



A-570-967

C-570-968

Scope Ruling: Westbay Telescoping Pool Poles

**Public Version**

E&C, Office VI: CS

November 6, 2017

MEMORANDUM TO: James Maeder  
Senior Director  
performing the duties of Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

THROUGH: Erin Kearney  
Acting Director  
AD/CVD Operations, Office VI

FROM: Chelsey Simonovich  
International Trade Analyst  
Antidumping and Countervailing Duty Operations, Office VI

SUBJECT: Antidumping and Countervailing Duty Orders on Aluminum  
Extrusions from the People's Republic of China: Final Scope  
Ruling on Westbay LLC's Telescoping Aluminum Pool Poles

---

## SUMMARY

On June 19, 2017, the Department of Commerce (the Department) received a scope ruling request from Westbay LLC (Westbay),<sup>1</sup> requesting that the Department find that its telescoping aluminum pool poles (telescoping pool poles) are outside the scope of the antidumping and countervailing duty orders on aluminum extrusions from the People's Republic of China (PRC).<sup>2</sup> Based on our analysis, we determine that Westbay's telescoping pool poles 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>3</sup> On June 19, 2017, Westbay submitted its Scope Request asking that the Department issue a

---

<sup>1</sup> See Letter from Westbay, "Re: Aluminum Extrusions from the People's Republic of China: Request for Scope Ruling of Westbay LLC Telescoping Pool Poles," dated June 19, 2017 (Scope Request).

<sup>2</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*).

<sup>3</sup> *Id.*

scope ruling finding that its telescoping pool poles are outside the scope of the *Orders*.<sup>4</sup> On July 6, 2017, the Department issued a supplemental questionnaire to Westbay for the purpose of clarifying the information contained in its Scope Request.<sup>5</sup> On August 7, 2017, Westbay timely submitted its response.<sup>6</sup> On September 20, 2017, the Department extended the deadline for this scope ruling.<sup>7</sup> The current deadline is November 6, 2017.<sup>8</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

---

<sup>4</sup> See Scope Request.

<sup>5</sup> See Letter from the Department to Westbay, "Re: Scope Inquiry on Westbay's Telescoping Pool Poles: Supplemental Questionnaire," dated July 6, 2017 (Supplemental Questionnaire).

<sup>6</sup> See Letter from Westbay to the Department, "Re: Aluminum Extrusions from the People's Republic of China: Responses to Department's July 6, 2017 Supplemental Questionnaire," dated August 7, 2017 (Supplemental Questionnaire Response).

<sup>7</sup> See Letter from the Department to Westbay, "Re: Scope Inquiry on Westbay's Telescoping Pool Poles: Supplemental Questionnaire," dated September 20, 2017.

<sup>8</sup> The 45th day falls on Sunday, November 5, 2017. It is the Department's practice that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. 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).

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 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.<sup>9</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 investigation, and prior scope determinations made for the same product.<sup>10</sup> 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.<sup>11</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**

Westbay is a U.S. company that sells swimming pool supplies, including, but not limited to, poles, pumps, cleaners, and filters.<sup>12</sup> The merchandise at issue in Westbay's Scope Request are ready-to-use telescoping pool poles which are designed to accommodate multiple pool maintenance functions and fit multiple job-specific appliances.<sup>13</sup>

The telescoping pool poles extend *via* two to three hollow tubes nesting inside one another. The nesting poles can "vary in diameter from 0.8 to 1.5 inches."<sup>14</sup> The telescoping pool poles have an electric-plated or anodized coating, and are painted silver, blue, green, or orange.<sup>15</sup> The telescoping pool poles are made of extruded aluminum with other plastic components, namely handles, attachment mechanisms, and one of nine locking mechanisms, listed below.<sup>16</sup>

- Thread Lock [ ] – "external locking mechanism that is activated by tightening the screw thread."
- Twist Switch [ ] – "internal locking mechanism activated by twisting a small band that lifts and thereby locks the inner pole in place."
- Push Button [ ] – "external locking mechanism that is activated by pushing and releasing an external button."

---

<sup>9</sup> See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

<sup>10</sup> See 19 CFR 351.225(k)(1).

<sup>11</sup> See 19 CFR 351.225(d).

<sup>12</sup> See Scope Request, at 1.

<sup>13</sup> *Id.* at 2.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*; see also Supplemental Questionnaire Response, at Exhibit 1.

<sup>16</sup> See Scope Request, at 2-3.

- Thread and Cam Lock [ ] – “internal, eccentric locking collar that is activated by twisting the inner pole and further strengthen it by tightening the thread.”
- Twist Switch and Cam Lock [ ] – “internal eccentric locking collar that is activated by twisting the inner pole and further strengthened by twisting an outer ring.”
- Thread and Oval Locking Mechanism [ ] – “internal locking mechanism that is activated by twisting the inner pole and further strengthened by tightening the thread.”
- Twist and Switch Oval Locking Mechanism [ ] – “internal locking mechanism that is activated by twisting the inner pole and further strengthened by twisting an outer ring.”
- Clamp Locking Mechanism [ ] – “internal locking mechanism with a contracting collar that creates friction to lock the pole in place.”
- Knob with Internal Locking Piece [ ] – “internal locking mechanism that is activated by closing the knob and creating friction that locks the pole in place.”<sup>17</sup>

Each telescoping pool pole is given a model number according to, in order: [

],<sup>18</sup> For example, model number [ ] corresponds to a telescoping pool pole with a [ ] locking mechanism, [ ] nesting poles, which can reach a length between [ ], and is colored [ ].<sup>19</sup> In total, there are 360 model numbers included in the Scope Request, consisting of various combinations of locking mechanisms, number and length of nesting tubes, and color.<sup>20</sup>

The telescoping pool poles have all nesting poles in place and are fully and permanently assembled at the time of importation, including the handles, attachment mechanisms, and locking mechanisms.<sup>21</sup> The telescoping pool poles come packaged individually, and stored in cartons containing 10 to 12 poles. Westbay is the importer of record for all telescoping pool poles, which are delivered to Westbay or its customers after importation.<sup>22</sup> Upon delivery, the cartons may or may not be broken down for sale in smaller quantities, as some customers will sell Westbay’s telescoping pool poles in a retail setting and some will buy smaller quantities of the product from Westbay.<sup>23</sup> Westbay stated that although “{t}he cartons may be broken down so that individual poles may be displayed in retail settings for individual purchase... individual wrapping of the poles remains unchanged.”<sup>24</sup>

<sup>17</sup> See Scope Request, at 3; see also Supplemental Questionnaire Response, at Exhibit 1.

<sup>18</sup> See Supplemental Questionnaire Response, at Exhibit 1.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 3.

<sup>22</sup> See Scope Request, at 4.

<sup>23</sup> *Id.*

<sup>24</sup> See Supplemental Questionnaire Response, at 3.

## RELEVANT SCOPE DETERMINATIONS<sup>25</sup>

### KIK Custom Products' Telescoping Poles Scope Ruling<sup>26</sup>

KIK Custom Products argued that its telescoping poles were finished goods and were not subject to the orders. The Department found that the telescoping poles contained non-aluminum extruded components such as a plastic handle, a plastic cap, plastic connector(s) and plastic peg(s), which went beyond mere fasteners.<sup>27</sup> Moreover, the Department found that KIK's telescoping poles are fully and permanently assembled and completed at the time of entry.<sup>28</sup> In addition, similar to the Drapery Rail Kits (Redetermination), Banner Stands and Back Wall Kits, and Solar Panels, these products are designed to work with removable/interchangeable attachments.<sup>29</sup> The various accessories that may be attached to KIK's telescoping pole by end users after importation are interchangeable and are available from KIK and a wide variety of other suppliers.<sup>30</sup> Further, each end user chooses which product to use as an attachment.<sup>31</sup> The Department, therefore, determined that it would be unreasonable to require that KIK's telescoping poles be imported with these attachments, and found the product to qualify for the finished goods exclusion.

### JED Pool Tools Scope Ruling<sup>32</sup>

The Department found that certain telescopic pool poles, detachable skimmer poles and leaf skimmers and rakes were comprised of both extruded aluminum components and non-extruded aluminum materials (*i.e.*, plastic handles, plastic frames, and nylon netting), and that these non-extruded aluminum materials go beyond mere fasteners. Accordingly, the Department determined that the products at issue met the initial Geodesic Dome Kits test for determining whether a good constitutes finished merchandise or a finished goods kit.<sup>33</sup> Furthermore, because the information on record indicated that the requested products were fully and permanently assembled and completed merchandise at the time of entry, the Department found that certain poles, skimmers, and rakes met the exclusion criteria for finished merchandise and were, therefore, excluded from the scope of the *Orders*.<sup>34</sup>

---

<sup>25</sup> See Memorandum, "Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Prior Scope Rulings Relevant to Westbay Telescoping Pool Poles," dated concurrently with this memorandum (Prior Scopes Memorandum).

<sup>26</sup> See Memorandum, "Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on KIK Custom Products' Telescoping Poles," dated November 3, 2014 (KIK Custom Products' Telescoping Poles Scope Ruling); *see also* Prior Scopes Memorandum.

<sup>27</sup> See KIK Custom Products' Telescoping Poles Scope Ruling, at 5.

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

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> See Memorandum, "Final Scope Ruling on Pool Poles, Skimmers, and Rakes," dated November 24, 2014 (JED Pool Tools Scope Ruling); *see also* Prior Scope Rulings Memorandum.

<sup>33</sup> See JED Pool Tools Scope Ruling, at 17.

<sup>34</sup> *Id.* at 17-19.

## Bridging China Telescoping Poles Scope Ruling<sup>35</sup>

At issue in this ruling were certain telescoping pool poles comprised of aluminum components and non-extruded aluminum materials (*i.e.*, an inner or outer locking mechanism, a handle portion, and a distal end portion for accessory attachments).<sup>36</sup> Additionally, information on the record indicated that the telescoping poles were fully and permanently assembled and completed at the time of entry.<sup>37</sup> Regarding the various removable/interchangeable attachments designed to work with the telescoping poles, the Department determined that, consistent with prior scope rulings, it would be unreasonable to require an inclusion at the time of importation that could change with users' needs.<sup>38</sup> Consequently, the Department found the product to qualify for the finished goods exclusion.<sup>39</sup>

### **ARGUMENTS FROM INTERESTED PARTIES**

Westbay argues that its telescoping pool poles are fully assembled and complete merchandise at the time of entry, and are, therefore, excluded from the scope of the *Orders* as finished merchandise.<sup>40</sup> Indeed, Westbay claims that its telescoping pool poles are similar to products previously examined and subsequently excluded by the Department as finished merchandise.<sup>41</sup> For example, Westbay states that its telescoping pool poles are similar to the products in KIK Custom Products' Telescoping Poles Scope Ruling, in that they are fully and permanently assembled, contain plastic parts and handles, and include a locking mechanism.<sup>42</sup> Westbay further argues that because the description of the products at issue in the JED Pool Tool Scope Ruling is nearly identical to that of the company's telescoping pool poles (*e.g.*, they are designed to function with customizable components, such as rakes or skimmers), the Department should similarly conclude that its product is finished merchandise.<sup>43</sup> Westbay also references the Bridging China Telescoping Poles Scope Ruling, where the Department found 30 distinct models of telescoping poles to be finished merchandise in support of the proposition that all of its models of telescoping poles should be similarly considered, and excluded.<sup>44</sup>

No other party submitted comments regarding Westbay's Scope Request.

### **DEPARTMENT'S POSITION**

The Department examined the language of the *Orders* and the description of the products contained in Westbay's Scope Request, as well as previous rulings made by the Department. We

---

<sup>35</sup> See Memorandum, "Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on Bridging China Telescoping Pool Poles," dated December 28, 2015 (Bridging China Telescoping Poles Scope Ruling); see also Prior Scope Rulings Memorandum.

<sup>36</sup> See Bridging China Telescoping Poles Scope Ruling at 5-6.

<sup>37</sup> *Id.* at 10.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 11.

<sup>40</sup> See Scope Request, at 2, and 6-9.

<sup>41</sup> *Id.* at 5-9.

<sup>42</sup> *Id.* at 6.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 8.



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).

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). Accordingly, to qualify as “finished merchandise,” the product in question 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.

We also draw guidance from the “finished goods kit” exclusionary language in the scope. The scope language states: “{t}he 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* ...”<sup>45</sup> Thus, we find that the difference between “finished goods” and “finished goods kits,” as described in the scope, is that the former is assembled upon entry while the latter is unassembled upon entry. The scope goes on to state that “{a}n 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..” In light of this language, the Department also finds that a finished product entering the United States as an assembled good that is solely extruded aluminum, save for fasteners, would fall within the scope of the *Orders*, precisely as an identical unassembled product in kit-form that consists solely of extruded aluminum, save for fasteners, would fall within the scope of the *Orders*. Accordingly, to read the scope to apply in a consistent manner to a given product—whether the product enters assembled as a finished good or unassembled as a finished goods kit—we are considering the fasteners language when considering whether a product constitutes a finished good that is excluded from the *Orders*.

Westbay’s telescoping pool poles contain aluminum extrusions “as parts” plus additional non-extruded aluminum components that go beyond mere fasteners.<sup>46</sup> Westbay’s telescoping pool poles’ non-extruded aluminum components consist of length adjustment locking mechanisms, a plastic handle, and attachment mechanisms.<sup>47</sup> In prior scope rulings, the Department found that such components go beyond mere fasteners.<sup>48</sup> Thus, we find that all models of Westbay’s telescoping pool poles meet this requirement of the finished merchandise exclusion because all contain non-extruded aluminum components as parts that go beyond mere fasteners.

---

<sup>45</sup> See the *Orders* (emphasis added).

<sup>46</sup> See Scope Request, at 2.

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

<sup>48</sup> See Bridging China Telescoping Poles Scope Ruling.

The finished merchandise exclusion also requires that the product at issue be “fully and permanently assembled and completed at the time of entry.” The information submitted by Westbay indicates that, similar to KIK Custom Products’ Telescoping Poles Scope Ruling,<sup>49</sup> JED Pool Tools Scope Ruling,<sup>50</sup> and Bridging China Telescoping Poles Scope Ruling,<sup>51</sup> the products at issue are imported as finished products that are fully and permanently assembled at the time of importation. For example, photographs submitted as part of the scope request show that the products are completely assembled when they enter the United States.<sup>52</sup> Therefore, we find that Westbay’s telescoping pool poles meet the requirement in the scope definition that they enter the United States as fully and permanently assembled and completed products.

Additionally, similar to the products considered in the KIK Custom Products’ Telescoping Poles Scope Ruling, JED Pool Tools Scope Ruling, and Bridging China Telescoping Poles Scope Ruling, Westbay’s telescoping pool poles are designed to work with removable/interchangeable attachments. Westbay states that various job-specific appliances can be attached to the end of its telescoping pool poles, similar to the types of appliances found in the JED Pool Tools Scope Ruling.<sup>53</sup> Interchangeable accessory attachments, however, are not included with the Westbay telescoping pool poles as a component part thereof and must be purchased separately by an end user for use with the Telescoping Pool Poles.<sup>54</sup> Consistent with the aforementioned scope rulings, we find that it would be unreasonable to require an interchangeable attachment that can change with users’ needs to be included with the product at the time of importation, in order for Westbay’s telescoping pool poles to be considered as finished merchandise for the purposes of scope exclusion. Consequently, as noted above, we determine that Westbay’s telescoping pool poles are fully assembled and completed at the time of entry and contain non-extruded aluminum components.

---

<sup>49</sup> See KIK Custom Products’ Telescoping Poles Scope Ruling.

<sup>50</sup> See JED Pool Tools Scope Ruling.

<sup>51</sup> See Bridging China Telescoping Poles Scope Ruling.

<sup>52</sup> See Scope Request, at Attachment.

<sup>53</sup> *Id.* at 6 (citing JED Pool Tools Scope Ruling).

<sup>54</sup> *Id.* at 2.

**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 Westbay’s telescoping pool poles meet the criteria for “finished merchandise,” and, therefore, are 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

11/6/2017

**X** *James Maeder*  
\_\_\_\_\_

Signed by: JAMES MAEDER

James Maeder  
Senior Director

performing the duties of Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations