached by a fastener. The requestor argued that, depending on

³⁴ See Geodesic Domes Kits Scope Ruling, at 7.

³⁵ *Id.*

³⁶ *Id.*

³⁷ See Memorandum, “Final Scope Ruling on Circle Glass Co.’s Screen and Storm Door Grille and Patio Door Kits,” dated December 5, 2014 (Patio Door Kits Scope Ruling); see also Prior Scopes Memorandum, dated concurrently with this document.

³⁸ See Patio Door Kits Scope Ruling, at 13-14.

³⁹ *Id.*

⁴⁰ *Circle Glass Company v. United States*, Slip Op. 16-39 (CIT April 20, 2016), at 8.

⁴¹ See Memorandum, “Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China: Final Scope Ruling on Immediate Response Technologies’ Scissor Struts,” dated November 18, 2015 (Scissor Struts Scope Ruling).

the model, its scissor struts constituted either finished goods, or could be part of a finished goods kit, as defined by the scope, because the merchandise required no further finishing or fabrication following importation and thus was either completed merchandise or could be assembled as is into finished merchandise.

The Department found that the merchandise was ineligible under the exclusion for finished merchandise because they were composed of either aluminum extrusions alone, or contained no non-extruded aluminum components beyond mere fasteners. Furthermore, the Department ruled that scissor struts imported as a kit did not meet the “finished goods kits” exclusion because: (1) they did not contain non-extruded material beyond mere fasteners; and (2) they are imported as either single pieces of extruded aluminum or two pieces of extruded aluminum already attached by a fastener, instead of entering the United States as a packaged combination of parts that contains, at the time of entry, all of the necessary parts to fully assemble a final finished good, and is assembled “as is” into a finished product.

Meridian Trim Kits Scope Ruling⁴²

Meridian requested that the Department exclude its trim kits which are utilized as an aesthetic frame around the perimeter of home appliances such as refrigerators and freezers. The Department determined that the non-extrusion component of Meridian’s Trim Kits consisted entirely of an assembly tool, fasteners, and an instruction booklet.⁴³ Because the Department found that the trim kits only included aluminum extrusions, “fasteners used in the assembly of the trim kit,” and extraneous materials, the Department determined that the product was covered by the scope of the *Orders* and was not subject to the finished goods kit exclusion based on the scope language that indicated an aluminum extrusion product with mere fasteners would not qualify for the exclusion. In *Meridian Products II*, the Federal Circuit affirmed the Department’s initial scope ruling, reversing and vacating the prior decisions of the CIT which had remanded the Department’s original determination in the Meridian Trim Kits Ruling.⁴⁴

INTERESTED PARTY COMMENTS

Woodard’s Comments

In its Scope Request, Woodard argues that the Chair Kits meet the criteria for exclusion from the scope of the *Orders* as a “finished goods kit” because, as imported, the product is “an unassembled chair, not merely pieces of aluminum.”⁴⁵ Woodard asserts that the Chair Kits are “identifiable and ready to function as a chair upon its assembly in the U.S.”⁴⁶ Woodard also states that the Chair Kits contain “all the necessary metal parts to assemble the finished chair,

⁴² See Memorandum, “Final Scope Ruling on Refrigerator/Freezer Trim Kits,” dated December 17, 2012 (Meridian Trim Kits Ruling).

⁴³ *Id.*

⁴⁴ See *Meridian Products, LLC v. United States*, 77 F. Supp. 3d 1307 (CIT 2015) (*Meridian Products*), reversed by *Meridian Products LLC v. United States*, 851 F.3d 1375 (CAFC 2017) (*Meridian Products II*).

⁴⁵ See Scope Request, at 6.

⁴⁶ *Id.*

requir{ing} no further cutting or punching and is assembled into a finished chair,” and that the “Chair Kit pieces will serve no other purpose than a chair.”⁴⁷

With regard to the fabric sling component, Woodard argues that, although the fabric sling is added after importation, the Chair Kits are clearly identifiable as chairs, regardless of the sling. The sling component, according to Woodard, constitutes a “less essential” component and contributes significantly less, in terms of both weight and value, to the assembled Belden Sling Dining Chair than the extruded aluminum Chair Kits components.⁴⁸

Woodard further argues that the Chair Kits are usable without the sling.⁴⁹ In its First Supplemental Questionnaire Response, Woodard states that the “assembled Chair Kit does not require a sling to make the chair functional,” and that the assembled Chair Kits may function as a chair using cushions common in the outdoor furniture market.⁵⁰

Woodard cites to *Meridian Products* in arguing that the “finished goods kit” exemption “does not require that the kit contain non-extruded parts, it can have all extruded parts if they are ready for final assembly in the U.S. without further working.”⁵¹ Woodard contends that its Chair Kits also satisfy the criteria for the “finished goods kit” exemption in this way.⁵²

Woodard further argues that its Chair Kits are “not within the class of goods sought to be protected by petitioners,” as considered under 19 CFR 351.225(k)(2) because: 1) the Chair Kits do not share physical characteristics with in-scope products, 2) the expectations of the ultimate purchaser of Chair Kits is different from those purchasing in-scope products, 3) the Chair Kits provide a different ultimate use than in-scope products, and 4) the Chair Kits are sold through a different channel of trade than in-scope merchandise.⁵³

Woodard refutes the petitioner’s assertions that its Chair Kits are “extruded aluminum lengths,” stating that “they are fully-formed parts of an aluminum chair frame not simple lengths.”⁵⁴ Woodard states that its “chair *kit* is excluded” and that it “is not importing any aluminum chair frame parts individually.”⁵⁵ Woodard also stated that the “fully formed aluminum frame parts contain the most essential elements of a chair,” and are “not a sub-part of the chair or mere outline of a chair. It is the chair. Even without the simple piece of fabric, the frame, when assembled, rests on the ground and bears the weight of any object or person placed on it or in it.”⁵⁶ Woodard also states that the chair frame is usable by consumers with any large cushion or cushions, and that the sling is not, as the petitioner asserts, the most critical component that allows the chair to be used as intended.⁵⁷

⁴⁷ *Id.*, at 7.

⁴⁸ *Id.*, at 5.

⁴⁹ *Id.*

⁵⁰ See First Supplemental Questionnaire Response, at 2.

⁵¹ See Scope Request, at 7, citing *Meridian Products*; Rebuttal to Comments on Scope Ruling Request, at 3-4.

⁵² *Id.*, at 7.

⁵³ See First Supplemental Questionnaire Response, at 7-9.

⁵⁴ See Rebuttal to Comments on Scope Ruling Request, at 2.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*, at 3.

AHFA Comments

The AHFA submitted comments in support of Woodard’s Scope Request as an interested party as outlined under 19 CFR 351.102(a)(29)(iii). AHFA reiterates that the “Chair Kit does not fit the description of the products subject to the orders and is expressly excluded as a ‘finished goods kit.’ Because it is imported with ‘all the necessary metal parts to assemble the finished chair, requires no further cutting or punching and is assembled into a finished chair.’”⁵⁸

Petitioner Comments

The petitioner argues that Woodard’s Chair Kits do not constitute a “finished goods kit,” and are, thus, ineligible for exclusion from the scope of the *Orders*. The petitioner describes Woodard’s Chair Kits as “an incomplete chair kit comprised solely of a group of subject extruded aluminum lengths and fasteners.”⁵⁹ The petitioner states that “the aluminum frame pieces that comprise its Chair Kit fit within the purview of the scope of the *Orders*, as they are comprised entirely and solely of extruded aluminum matching the description of subject merchandise set forth in the *Orders*.”⁶⁰

The petitioner contends that the sling component of the Chair Kits, which is added after importation, is a critical component of the kit and, thus, the Chair Kits cannot be assembled “as is” into a finished goods kit upon import. The petitioner explains that Woodard’s Chair Kits are “at best, a collection of components that create but a sub-part of the completed product.”⁶¹ The petitioner further states that “the chair is unusable without the sling,” and that the Chair Kits cannot be considered a “finished goods kit” if they do not contain “all of the necessary components to make a completed chair that is ready to use ‘as is’ without any further finishing or fabrication.”⁶² The petitioner analogizes Woodard’s Chair Kit to the Patio Door Kits examined in the Patio Door Kits Scope Ruling, arguing that the Chair Kit is not only incomplete, but “is missing an even more obvious and critical component: the very seat of the chair.”⁶³

The petitioner takes issue with Woodard’s assertion that its Chair Kit requires no further finishing or fabrication. The petitioner argues that “{p}ainting and polishing are expressly covered as examples of finishing that can be applied to subject extruded aluminum products;” thus, because “Woodard’s Chair Kit components must undergo additional finishing – specifically, painting and polishing – after importation before they are actually ‘finished’ in the eyes of the scope and the Department,”⁶⁴ Woodard cannot claim that its Chair Kit can be assembled “as is” into a finished product.⁶⁵

⁵⁸ See AHFA Scope Request at page 2 (quoting Woodard Scope Request at 7).

⁵⁹ See Petitioner Comments on Scope Ruling Request, at 2.

⁶⁰ *Id.*, at 4.

⁶¹ *Id.*, at 5.

⁶² *Id.*, at 6.

⁶³ *Id.*, at 8.

⁶⁴ *Id.*, at 8-9 (citing Scissor Strut Scope Ruling).

⁶⁵ See Petitioner Comments on Scope Ruling Request, at 6-7.

The petitioner also disagrees with Woodard’s “reliance on the determination reached in *Meridian Products LLC v. United States*.” The petitioner argues that the case remains on appeal before the U.S. Court of Appeals for the Federal Circuit. The petitioner also argues that “the product at issue in the *Meridian* case was imported with all of its components, unlike Woodard’s Chair Kit.”⁶⁶

In its Comments on Third Supplemental Questionnaire and Comments on Fourth Supplemental Questionnaire, the petitioner reiterated its reasoning from previous submissions regarding the ineligibility of Woodard’s Chair Kits for exclusion from the scope of the *Orders*. In particular, the petitioner claims that “{w}hether or not Woodard’s dining chairs could plausibly be used with other cushions is inapposite. What is critical is that Woodard sells its dining chair to customers after assembling the aluminum frame parts it imports with the textile sling it produces in the United States, as illustrated in the website excerpts of the final finished dining chair that Woodard sells.”⁶⁷

DEPARTMENT POSITION

We examined the language of the *Orders* and the description of the products contained in Woodard’s Scope Request and supplemental questionnaire responses, 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, Woodard’s Chair Kits, do not meet the exclusion criteria identified in the scope of the *Order* and, as such, are included within the scope.

As an initial matter, we note that the series 6063 extruded aluminum profiles contained in Woodard’s Chair Kits meet the description of products included within the scope of the *Orders* because they are shapes or 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, or 6. We next analyzed whether the Chair Kits meet the criteria for the scope exclusions provided in the scope of the *Orders*.

As noted above, the scope of the *Orders* explicitly excludes “finished goods kits” which are defined 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.” The scope also provides that 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.

⁶⁶ *Id.*, at 9.

⁶⁷ See Comments on Fourth Supplemental Questionnaire Response, at 4 (citing Third Supplemental Questionnaire Response, at Attachment 3).

We first considered whether the Chair Kits meet the definition of a “finished goods kit” as defined by the *Orders*.

Based on the product information provided by Woodard, we find that the Chair Kits do, in fact, require further finishing before being assembled into a finished product. The *Orders* refer to the “variety of finishes (both coatings and surface treatments)” of subject merchandise, stating that “{t}he 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.”⁶⁸ The scope also states that the “subject merchandise includes aluminum extrusions that are finished (coated, painted, etc.), fabricated, or any combination thereof.”⁶⁹ Painting and powder coating are expressly considered “finishes” under the scope; therefore, a plain reading of the scope indicates that painting or powder coating after importation must be considered “further finishing.” The information submitted by Woodard demonstrates that its Chair Kits are polished “principally to remove damage... caused by shipping” and treated with an electrostatic powder coating that adheres to the aluminum finish when heated.⁷⁰ We find that such powder coating and polishing of the Chair Kits constitutes “further finishing” as outlined in the scope.

We next examined whether, consistent with our test established in Geodesic Domes Kits Scope Ruling, the product consists of more than aluminum extrusions beyond mere fasteners (*e.g.*, screws, bolts, *etc.*). As Woodard indicated in its Scope Request and subsequent submissions, the Chair Kits as imported are composed solely of extruded aluminum profiles, with no additional non-extruded aluminum components. In this respect, we agree with the petitioner that Woodard’s Chair Kits are similar to the merchandise at issue in the Scissor Struts Scope Ruling, in which the Department determined that the “products either consist entirely of extruded aluminum, or extruded aluminum attached with a fastener, {thus} we have determined that they are not excluded from the scope of the *Orders*...” Accordingly, because the Chair Kits do not contain non-extruded aluminum material, we find that they do not qualify as finished goods kits, based on the Geodesic Domes Kits Scope Ruling test.

We also find that the Chair Kits do not satisfy the criteria for the “finished goods kit” exclusion due to the fact that, at the time of importation, the Chair Kits are missing several components, including stainless steel bolts, plastic end caps, plastic foot glides, and the woven fabric sling component.⁷¹ Without these components, the Chair Kits cannot be assembled “as is” into a finished product. Woodard argues that the sling component is “less essential” because its Chair Kits are usable without the sling, and that the sling represents a small fraction of both the weight and value of the finished merchandise. We find the relative weight and cost of the individual components of the Chair Kits to be irrelevant with respect to whether merchandise is covered by the scope of the *Orders*. Neither the scope of the *Orders*, nor the Department’s prior aluminum extrusions scope rulings, have considered the relative weight or cost of product components to be a determinative factor in consideration of whether the product is covered by the scope.

⁶⁸ See the *Orders* (emphasis added).

⁶⁹ See the *Orders* (emphasis added).

⁷⁰ See Scope Request, at 4-5; see also Supplemental Questionnaire Response, at 3-4 and Fourth Supplemental Questionnaire Response, at 5-8.

⁷¹ See Fourth Supplemental Questionnaire Response, at 2.

Although Woodard argues that the Chair Kits “do not require a sling to make the chair functional” and can be used with “cushions common in the outdoor furniture market,”⁷² we determine the sling to be similar to the screen in the Patio Door Kits Scope Ruling. In that case, the structural integrity of the door without the screen, and the ability of the end consumer to purchase the screen separately, were deemed insufficient to exclude the product from the scope of the *Orders*. The Department stated that “if a door is imported into the United States without glass or vinyl in the designated place in the door, according to the language of the scope, that door would not be considered ‘finished merchandise.’ Likewise, the same is true with a screen door that is imported into the United States without the screen in the designated place for the screen.”⁷³ Similarly, we find that because no fabric sling is included with the Chair Kits at the time of importation, Woodard’s Chair Kits do not meet the exclusion that requires “all of the necessary parts to fully assemble a final finished good.” Furthermore, we agree with the petitioner that evidence on the record reflects that the Chair Kits are sold to customers only with the woven fabric sling component included, rendering Woodard’s arguments regarding the ability to use interchangeable cushions with an assembled chair frame inapposite.⁷⁴

Finally, we find Woodard’s reliance on *Meridian Products* unpersuasive. As noted above, in *Meridian Products II*, the Federal Circuit affirmed the Department’s initial scope ruling, reversing and vacating the prior decisions of the CIT which had remanded the Department’s original determination in the Meridian Trim Kits Ruling.⁷⁵ In that ruling, the kits at issue were comprised of aluminum extrusions, fasteners, and extraneous materials, and the Department found them to be not subject to the finished goods kit exclusion based on the scope language that indicated an aluminum extrusion product with mere fasteners would not qualify for the exclusion. Here, the Chair Kits are comprised solely of aluminum extrusions, with no additional components beyond mere fasteners, and so similarly are not subject to the finished goods kit exclusion.

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 Woodard’s Chair Kits do not meet the scope exclusion criteria for a “finished goods kit” and, therefore, that these Chair Kits are subject to the scope of the *Orders*.

⁷² *Id.*, at 2.

⁷³ See Patio Door Kits Scope Ruling, at 13.

⁷⁴ See Third Supplemental Questionnaire Response, at Exhibit 3.


⁷⁵ See *Meridian Products II*, 851 F.3d at 1375.

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

6/19/2017

X 

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations