



A-570-967

C-570-968

Scope Ruling: Worldwide Door Thresholds  
MJB Wood Group Door Thresholds  
Columbia Door Thresholds

**Public Document**

E&C VI: MJH

**DATE:** December 19, 2018

**MEMORANDUM TO:** James Maeder  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the duties of Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**THROUGH:** Abdelali Elouaradia  
Director  
Antidumping and Countervailing Duty Operations, Office VI

**FROM:** Michael J. Heaney  
Senior International Trade Compliance 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  
Rulings on Worldwide Door Components Inc., MJB Wood Group  
Inc., and Columbia Aluminum Products Door Thresholds

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## SUMMARY

On August 3, 2018, September 8, 2017, and March 14, 2018 the Department of Commerce (Commerce) received respective scope ruling requests from Worldwide Door Components, Inc. (Worldwide),<sup>1</sup> MJB Wood Group, Inc. (MJB),<sup>2</sup> and Columbia Aluminum Products, LLC (Columbia),<sup>3</sup> requesting that Commerce determine that the door threshold products imported by Worldwide, MJB, and Columbia are not subject to the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (China).<sup>4</sup> On the basis of our analysis of the comments received, we determine that the door

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<sup>1</sup> See Worldwide Letter, "Request for a Scope Ruling Finding that Certain Fully Assembled Door Thresholds from the People's Republic of China are Not Subject to the Antidumping and Countervailing Duty Orders on Certain Aluminum Extrusions from the People's Republic of China," dated August 3, 2017 (Worldwide Scope Request).

<sup>2</sup> See MJB Letter, "MJB Wood Group, Inc. - Scope Inquiry Concerning Door Thresholds from the People's Republic of China," dated September 8, 2017 (MJB Scope Request).

<sup>3</sup> See Columbia Letter, "Aluminum Extrusions from the People's Republic of China: Scope Ruling Request for Columbia Aluminum Products, LLC," dated March 14, 2018 (Columbia Scope Request).

<sup>4</sup> See *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26,

thresholds imported by Worldwide, MJB, and Columbia are included within the scope of the AD and CVD orders on aluminum extrusions from China.

## BACKGROUND

### *Worldwide*

On August 3, 2017, Worldwide submitted its original scope request, in which it asked Commerce to issue a scope ruling that its door thresholds are outside the scope of the *Orders*.<sup>5</sup> On September 11, 2017, the Aluminum Extrusions Fair Trade Committee and Endura Products, Inc. (collectively, the petitioner)<sup>6</sup> submitted comments concerning the Worldwide Scope Request.<sup>7</sup> Because all information necessary to make a scope determination was not included in Worldwide's August 3, 2017 submission, we issued a supplemental questionnaire to Worldwide on September 18, 2017, seeking additional information and clarification of its scope request.<sup>8</sup> On November 7, 2017, Worldwide responded to Commerce's supplemental questionnaire.<sup>9</sup> On November 20, 2017, the petitioner submitted additional comments on the Worldwide Scope Request.<sup>10</sup> Because we still needed additional information from Worldwide to make a determination, we issued a second supplemental questionnaire to Worldwide on December 8, 2017.<sup>11</sup> On January 11, 2018, Worldwide submitted rebuttal comments to the petitioner's November 20, 2017 Scope Comments.<sup>12</sup> On January 18, 2018, the petitioner submitted additional rebuttal comments to Worldwide Door Threshold's January 11, 2018 Comments.<sup>13</sup> On January 19, 2018, Commerce held a meeting with counsel for the petitioner, in which the petitioner discussed the comments it submitted concerning Worldwide's scope request.<sup>14</sup>

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2011) and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (collectively, the *Orders*).

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

<sup>6</sup> The Aluminum Extrusions Fair Trade Committee (AEFTC) is the petitioner in the underlying antidumping and countervailing duty investigations; Endura Products, Inc. (Endura) is a domestic interested party. Domestic party comments in the Worldwide, MJB, and Columbia scope proceedings were submitted on behalf of both AEFTC and Endura. For simplicity in this scope ruling regarding the Worldwide, MJB, and Columbia scope requests, we have collectively referred to both AEFTC and Endura as "the petitioner."

<sup>7</sup> See Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Initial Comments on Worldwide's Scope Ruling Request" dated September 11, 2017 (Petitioner's September 11, 2017 Worldwide Scope Comments).

<sup>8</sup> See Letter, "Aluminum Extrusions from the People's Republic of China: Supplemental Questionnaire on Worldwide Door Threshold," dated September 18, 2017 (First Worldwide Supplemental Questionnaire).

<sup>9</sup> See Worldwide Letter, "Response to Supplemental Questionnaire on Scope Ruling Request for Worldwide Door Thresholds," dated November 7, 2017 (First Worldwide Supplemental Response).

<sup>10</sup> See Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Comments on Worldwide's Scope Ruling Request" dated November 17, 2017 (Petitioner's November 17, 2017 Worldwide Scope Comments).

<sup>11</sup> See Letter, "Aluminum Extrusions from the People's Republic of China: December 8, 2017 Supplemental Questionnaire," dated December 8, 2017 (Second Worldwide Supplemental Questionnaire). This questionnaire was inadvertently filed to the incorrect scope segment, and was reissued to Worldwide on January 12, 2018.

<sup>12</sup> See Worldwide Letter, "Response to Petitioner's Comments on Scope Ruling Request for Worldwide Door Thresholds" dated January 11, 2018 (Worldwide January 11, 2018 Comments).

<sup>13</sup> See Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Response to Worldwide's Comments" dated January 18, 2018 (Petitioner's January 18, 2018 Worldwide Scope Comments).

<sup>14</sup> See Memorandum, "Aluminum Extrusions from the People's Republic of China: Meeting with Counsel for Petitioner and the Representative from the Aluminum Extrusions Fair Trade Committee and Endura Products, Inc.,"

Worldwide responded to Commerce's second supplemental questionnaire on February 20, 2018.<sup>15</sup> On March 5, 2018, the petitioner submitted comments on Worldwide's second supplemental questionnaire response.<sup>16</sup> On May 16, 2018, because necessary information was still missing from the record of this proceeding, we issued a third supplemental questionnaire to Worldwide.<sup>17</sup> On June 18, 2018, Worldwide responded to Commerce's third supplemental questionnaire, providing the information necessary for Commerce to consider Worldwide's scope request to be properly filed.<sup>18</sup> On August 27, 2018, we held an *ex parte* telephone conversation with counsel to the petitioner, in which we asked the petitioner to submit exhibits from its July 26, 2018, submission in the Columbia scope proceeding discussed *infra*, on the record of the Worldwide scope proceeding.<sup>19</sup> On September 4, 2018, the petitioner filed the requested exhibits.<sup>20</sup> Between April 6 and December 13, 2018, Commerce extended the deadline for making a scope ruling, making the current deadline December 19, 2018.<sup>21</sup>

### *MJB Wood Group*

On September 8, 2017, MJB submitted its scope request, in which it asked Commerce to issue a scope ruling that its door thresholds are outside the scope of the *Orders*.<sup>22</sup> We issued a supplemental questionnaire to MJB, seeking additional information and clarification of its scope request, on October 23, 2017.<sup>23</sup> On October 31, 2017, MJB responded to Commerce's supplemental questionnaire.<sup>24</sup> On November 10, 2017, the petitioner submitted comments on MJB's scope request.<sup>25</sup> We issued a second supplemental questionnaire to MJB on December 8, 2017.<sup>26</sup> On January 19, 2018, Commerce held a meeting with counsel for the petitioner, in which the petitioner discussed the comments it submitted concerning MJB's scope request.<sup>27</sup>

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dated January 19, 2018.

<sup>15</sup> See Worldwide Letter, "Response to Second Supplemental Questionnaire on Scope Ruling Request for Worldwide Door Thresholds" dated February 20, 2018 (Second Worldwide Supplemental Response).

<sup>16</sup> See Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Comments on Worldwide's Second Supplemental Questionnaire Response," dated March 5, 2018 (Petitioner's March 5, 2018 Worldwide Scope Comments).

<sup>17</sup> See Letter, "Aluminum Extrusions from the People's Republic of China: Supplemental Questionnaire on Worldwide Door Threshold," dated September 18, 2017 (Third Worldwide Supplemental Questionnaire).

<sup>18</sup> See Worldwide Letter, "Response to Third Supplemental Questionnaire on Scope Ruling Request for Worldwide Door Thresholds," dated November 7, 2017 (Third Worldwide Supplemental Response).

<sup>19</sup> See Memorandum, "Aluminum Extrusions from the People's Republic of China," dated August 29, 2018.

<sup>20</sup> See Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Submission of Exhibits," dated September 4, 2018 (Petitioner's September 4, 2018 Letter).

<sup>21</sup> See Extension Letters, dated April 6, 2018; July 31, 2018; August 16, 2018; August 29, 2018; October 19, 2018, December 3, 2018; and December 13, 2018.

<sup>22</sup> See MJB Scope Request.

<sup>23</sup> See Letter to MJB Group, dated October 23, 2017 (First MJB Supplemental Questionnaire).

<sup>24</sup> See MJB Letter, "Aluminum Extrusions from the People's Republic of China: Response to DOC Request for Additional Information," dated October 31, 2017 (First MJB Supplemental Response).

<sup>25</sup> See Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Comments on MJB Wood Group's Scope Ruling Request," dated November 10, 2017 (Petitioner's November 10, 2017 MJB Scope Comments).

<sup>26</sup> See Letter, "Aluminum Extrusions from the People's Republic of China: Supplemental Questionnaire for MJB Wood Group Inc. Scope Inquiry on Door Thresholds," dated December 8, 2017 (Second MJB Supplemental Questionnaire).

<sup>27</sup> See Memorandum, "Aluminum Extrusions from the People's Republic of China: Meeting with Counsel for Petitioner and the Representative from the Aluminum Extrusions Fair Trade Committee and Endura Products, Inc.,"

MJB responded to Commerce's second supplemental questionnaire on February 1, 2018.<sup>28</sup> On February 8, 2018, the petitioner submitted comments on MJB's second supplemental questionnaire response.<sup>29</sup> On March 19, 2018, we extended the deadline for making a scope ruling, until May 2, 2018.<sup>30</sup> On March 14, 2018, Commerce held a meeting with counsel for MJB, in which MJB discussed its scope request and supplemental questionnaire responses.<sup>31</sup> On April 18, 2018, Commerce issued a third supplemental questionnaire to MJB.<sup>32</sup> On April 24, 2018, MJB responded to Commerce's third supplemental questionnaire.<sup>33</sup> On May 21, 2018, the petitioner submitted additional comments concerning MJB's scope request.<sup>34</sup> On July 24, 2018, MJB filed an additional supplement to its scope request, at which point we considered MJB's scope request to contain all information necessary for making a scope determination.<sup>35</sup> On August 27, 2018, Commerce held an *ex parte* telephone conversation with counsel to the petitioner, in which we asked the petitioner to submit exhibits from its July 26, 2018, submission in the Columbia scope proceeding discussed *infra*, on the record of the MJB Scope Proceeding.<sup>36</sup> On September 4, 2018, the petitioner filed the requested exhibits.<sup>37</sup> On October 19, 2018 and December 13, 2018, Commerce extended the deadline for making a scope ruling, until December 19, 2018.<sup>38</sup>

### *Columbia*

On March 14, 2018, Columbia submitted its scope request, in which it asked Commerce to issue a scope ruling that its door thresholds are outside the scope of the *Orders*.<sup>39</sup> Because Columbia's scope request did not contain all information necessary to make a determination, Commerce issued a supplemental questionnaire to Columbia, seeking additional information and clarification of its scope request, on April 23, 2018.<sup>40</sup> On July 10, 2018, Columbia responded to Commerce's supplemental questionnaire.<sup>41</sup> On July 26, 2018, the petitioner submitted comments

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dated January 19, 2018.

<sup>28</sup> See MJB Letter, "MJB Wood Group Inc. Response to Second Set of Questions from the Department of Commerce" dated February 1, 2018 (Second MJB Supplemental Response).

<sup>29</sup> See Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Comments on MJB's Second Supplemental Questionnaire Response" dated February 8, 2018 (Petitioner's February 8, 2018 MJB Scope Comments).

<sup>30</sup> See Extension Letter, dated March 19, 2018.

<sup>31</sup> See Memorandum, "Aluminum Extrusions from the People's Republic of China: *Ex Parte* Meeting with MJB Wood Group," dated March 16, 2018.

<sup>32</sup> See Letter to MJB Group, dated April 18, 2018 (Third Supplemental MJB Questionnaire).

<sup>33</sup> See MJB Letter, "Aluminum Extrusions from the People's Republic of China: MJB Wood Group Response to Comments Filed by Wiley Rein on Behalf of the Aluminum Extrusions Fair Trade Committee and Endura Corporation dated April 24, 2018 (MJB Third Supplemental Response).

<sup>34</sup> See Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Comments on MJB's April 24, 2018 Submission" dated May 21, 2018 (Petitioner's May 21, 2018 MJB Scope Comments).

<sup>35</sup> See MJB Letter, "MJB Wood Group Inc. Response to Second Set of Questions from the Department of Commerce" dated February 1, 2018 (MJB Supplement to its Initial Scope Response).

<sup>36</sup> See Memorandum, "Aluminum Extrusions from the People's Republic of China," dated August 29, 2018.

<sup>37</sup> See Petitioner's September 4, 2018 Letter.

<sup>38</sup> See Extension Letters, dated October 19, 2018 and December 13, 2018.

<sup>39</sup> See Columbia Scope Request.

<sup>40</sup> See Letter, "Aluminum Extrusions from the People's Republic of China: Supplemental Questionnaire on Columbia Door Thresholds," dated April 23, 2018 (First Columbia Supplemental Questionnaire).

<sup>41</sup> See Columbia Letter, "Aluminum Extrusions from the People's Republic of China: Supplement to Columbia

on Columbia's scope request.<sup>42</sup> On September 27, 2018, Columbia submitted a second supplement to its scope request.<sup>43</sup> Because Columbia's September 27, 2018 letter provided information necessary for Commerce to make a scope ruling, we considered Columbia's scope request to be properly filed as of that date. On October 23, 2018, the petitioner submitted comments on Columbia's September 27, 2018 submission.<sup>44</sup> On November 2, 2018, Columbia submitted rebuttal comments to the petitioner's October 23, 2018 comments.<sup>45</sup> On November 9, 2018, the petitioner responded to Columbia's November 2, 2018 Scope Comments.<sup>46</sup> On August 24, 2018 and November 8, 2018, December 3, 2018, and December 13, 2018 Commerce extended the deadline for making a scope ruling, making the current deadline December 19, 2018.<sup>47</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.

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Aluminum Products, LLC Scope Ruling Request," dated July 10, 2018 (First Columbia Supplemental Response).

<sup>42</sup> See Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Comments on Columbia's Scope Ruling Request," dated July 26, 2018 (Petitioner's July 26, 2018 Columbia Scope Comments).

<sup>43</sup> See Columbia Letter, "Aluminum Extrusions from the People's Republic of China: Second Supplement to Scope Ruling Request of Columbia Aluminum Products, LLC," dated September 27, 2018 (Second Columbia Supplemental Response).

<sup>44</sup> See Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Comments on Columbia's September 27, 2018 Submission," dated October 23, 2018 (Petitioner's October 23, 2018 Columbia Scope Comments).

<sup>45</sup> See Columbia Letter, "Aluminum Extrusions from the People's Republic of China: Reply to the October 23 Submission of Petitioners," dated November 2, 2018 (Columbia November 2, 2018 Scope Comments).

<sup>46</sup> See Petitioner Letter, "Aluminum Extrusions from the People's Republic of China: Comments on Columbia's November 2, 2018 Letter," dated November 9, 2018.

<sup>47</sup> See Extension Letters, dated August 24, 2018 and November 8, 2018 and December 13, 2019.

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 investigation merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

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

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

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

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 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 this *Orders* is dispositive.

## LEGAL FRAMEWORK

When a request for a scope ruling is filed, Commerce examines the scope language of the order and the description of the product contained in the scope-ruling request.<sup>48</sup> Pursuant to Commerce's regulations, Commerce may also examine other information, including the description of the merchandise contained in the petition, the record from the investigation, and prior scope determinations made for the same product.<sup>49</sup> If Commerce 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>50</sup>

Conversely, where the descriptions of the merchandise in the sources described in 19 CFR 351.225(k)(1) are not dispositive, Commerce 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 Commerce.

## DESCRIPTION OF THE MERCHANDISE SUBJECT TO THESE SCOPE REQUESTS

### *Worldwide*

Worldwide requested a scope ruling for eighteen door threshold products ("base models") with the following model numbers: (1) 99-496; (2) 99-558; (3) 99-2240; (4) 99-2241; (5) 99-2242; (6) 99-2243; (7) 99-2244; (8) 99-2255; (9) 99-2300; (10) 99-2340; (11) 99-2861; (12) 99-2911; (13) 99-2912; (14) 99-2930; (15) 99-2961; (16) 99-2970; (17) 99-3061; and (18) 99-8100.<sup>51</sup>

According to Worldwide, each of these door thresholds contain, in addition to extruded aluminum, "non-aluminum components," which include synthetic plastic polymers such as polyvinyl chloride (PVC), polyethylene, polyurethane, polypropylene or thermoplastic elastomer, wood, and stainless steel.<sup>52</sup> Worldwide argues that its products are "finished merchandise" because the thresholds are "fully and permanently assembled and completed at the time of entry."<sup>53</sup>

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<sup>48</sup> See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010) (*Walgreen*).

<sup>49</sup> See 19 CFR 351.225(k)(1).

<sup>50</sup> See 19 CFR 351.225(d).

<sup>51</sup> See *Worldwide Scope Request*, at 2. Model 99-2340 was originally mislabeled as "99-2400" in the *Worldwide Scope Request*. In its First Supplemental Response, Worldwide clarified that the correct number for this model is 99-2340. See *First Supplemental Response*, at 5.

<sup>52</sup> *Id.* at 3.

<sup>53</sup> *Id.* at 2.



According to Worldwide, each of the door thresholds specified in the Worldwide Scope Request belong to one of the following seven product groups.<sup>54</sup>

<b>Group</b>	<b>Base Model Numbers</b>
1	99-496, 99-558
2	99-2240, 99-2241, 99-2242, 99-2433, 99-2244, and 99-2255
3	99-2300, 99-2340
4	99-2911, 99-2912, 99-2930
5	99-2861, 99-2961, 99-8100
6	99-2970
7	99-3061

Worldwide indicates that the base models within the seven product groups listed above contain the following combinations of extruded aluminum and non-aluminum parts:

Group 1

- 1) *Aluminum Cap*. According to Worldwide, this part acts as an “effective barrier between the atmospheric condition (weather) outside and the interior building structure.”<sup>55</sup> This part is made from extruded aluminum 6063-T5.<sup>56</sup>
- 2) *PVC Cap*. This part meets flush with the door sweep and provides a barrier between the bottom of door sweep and the door threshold.<sup>57</sup>
- 3) *PVC Nose*. This part is a decorative feature which is designed to match the door threshold with the interior features of the home.<sup>58</sup>
- 4) *Steel Screws and Washers*. These parts are used to adjust the height of the PVC Cap.<sup>59</sup>
- 5) *Plastic Screw Cover*. This part protects the material integrity of the plastic screw cover.<sup>60</sup>
- 6) *PVC Sill Covers*. This part is a detachable component of the threshold, which protects the threshold during construction of the building.<sup>61</sup>

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<sup>54</sup> See Worldwide First Supplemental Response, at 1-10.

<sup>55</sup> *Id.* at 2.

<sup>56</sup> See Worldwide Third Supplemental Response at 1-2.

<sup>57</sup> *Id.* at 3.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

- 7) *PVC Substrate*. This part provides structural support to the threshold.<sup>62</sup>
- 8) *Gasket*. This part forms a watertight seal for the threshold.<sup>63</sup>

### Group 2

- 1) *Aluminum Cover*. The aluminum cover acts as a barrier between outside weather and the interior building structure and is made from extruded aluminum 6063-T5.<sup>64</sup>
- 2) *PVC Cap*. See the description pertaining to Group 1 parts above.
- 3) *PVC Substrate*. See the description pertaining to Group 1 parts above.

### Group 3

- 1) *Aluminum Cover*. See the description pertaining to Group 2 parts above.
- 2) *Weatherstrip*. This part forms a weather barrier between the door and the door threshold.<sup>65</sup> It is made from polyethylene, polyurethane, polypropylene and thermoplastic elastomer.<sup>66</sup>
- 3) *PVC Substrate*. See the description pertaining to Group 1 parts above.
- 4) *Wood Top*. This part acts as a component of the weather barrier and aides in fit and finish of the door.<sup>67</sup>
- 5) *Wood Nose*. This part serves as a decorative feature of the threshold and assists in fit and finish of the door threshold.<sup>68</sup>

### Group 4

- 1) *Aluminum Cover*. See the description pertaining to Group 2 parts above.
- 2) *Weatherstrip*. See the description pertaining to Group 3 parts above.
- 3) *PVC Substrate*. See the description pertaining to Group 1 parts above.

### Group 5

- 1) *Aluminum Cover*. See the description pertaining to Group 2 parts above.

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<sup>62</sup> *Id.* at 4.

<sup>63</sup> *Id.*

<sup>64</sup> See Worldwide First Supplemental Response, at 1-10; see also Worldwide Third Supplemental Response at 1-2.

<sup>65</sup> *Id.* at 5.

<sup>66</sup> See Worldwide Third Supplemental Response at 2.

<sup>67</sup> *Id.* at 6.

<sup>68</sup> *Id.*

2) *Aluminum Top*. This part meets flush with the door sweep and serves as a weather barrier, and is made from aluminum series 6063.<sup>69</sup>

3) *PVC Vinyl*. This part protects the steel screws and washers from dirt and moisture.<sup>70</sup>

4) *Steel Screws and Washers*. See the description pertaining to Group 1 parts above.

5) *PVC Substrate*. See the description pertaining to Group 1 parts above.

#### Group 6

1) *Aluminum Cover*. See the description pertaining to Group 2 parts above.

2) *Weatherstrip*. See the description pertaining to Group 3 parts above.

3) *PVC Cap*. See the description pertaining to Group 1 parts above.

#### Group 7

1) *Aluminum Cover*. See the description pertaining to Group 2 parts above.

2) *Wood Top*. See the description pertaining to Group 3 parts above.

3) *PVC Vinyl*. See the description pertaining to Group 3 parts above.

4) *Steel Screws and Washers*. See the description pertaining to Group 1 parts above.

5) *PVC Substrate*. See the description pertaining to Group 1 parts above.

In its First Supplemental Response, Worldwide provided drawings for each of the eighteen base models set forth in the Worldwide Scope Request, and photographs for sixteen of the eighteen models in the Worldwide Scope Request.<sup>71</sup> In its First Supplemental Response, Worldwide also provided a report from a testing laboratory documenting how the door thresholds are mounted within door frames and permanent building structures.<sup>72</sup> The base models come in a variety of colors and numbers, depending upon the customer specification.<sup>73</sup> At the time of importation, Worldwide's door thresholds would be classified under subheading 7610.90.0020 of the Harmonized Tariff Schedule of the United States,<sup>74</sup> which provides for "Aluminum structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminum plates, rods, profiles, tubes and the like, prepared for use in structures: Other, Other." Worldwide also

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<sup>69</sup> *Id.* at 8.

<sup>70</sup> *Id.*

<sup>71</sup> See Worldwide First Supplemental Response, at Exhibit 1.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.* at 2.

<sup>74</sup> See Worldwide Scope Request, at 3.

indicated that none of the products for which it is requesting scope exclusion require further finishing, fabrication or cutting, or repackaging after importation.<sup>75</sup>

*MJB*

MJB requested a scope ruling for five door threshold products with the following model numbers:<sup>76</sup> (1) ISE28SA5ML; (2) ISE30SA5ML; (3) ISE32SA5ML; (4) ISE36SA5ML; and (5) ISE72SA5ML.<sup>77</sup> According to MJB, each of these door thresholds contain, in addition to an extruded aluminum component, other non-aluminum components, which include a composite plastic base, a plastic seal, screws and clips, a plastic nose and a plastic rail.<sup>78</sup> The thresholds come in five sizes which are described below, and provide a seal against air and water infiltration.<sup>79</sup> MJB argues that its products are “finished merchandise” because the thresholds contain non-aluminum parts rather than a “single piece of aluminum”<sup>80</sup> and are fully “assembled articles, which, in their condition as imported, are ready for sale and installation without further fabrication” subsequent to their import into the United States.<sup>81</sup> MJB reported the following product information with regards to each of the products specified in its scope request:

ISE28SA5ML

This product is 28 inches in length and weighs 3.97 pounds.<sup>82</sup>

ISE30SA5ML

This product is 30 inches in length and weighs 4.53 pounds.<sup>83</sup>

ISE32SA5ML

This product is 32 inches in length and weighs 4.82 pounds.<sup>84</sup>

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<sup>75</sup> See affidavit from J. Monts de Oca, Worldwide Door’s President and CEO, at Exhibit 1 of Worldwide January 11, 2018 Comments.

<sup>76</sup> In both the original MJB Scope Request and first supplemental response, MJB refers to the merchandise subject to its scope exclusion request as “door thresholds.” See, e.g., MJB Scope Request at 1 and First MJB Supplemental Response at 1. However, in MJB’s Third Supplemental Response, discussed *infra*, MJB asserts that the merchandise in question should properly be classified as “door sills.” See MJB Third Supplemental Response at page 2.

<sup>77</sup> See First MJB Supplemental Response at 2.

<sup>78</sup> See MJB Scope Request, at 2.

<sup>79</sup> *Id.* at 3.

<sup>80</sup> *Id.* at 5.

<sup>81</sup> *Id.* at 6.

<sup>82</sup> *Id.* at 2. See also First MJB Supplemental Response at 4.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

### ISE36SA5ML

This product is 36 inches in length and weighs 5.10 pounds.<sup>85</sup>

### ISE72SA5ML

This product is 36 inches in length and weighs 10.20 pounds.<sup>86</sup>

According to MJB, each of the products subject to its scope request are designed for use in “single or double exterior doors.”<sup>87</sup> MJB indicates that the aluminum extrusion provides protection against “the rubbing scraping, etc. from shoes and boots.”<sup>88</sup> MJB further states that “{t}he nose and rail provide an attractive presence directly adjacent to the door which sits above the threshold,” and that “{t}he plastic seal prevents moisture from entering through the crack between the extrusion and the rail.”<sup>89</sup>

In its First Supplemental Response, MJB provided drawings and photographs for each of the five models set forth in MJB’s Scope Request.<sup>90</sup> At the time of importation, MJB’s door thresholds would be classified under subheading 7610.90.0020 of the Harmonized Tariff Schedule of the United States,<sup>91</sup> which provides for “Aluminum structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminum plates, rods, profiles, tubes and the like, prepared for use in structures: Other, Other.” MJB also indicates that none of the products for which it is requesting scope exclusion require further finishing, fabrication or cutting, or repackaging after importation.<sup>92</sup>

### *Columbia*

Columbia requested a scope ruling for ten door threshold products with the following model numbers: (1) 881; (2) 950; (3) 951; (4) 955; (5) 982; (6) 988; (7) 990; (8) 122; (9) 128; and (10) 129.<sup>93</sup> Columbia stated that these ten models are categorized in three “series” of door thresholds: (1) the IM 900 Plus Series (Product Codes 950, 951, 955, and 988), (2) the IM 900 Plus Home Center Series (Product Code 982), and (3) the 990 Series (Product Codes 990, 881).<sup>94</sup> Additionally, Columbia indicated that it imports Product Numbers 122, 128 and 129 as a proprietary brand for one specific customer.<sup>95</sup> Each of the products subject to the scope request

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<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *See* MJB Scope Request at 2.

<sup>88</sup> *Id.* at 3.

<sup>89</sup> *Id.*

<sup>90</sup> *See* First MJB Supplemental Response at 4-10.

<sup>91</sup> *See* Worldwide Scope Request, at 3.

<sup>92</sup> *See* MJB April 24, 2018 Submission at 15-16 and at Exhibit 1.

<sup>93</sup> *See* Second Colombia Scope Request at Exhibit A which summarizes the product number and model information originally provided in Colombia’s Scope Request and the First Supplemental Columbia Response.

<sup>94</sup> *See* First Columbia Supplemental Response at 4-6, and at Exhibit 3 at 13.

<sup>95</sup> *Id.*

are sold in standard door sizes of 30 inches, 32 inches, or 36 inches, except Product Numbers 122, 128, and 129, which are made to the custom specifications of the specific customer.<sup>96</sup> The IM 900 Plus Series and the IM 900 Plus Home Center Series contains an aluminum extrusion, a PVC extrusion, an insert bar (which again permits raising and lowering of the threshold), and an injection molded wood filled plastic substrate.<sup>97</sup> The 990 Series contains an aluminum extrusion, a PVC extrusion, and an extruded PVC substrate.<sup>98</sup> According to Columbia, the 122, 128 and 129 series contain the same general product characteristics as do the 990 Series.<sup>99</sup> According to Columbia, each of the products subject to its scope request “fit standard door unit lengths in the United States.”<sup>100</sup> Columbia further indicates that the door thresholds meet U.S. industry standards with regards to “function and practice.”<sup>101</sup> Columbia argues that its products are “finished merchandise” because the thresholds contain non-aluminum parts which, along with the extrusion, are “fully and permanently assembled at the time of entry.”<sup>102</sup> According to Columbia, the merchandise is fully boxed at the time of import, and no “further finishing or fabrication (such as cutting or punching) is needed.”<sup>103</sup> Columbia indicates that the non-aluminum extrusion components “far outweigh the non-aluminum components both in terms of cost and quantity.”<sup>104</sup>

In its First Supplemental Response, Columbia provided drawings, photographs, and the bill of materials for each of the ten models set forth in Columbia’s Scope Request.<sup>105</sup> At the time of importation, Columbia’s door thresholds would be classified under subheading 7610.90.0020 of the Harmonized Tariff Schedule of the United States,<sup>106</sup> which provides for “Aluminum structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminum plates, rods, profiles, tubes and the like, prepared for use in structures: Other, Other.”

## **RELEVANT SCOPE DETERMINATIONS<sup>107</sup>**

### **1. Foreline Hose Assembly Scope Ruling<sup>108</sup>**

At issue was Agilent Technologies, Inc.’s (Agilent) Foreline Hose Assembly (FHA) that is to be used with Agilent’s Gas Chromatography Mass Spectrometer. The FHA consists of extruded aluminum parts assembled with other non-extruded aluminum components, such as flexible PVC

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<sup>96</sup> See Columbia Scope Request at 3; *see also* First Columbia Supplemental Scope Request at 6.

<sup>97</sup> See Columbia Scope Request at 3.

<sup>98</sup> *Id.*

<sup>99</sup> See First Columbia Supplemental Scope Response at Exhibit 11.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.* at 3 and Attachment 5.

<sup>102</sup> See Columbia Scope Request at 3.

<sup>103</sup> See First Columbia Supplemental Scope Response at 11.

<sup>104</sup> See Columbia Scope Request at 3.

<sup>105</sup> See Second Columbia Scope Request at Exhibit A; *see also* First Columbia Supplemental Scope Request at Exhibits 2, 3, 4, 7, and 11.

<sup>106</sup> See First Columbia Supplemental Scope Response at Exhibit 1, page 6.

<sup>107</sup> See Commerce’s memorandum that accompanies this scope ruling, “Transmittal of Scope Rulings Relevant to Worldwide’s Scope Ruling Memorandum,” dated concurrently with this memorandum.

<sup>108</sup> See Memorandum, “Final Scope Ruling on Agilent Technologies, Inc.’s Foreline Hose Assembly,” dated August 27, 2015 (Foreline Hose Assembly Final Scope Ruling); *see also* Prior Scopes Memorandum.

foreline hose tubing.<sup>109</sup> Also, at the time of importation, the FHA could be imported as an assembled article, or as a complete, unassembled kit.<sup>110</sup> Agilent argued that the hose assemblies contained all the necessary components such that, once assembled, the product would be ready for installation and used with the Gas Chromatography Mass Spectrometer. Since the product could be imported into the United States as an assembled article or a complete, unassembled kit, Commerce issued determinations for both of these forms in which the product could be imported. Regarding the assembled article, Commerce found that the FHA is excluded from the scope of the *Orders* as “finished merchandise,” since it is imported as a finished product that contains finished parts, including those comprised of extruded and non-extruded aluminum components, beyond mere fasteners, that are fully and permanently assembled at the time of importation.<sup>111</sup> With respect to the product being imported as a complete, unassembled kit, Commerce also found that the FHA is excluded from the scope of the *Orders* as a “finished goods kit,” since the parts contained in the kit are ready to be fully assembled into a final finished product in an “as is” state upon importation.<sup>112</sup> Commerce also found that the FHA is consistent with the “subassemblies test,” as described in the *Valeo Final Remand Redetermination*.<sup>113</sup>

## 2. Seagate Head Stack Assemblies Scope Ruling<sup>114</sup>

At issue was whether Seagate Technology LLC’s (Seagate) head stack assemblies were within the scope of the *Orders*. The head stack assemblies were manufactured from one piece of extruded aluminum and several other non-aluminum parts. The head stack assemblies were imported fully assembled and were further assembled after importation into hard disk drives and computers. Commerce determined that the merchandise constituted excluded finished merchandise as described in the *Orders*, and were not covered by the scope.<sup>115</sup>

## 3. Homecrest Outdoor Living Woven Seats Scope Ruling<sup>116</sup>

At issue was whether Homecrest Outdoor Living, LLC’s (Homecrest) woven polypropylene seats were within the scope of the *Orders*. The seats were woven from wicker rope and contained extruded aluminum parts. Commerce determined that the merchandise constituted excluded finished merchandise as described in the *Orders*, and were not covered by the scope.<sup>117</sup>

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<sup>109</sup> *Id.* at 5-6.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.* at 12-13.

<sup>112</sup> *Id.* at 13.

<sup>113</sup> *Id.* at 13-14, citing Final Results of Redetermination Pursuant to Court Remand Aluminum Extrusions from the People’s Republic of China, *Valeo Inc., Valeo Engine Cooling Inc., and Valeo Climate Control Corp. v. United States*, No. 12-00381 (May 14, 2013) (*Valeo Final Remand Redetermination*).

<sup>114</sup> See Memorandum, “Final Scope Ruling on Seagate Technology LLC’s Head Stack Assemblies,” dated December 23, 2016 (Seagate Assemblies Homecrest Final Scope Ruling); see also Prior Scopes Memorandum.

<sup>115</sup> *Id.* at 10-11.

<sup>116</sup> See Memorandum, “Final Scope Ruling on Homecrest Outdoor Living, LLC Woven Polypropylene Seats,” dated January 22, 2016 (Homecrest Final Scope Ruling); see also Prior Scopes Memorandum.

<sup>117</sup> *Id.* at 8-10.

#### 4. Side Mount Valve Control Kits Scope Ruling<sup>118</sup>

At issue in the scope ruling were side mount valve control (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.”<sup>119</sup>

In the scope ruling, Commerce 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.” Commerce explained that it identified a concern with its prior analysis, namely that it may lead to unreasonable results. Commerce 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. Commerce explained that such an interpretation may expand the scope of the *Orders*, which are intended to cover aluminum extrusions.<sup>120</sup>

Commerce 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, Commerce 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*, Commerce found that: (1) the SMVC kit must contain all of the parts necessary to assemble a complete SMVC at the time of importation; (2) all of the components and hardware of the SMVC kit must be fully fabricated and require 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.<sup>121</sup> Based on this analysis, Commerce found that the SMVC kits at issue met the exclusion criteria for subassemblies that enter the United States as “finished goods kits.”<sup>122</sup>

#### 5. A.O. Smith Aluminum Anodes Scope Ruling<sup>123</sup>

At issue was whether A.O. Smith’s water heater anodes were within the scope of the *Orders*. The water heater anodes were manufactured from aluminum extrusions, a steel carbon rod, and

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<sup>118</sup> 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).

<sup>119</sup> See Preliminary SMVC Kits Scope Ruling at 2.

<sup>120</sup> *Id.* at 7.

<sup>121</sup> *Id.*

<sup>122</sup> *Id.* at 7-8.

<sup>123</sup> See Memorandum, “Final Scope Ruling on Aluminum Anodes for Water Heaters,” dated October 17, 2012 (Aluminum Anodes Final Scope Ruling); see also Prior Scopes Memorandum.



carbon steel cap. Commerce determined that the merchandise constituted excluded finished merchandise as described in the *Orders*, and were not covered by the scope.<sup>124</sup>

#### 6. Fan Blade Assemblies<sup>125</sup>

At issue was whether SPX Cooling Technologies, Inc.'s fan blasé assemblies were within the scope of the *Orders*. The fan blasé assemblies included an aluminum extrusion and also contained additional anon-aluminum componentry such as polypropylene end caps, and steel blades.<sup>126</sup> The merchandise is used in cooling tower applications and is ready for use at the time of importation.<sup>127</sup> Further, the merchandise was fully and permanently assembled at the time of entry.<sup>128</sup> Based on the foregoing, Commerce concluded that the fan assemblies were finished merchandise as described in the *Orders*, and therefore not covered by the scope.<sup>129</sup>

#### 7. American Fence Manufacturing Company Fence Products Scope Ruling<sup>130</sup>

At issue in the ruling were certain aluminum fence post sections, bulk products, posts and gates which consisted of aluminum fence products manufactured from 6000 series aluminum, along with caps and gates. The requestor argued that the products at issue were assembled or in kit form” and that all products, posts and gates are packaged separately.<sup>131</sup> American Fence Manufacturing Company subsequently requested separate ruling concerning whether its products either fully assembled or packaged separately were subject to the *Orders*.<sup>132</sup>

In the ruling, Commerce noted that the scope of the *Orders* includes fence posts as an end-use of the product.<sup>133</sup> However, Commerce also considered in this scope determination whether the merchandise qualified for exclusion as a “finished goods kit”<sup>134</sup> Commerce determined that the merchandise in question failed to meet the “finished good kit” exclusion because the merchandise in question requires further repackaging and re-cutting.<sup>135</sup> Accordingly, Commerce found that the merchandise in question was subject to the *Orders*.<sup>136</sup>

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<sup>124</sup> See Aluminum Anodes Final Scope Ruling at 5-7.

<sup>125</sup> See Memorandum, “Final Scope Ruling on Fan Blade Assemblies,” dated July 25, 2014 (Fan Blade Assemblies).

<sup>126</sup> *Id.* at 5.

<sup>127</sup> *Id.*

<sup>128</sup> *Id.* at 16.

<sup>129</sup> *Id.* at 19.

<sup>130</sup> See Memorandum, “Final Scope Ruling on American Fence Manufacturing Company L.L.C. Fence Sections, Posts Gates,” dated December 2, 2011 (American Fence Manufacturing Scope Ruling); see also Prior Scopes Memorandum.

<sup>131</sup> See American Fence Manufacturing Scope Ruling at 7-8.

<sup>132</sup> *Id.* at 8.

<sup>133</sup> *Id.* at 3.

<sup>134</sup> *Id.* at 9-10.

<sup>135</sup> *Id.* at 10.

<sup>136</sup> *Id.*

## 8. Ameristar Fence Products Scope Ruling<sup>137</sup>

At issue in the ruling were certain aluminum fence sections, posts with caps, and gates. The merchandise consisted of aluminum fence products manufactured from 6000 series aluminum, along with posts with caps and gates. The requestor argued that the products at issue were “assembled or in kit form” and that all products, posts and gates are packaged separately.<sup>138</sup>

In the ruling, Commerce noted that the scope of the *Orders* includes fence posts as an end-use of the product.<sup>139</sup> However, Commerce also considered in this scope determination whether the merchandise qualified for exclusion as a “finished goods kit”<sup>140</sup> Commerce determined that the merchandise in question failed to meet the “finished good kit” exclusion because the merchandise in question is imported as individual components and requires further repackaging and re-cutting.<sup>141</sup> Accordingly, Commerce found that the merchandise in question was subject to the *Orders*.<sup>142</sup>

## 9. Origin Point Brands Fence Products Scope Ruling<sup>143</sup>

At issue in the ruling were certain aluminum fence panels, posts and gates. The merchandise consisted of aluminum fence products manufactured from 6000 series aluminum, along with posts and gates. The requestor argued that the products at issue were imported in assembled form or packaged separately but in either form of shipment contained all of the “parts necessary to assemble finished panels.”<sup>144</sup>

In the ruling, Commerce noted that the scope of the *Orders* includes fence posts as an end-use of the product.<sup>145</sup> However, Commerce also considered in this scope determination whether the merchandise qualified for exclusion as a “finished goods kit.”<sup>146</sup> Commerce determined that the merchandise in question failed to meet the “finished good kit” exclusion because the merchandise in question is imported without “all of the parts necessary to fully assemble a finished fence system.”<sup>147</sup> Accordingly, Commerce found that the merchandise in question was subject to the *Orders*.<sup>148</sup>

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<sup>137</sup> See Memorandum, “Final Scope Ruling on Ameristar Fence Products Aluminum Fence and Post Parts,” dated December 13, 2011 (Ameristar Scope Ruling); see also Prior Scopes Memorandum.

<sup>138</sup> *Id.* at 7-8.

<sup>139</sup> *Id.* at 3.

<sup>140</sup> *Id.* at 10-11.

<sup>141</sup> *Id.* at 10.

<sup>142</sup> *Id.*

<sup>143</sup> See Memorandum, “Final Scope Ruling on Origin Point Brands, L.L.C. Fence Panels, Posts, and Gates,” dated December 13, 2011 (Origin Scope Ruling); see also Prior Scopes Memorandum.

<sup>144</sup> *Id.* at 7.

<sup>145</sup> *Id.* at 3.

<sup>146</sup> *Id.* at 10.

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

#### 10. Sign-Zone Event Tents Scope Ruling<sup>149</sup>

At issue in this scope ruling were Sign-Zone's Event Tent frames that were imported into the United States as finished merchandise. This product is made of extruded aluminum and non-aluminum parts and is used to promote a company's brand at indoor and outdoor trade shows by securely standing on four corner legs. At the time of entry, the Event Tent frames are fully and permanently assembled and ready to use, requiring no further fabrication after importation. While awning can be attached to the Event Tent frames, Commerce concluded that they are typically added after importation to the product after importation. In its analysis, Commerce found that, consistent with the Geodesic Dome Kits Scope Ruling, the Event Tent frames met the finished merchandise exclusion of the scope description on the aluminum extrusion orders. Commerce based this finding on the fact that, in addition to extruded aluminum components, the Event Tent frame includes non-extruded aluminum materials, such as plastic clamps, plastic trusses, plastic leg locks, and steel coils – all of which go beyond mere fasteners.

#### 11. Northern California Glass Management Association Curtain Wall Units Scope Ruling<sup>150</sup>

In this scope ruling, Commerce found that Northern California Glass Management Association (NCGMA)'s wall units and other parts of a curtain wall system do not meet the "finished merchandise" exclusion because curtain walls are explicitly covered by the scope of the *Orders*.<sup>151</sup> In making this determination, Commerce quoted from the scope of the *Orders* which reads:

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.<sup>152</sup>

Based upon this reading of the scope, Commerce determined that NCGMA's curtain wall units were within the scope of the *Orders*, and further determined that the merchandise was not excluded from the *Orders*.<sup>153</sup> This ruling was affirmed by both the Court of International Trade (CIT) and the Court of Appeals for the Federal Circuit.<sup>154</sup>

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<sup>149</sup> See Memorandum, "Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on Sign-Zone, Inc.'s Premium Event Tent Frame," dated January 23, 2015 (Sign-Zone Event Tent Scope Ruling Memorandum) at 10-11.

<sup>150</sup> See Memorandum, "Antidumping Duty (AD) and Countervailing Duty (CVD) Orders: Final Scope Ruling Curtain Wall Units and Other Parts of a Curtain Wall System," dated November 30, 2012 (Curtain Wall Units Scope Ruling); see also Prior Scopes Memorandum.

<sup>151</sup> *Id.*

<sup>152</sup> *Id.* at 9.

<sup>153</sup> *Id.*

<sup>154</sup> See *Shenyang Yuanda Aluminum Indus. Eng'g Co. v. United States*, 961 F. Supp. 2d 1291 (CIT 2014) (*Shenyang Yuanda I*), *aff'd*, 776 F.3d 1351 (Fed. Cir. 2015) (*Shenyang Yuanda II*).

## 12. Yuanda's Complete and Finished Curtain Wall Units Scope Ruling<sup>155</sup>

In this scope ruling, Commerce found that Yuanda's wall units and other parts of a curtain wall system do not meet the "finished merchandise" exclusion because the wall units in question are explicitly covered by the scope of the *Orders*.<sup>156</sup> In making this determination, Commerce, as in the Curtain Wall Units Scope Ruling, quoted from the scope of the *Orders* which reads:

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.<sup>157</sup>

Based upon this reading of the scope, Commerce determined that Yuanda's wall units were within the scope of the *Orders*, and further determined that neither the finished merchandise exclusion nor the finished goods kit exclusions applied to such merchandise.<sup>158</sup> During litigation at the CIT, no party ultimately challenged Commerce's determination that the merchandise at issue did not qualify for the finished merchandise exclusion.<sup>159</sup> Pursuant to multiple remands, Commerce reconsidered its evaluation of the "finished goods kit" exclusion, and ultimately concluded that curtain wall units exported pursuant to long term contracts are subject to the *Orders*, and are not covered by the finished goods kit exclusion because they require further finishing and fabrication.<sup>160</sup>

### **INTERESTED PARTY COMMENTS**

#### *Worldwide*

##### Worldwide Scope Request<sup>161</sup>

Worldwide maintains that its door thresholds should be excluded from the scope of the *Orders* because, at the time of entry, the products at issue constitute finished merchandise, which is imported as a fully assembled article.<sup>162</sup> Further, Worldwide states that, upon entry, its products contain all the necessary components for installation within a door frame, or residential or commercial building, without requiring any further finishing or fabrication.<sup>163</sup>

In its Scope Request, Worldwide cites to *IKEA Supply*, where the Court found that an aluminum extrusion must be assembled with non-aluminum components in order for the "finished

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<sup>155</sup> See Memorandum, "Final Scope Ruling on Curtain Wall Units that are Produced and Imported Pursuant to a Contract to Supply a Curtain Wall," dated March 27, 2014 (Complete and Finished Curtain Wall Units Scope Ruling); see also see also Prior Scopes Memorandum.

<sup>156</sup> *Id.* at 22-23.

<sup>157</sup> *Id.*

<sup>158</sup> *Id.* at 22-26.

<sup>159</sup> See *Shenyang Yuanda Aluminum Indus. Eng'g Co. v. United States*, 146 F. Supp. 3d 1331, 1341 (CIT 2016).

<sup>160</sup> See *Shenyang Yuanda Aluminum Indus. Eng'g Co. v. United States*, 279 F. Supp. 3d 1209 (CIT 2017), *appeal docketed* (Fed. Cir. 2018).

<sup>161</sup> See Worldwide Scope Request.

<sup>162</sup> *Id.* at 2.

<sup>163</sup> *Id.* at 3.

merchandise” exclusion to apply.<sup>164</sup> Citing *Rubbermaid Commercial Products*, Worldwide argues that a product may meet the finished merchandise exclusion regardless of whether the merchandise may be incorporated with further components after importation.<sup>165</sup> Additionally, Worldwide cites to Commerce’s Seagate Headstack Assemblies, Foreline Hose Assembly, and Aluminum Anodes scope rulings as other instances where Commerce found that the product at issue in each of those scope proceedings was outside the scope of the *Orders* based on the finished merchandise provision of the scope description.<sup>166</sup> Worldwide points to Commerce’s “two-step test” to analyze whether the product at issue should be excluded from the *Orders*.<sup>167</sup> Worldwide explains that the test involves determining: (a) whether the product consists of aluminum extrusions as parts, plus an additional non-extruded aluminum component, and (b) whether the product is fully and permanently assembled and completed at the time of entry such that it requires no further finishing or fabrication after importation.<sup>168</sup> With respect to the first part of this test, Worldwide states that its door thresholds contain non-aluminum parts that go beyond mere fasteners (e.g., PVC CAP, PVC Nose, Wood Top Weatherstrip).<sup>169</sup> With respect to the second part of the test, Worldwide asserts that the product is fully and permanently assembled at the time of entry.<sup>170</sup>

#### The Petitioner’s November 17, 2017 Comments<sup>171</sup>

The petitioner asserts that door thresholds are specifically delineated in the scope language as a product that is subject to the *Orders*. The petitioner cites to the following provision of the scope of the *Orders*:

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.<sup>172</sup>

The petitioner asserts that the specific mention of door thresholds as end-use products that are covered by the scope of the *Orders* renders the finished merchandise exclusion inapposite.<sup>173</sup> The petitioner also argues that a door threshold functions as part of a door, rather than as a stand-alone product, and that it does not qualify for the finished merchandise exclusion.<sup>174</sup> The petitioner also cites to the Colombia Aluminum Products CBP Tariff Classification Ruling,

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<sup>164</sup> *Id.* at 8, citing *IKEA Supply AG v. United States*, 180 F.Supp. 3d 1202, 1206-07 (CIT 2016) (*IKEA Supply*).

<sup>165</sup> *Id.*, citing *Rubbermaid Commercial Products LLC v. United States*, Slip Op. 15-79, Court No., 11-00463 (CIT 2015) (*Rubbermaid Commercial Products*).

<sup>166</sup> *See, e.g.*, Seagate Headstack Assemblies Scope Ruling, Foreline Hose Assembly Scope Ruling, Homecrest Outdoor Living Scope Ruling, and Side Mounts Valve Control Kits Scope Ruling.

<sup>167</sup> *Id.* at 5-7.

<sup>168</sup> *Id.* at 5-6.

<sup>169</sup> *See* Worldwide First Supplemental Response, at 1-10.

<sup>170</sup> *Id.* at 5.

<sup>171</sup> *See* Petitioner’s November 17, 2017 Scope Comments.

<sup>172</sup> *Id.* at 8.

<sup>173</sup> *Id.* at 13-19.

<sup>174</sup> *Id.* at 4.

wherein CBP determined that the essential character of aluminum door threshold is imparted by the aluminum extrusion itself.<sup>175</sup> The petitioner further contends that during the investigation, door thresholds similar to the ones manufactured by Worldwide were manufactured by other U.S. producers, and asserts that the domestic industry sought coverage for these door thresholds.<sup>176</sup> The petitioner concludes that any door threshold, based upon the foregoing, is covered by the scope of the *Orders* based upon aluminum door thresholds being covered by scope of the LTFV investigation.

The petitioner further asserts that Worldwide's door thresholds undergo further finishing, thereby rendering Worldwide's products ineligible for exclusion under the finished merchandise provision.<sup>177</sup> Finally, petitioner cites to the aluminum extrusions anti-circumvention inquiry wherein a Chinese manufacturer was found to have circumvented the *Orders* by making door thresholds from 5050 grade aluminum alloy.<sup>178</sup> The petitioner also suggests that the Worldwide door thresholds at issue in this scope determination contain similar aluminum content to those products at issue in the 5050 anti-circumvention inquiry.<sup>179</sup>

#### Worldwide January 11, 2018 Comments<sup>180</sup>

Worldwide asserts that there is no evidence that any of its door threshold products sold during the LTFV investigation contained products other than aluminum extrusions.<sup>181</sup> Worldwide argues that the petitioner's reliance on the mention of door thresholds as an end-use product for aluminum extrusions would result in the inclusion of all door thresholds, even those door thresholds that contained no aluminum extrusions.<sup>182</sup> Worldwide further asserts that an internet search reveals some aluminum extrusions which contain nothing but aluminum parts.<sup>183</sup> Worldwide asserts that such aluminum extrusions containing only aluminum parts would fail to meet the criteria for exclusion under the finished merchandise provision of the scope.<sup>184</sup> Citing to *Whirlpool*, Worldwide asserts that product assembly can render a product outside the scope of the *Orders*.<sup>185</sup> With regard to the Colombia Aluminum Products, Worldwide argues that Commerce's scope inquiries are governed by a different set of criteria than CBP Tariff Classification Rulings. Similarly, Worldwide notes that anti-circumvention and scope procedures are governed by separate regulations.<sup>186</sup> Finally, Worldwide asserts that the affidavit of J. Monts de Oca (Worldwide's President and CEO), establishes that Worldwide does not further cut the door thresholds after importation.<sup>187</sup>

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<sup>175</sup> *Id.* at 4-5.

<sup>176</sup> *Id.* at 11.

<sup>177</sup> *Id.* at 27.

<sup>178</sup> *Id.* at 29-30, citing *Aluminum Extrusions from the People's Republic of China*, 82 Fed. Reg. 34630, dated July 26, 2017.

<sup>179</sup> *Id.*

<sup>180</sup> See Worldwide January 11, 2018 Comments.

<sup>181</sup> *Id.* at 2.

<sup>182</sup> *Id.* at 3.

<sup>183</sup> *Id.* at 4.

<sup>184</sup> *Id.*

<sup>185</sup> *Id.* at 4-5, citing *Whirlpool Corp. v. United States*, 144 F. Supp. 3d 1296, 1298 (CIT 2016) (*Whirlpool*).

<sup>186</sup> *Id.* at 12, citing 19 CFR 351.225(j) and 19 CFR 351.225(k)(1)-(2).

<sup>187</sup> *Id.* at 8 and Exhibit 1.

### The Petitioner's January 18, 2018 Comments<sup>188</sup>

The petitioner reasserts its argument that door thresholds are expressly covered by the scope of the *Orders*. The petitioner asserts that while door thresholds made completely out of non-aluminum materials (*i.e.*, wood or plastic) would be outside the scope of the *Orders*, any door thresholds containing aluminum extrusions is within the scope of the *Orders*. The petitioner cites to Commerce's Curtain Wall Units Scope Ruling and Complete and Finished Curtain Wall Units Scope Ruling as other instances where Commerce based its reading on the plain reading of the scope of the *Orders*.<sup>189</sup> The petitioner argues that the Curtain Wall Units and Complete and Finished Curtain Wall Units scope rulings establish that merchandise which undergoes further assembly is covered by the *Orders*.<sup>190</sup> The petitioner further asserts that door thresholds fail to qualify for the finished merchandise exclusion because these thresholds are highly customizable, and must be cut to length.<sup>191</sup> Notwithstanding the affidavit from Worldwide's CEO and President, the petitioner contends that a domestic interested party lost sales to Worldwide with the knowledge that the product would be subsequently cut.<sup>192</sup>

### The Petitioner's March 5, 2018 Comments<sup>193</sup>

The petitioner again asserts that the scope of the *Orders* provides "no distinction between door thresholds comprised solely of extruded aluminum and door thresholds including non-aluminum components in addition to extruded aluminum."<sup>194</sup> Unlike in the cases cited by Worldwide, the petitioner contends that there is no language in the scope of the *Orders* that provides for specific inclusion of these products. The petitioner notes that in the underlying investigation, it submitted a table that provided specific examples of products covered by the scope of the *Orders*.<sup>195</sup> The petitioner concludes that products identified with reference to their end-use are covered by the scope of the *Orders*, regardless of whether they are ready for use at the time of importation, and that to exclude door thresholds based on the "finished merchandise" exclusion would run contrary to the petitioner's intent.<sup>196</sup>

### The Petitioner's September 4, 2018 Comments<sup>197</sup>

In its September 4, 2018, Comments, the petitioner placed on the record of the Worldwide scope proceeding, the same factual information that it had previously filed on July 26, 2018, in the course of the Columbia scope proceeding.<sup>198</sup> The petitioner asserts that the exhibits referenced

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<sup>188</sup> See Petitioner January 18, 2018 Scope Comments.

<sup>189</sup> *Id.* at 7.

<sup>190</sup> *Id.* at 8.

<sup>191</sup> *Id.* at 11.

<sup>192</sup> *Id.*

<sup>193</sup> See Petitioner March 5, 2018 Scope Comments.

<sup>194</sup> *Id.* at 3.

<sup>195</sup> *Id.*, citing Petitioner's November 17, 2017 Scope Comments at Exhibit 4..

<sup>196</sup> *Id.* at 4-5.

<sup>197</sup> See Petitioner's September 4, 2018 Letter.

<sup>198</sup> See also Petitioner's July 26, 2018 Columbia Scope Comments.

in its September 4, 2018 submission demonstrate “that door thresholds were intentionally and expressly covered by the *Orders* and may not be removed through any scope exclusion.”<sup>199</sup>

*MJB*

### MJB Scope Request<sup>200</sup>

MJB argues that its door thresholds should be excluded from the scope of the *Orders* because the products at issue constitute “finished merchandise” as defined in the *Orders*. Rather than containing a single piece of aluminum, MJB asserts that its door thresholds “are multi-piece products” which qualify for exclusion under the finished merchandise provision of the *Orders*.<sup>201</sup> MJB further asserts that its door thresholds are fully assembled products which “in their condition as imported, are ready for installation.”<sup>202</sup> MJB also states that its door thresholds are sold to retail customers at stores such as Home Depot, Lowes, and other retailers in the product’s “imported condition.”<sup>203</sup>

In its Scope Request, MJB cites to *IKEA Supply*, where the Court found that an aluminum extrusion must be assembled with non-aluminum components in order for the “finished merchandise” exclusion to apply.<sup>204</sup> MJB also cites to *Meridian Products*.<sup>205</sup> MJB argues that in *Meridian Products* the Court determined that Type B appliance handles were not within the scope of the *Orders*, because they were fully finished articles.<sup>206</sup> MJB asserts that in the instant case, its door thresholds qualify as finished merchandise because “they consist of aluminum extrusions combined with non-aluminum components which are finished articles ready for sale to customers and do not require additional fabrication after importation.”<sup>207</sup> MJB also cites to *Whirlpool*, wherein the Court determined that certain appliance handles similar to the Type B appliance handles at issue in *Meridian Products* were within the scope of the *Orders*.<sup>208</sup> MJB further argues that, unlike *Meridian Products* or *Whirlpool*, its non-aluminum components comprise the “predominant value” of the product, and are not “specifically designed for use with any particular model of door.”<sup>209</sup>

### The Petitioner’s November 10, 2017 Comments<sup>210</sup>

The petitioner asserts that door thresholds are specifically delineated as a product that is subject to the *Orders*. The petitioners cite to the following provision of the scope of the *Orders*:

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<sup>199</sup> *Id.* at 2.

<sup>200</sup> *See* MJB Scope Request.

<sup>201</sup> *Id.* at 5.

<sup>202</sup> *Id.* at 6.

<sup>203</sup> *Id.* at 6-7 and Exhibit 4.

<sup>204</sup> *Id.* at 8, citing *IKEA Supply AG v. United States*, 180 F.Supp. 3d 1202, 1206-07 (CIT 2016) (*IKEA Supply*).

<sup>205</sup> *See Meridian Products LLC v. United States* Slip Op. 15-135 (CIT 2015) (*Meridian Products*), reversed by *Meridian Products v. United States*, 890 F.3d 1272 (Fed. Cir. 2018).

<sup>206</sup> *See* MJB Scope Request at 6.

<sup>207</sup> *Id.*

<sup>208</sup> *Id.* at 6, citing *Whirlpool*.

<sup>209</sup> *See* MJB Scope Request at 6.

<sup>210</sup> *See* Petitioner’s November 10, 2017 MJB Scope Comments.



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.<sup>211</sup>

The petitioner asserts that the specific mention of door thresholds as end-use products that are covered by the scope of the *Orders* renders the finished merchandise exclusion inapposite.<sup>212</sup> The petitioner also argues that door thresholds function as part of a door, rather than as a stand-alone product.<sup>213</sup> The petitioner cites to the Columbia Aluminum Products CBP Tariff Classification Ruling, wherein CBP determined that the essential character of aluminum door threshold is imparted by the aluminum extrusion itself.<sup>214</sup> The petitioner further contends that during the investigation, door thresholds similar to the ones manufactured by MJB were manufactured by other U.S. producers, and asserts that the domestic industry sought coverage for these door thresholds.<sup>215</sup> Based on the specific mention of the product in the LTFV investigation, the petitioner concludes that any door threshold is covered by the scope of the *Orders*. The petitioner cites to Commerce's Curtain Wall Units Scope Ruling, Complete and Finished Curtain Wall Units Scope Ruling, and *Shenyang Yuanda* as other instances where Commerce based its reading on the plain reading of the scope of the *Orders*.<sup>216</sup> The petitioner argues that the Curtain Wall Units and Complete and Finished Curtain Wall Units scope rulings establish that merchandise (which is imported as parts of a finished curtain wall unit) is explicitly covered by the *Orders*.<sup>217</sup> Further, the petitioner asserts that there is no distinction in the *Orders* between a door threshold which contains a single piece of aluminum and a door threshold which contains both extruded aluminum and non-aluminum parts.<sup>218</sup>

The petitioner further asserts that MJB's door thresholds undergo further finishing, thereby rendering MJB's products ineligible for exclusion under the finished merchandise provision.<sup>219</sup> Finally, the petitioner cites to the aluminum extrusions anti-circumvention inquiry wherein a Chinese manufacturer was found to have circumvented the *Orders* by making door thresholds from 5050 grade aluminum alloy.<sup>220</sup> The petitioner suggests that the MJB extrusions at issue in this scope determination contain similar aluminum content to those at issue in the 5050 anti-circumvention inquiry.<sup>221</sup>

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<sup>211</sup> *Id.* at 9-10.

<sup>212</sup> *Id.* at 12-21.

<sup>213</sup> *Id.* at 6.

<sup>214</sup> *Id.* at 6 and Exhibit 2.

<sup>215</sup> *Id.* at 12.

<sup>216</sup> *Id.* at 18, citing *Shenyang Yuanda Aluminum Industry Engineering Co., Ltd v. United States* 776 F3d 1351, 1359 (Fed Cir. 2015), Curtain Wall Units Scope Ruling, and Finished Curtain Wall Units Scope Ruling.

<sup>217</sup> *Id.* at 18-19.

<sup>218</sup> *Id.* at 21-22.

<sup>219</sup> *Id.* at 24.

<sup>220</sup> *Id.* at 27-28.

<sup>221</sup> *Id.*

### The Petitioner's February 8, 2018 Comments<sup>222</sup>

The petitioner argues that the information provided by MJB in its Second Supplemental Scope Response fails to establish the specific condition of each MJB door threshold at the time of importation.<sup>223</sup> The petitioner claims that this discrepancy undermines MJB's assertion that the merchandise is packaged and shipped in a condition ready for importation.<sup>224</sup> The petitioner further argues that door thresholds "are highly customizable components" which are designed to meet the specifications of particular door products.<sup>225</sup> The petitioner contends that door thresholds must be "customized" to match the size of the door, the frame, the hinge, other components, and "the particular margin requirements of door pre-hangers...."<sup>226</sup> Based on the foregoing, the petitioner asserts that MJB's door thresholds cannot qualify as "finished products."

### MJB's April 24, 2018 Comments<sup>227</sup>

MJB argues that the merchandise which is the subject of its scope request is, in fact, a "door sill" rather than a "door threshold."<sup>228</sup> MJB provided an affidavit from a Company Vice President indicating that the "trade" recognizes distinct differences between "door sills" and "door thresholds."<sup>229</sup> Specifically, MJB contends that door sills are structural components that support the door frame, whereas door thresholds are horizontal plates located below the door which bridge the "crack between the interior floor and the sill."<sup>230</sup> MJB further contends that Columbia is a producer of both products which meet the definition of "door sills" and products which meet the definition of "door thresholds." MJB also contends that Columbia refers to products similar to those at issue in MJB's scope request as "sills," while Columbia refers in its catalog to single-piece aluminum products as "thresholds."<sup>231</sup> MJB further argues that the petitioner do not produce "door sills." Rather, MJB asserts that Endura produces "door thresholds," which require far more fabrication and customization than do "door sills."<sup>232</sup> MJB further asserts:

To be installed, ready-made door sills need only be affixed to the frames or jambs of doors with two screws, nails or staples. By contrast, pre-hung exterior doors require many more steps before they can actually be used.<sup>233</sup>

Based on the difference in fabrication required between "door sills" and "door thresholds," MJB argues that the "door sills" which are the subject of its scope request meet the criteria for

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<sup>222</sup> See Petitioner's February 8, 2018 MJB Scope Comments.

<sup>223</sup> *Id.* at 2.

<sup>224</sup> *Id.* at 3.

<sup>225</sup> *Id.*

<sup>226</sup> *Id.*

<sup>227</sup> See MJB Third Supplemental Response.

<sup>228</sup> *Id.* at 2.

<sup>229</sup> *Id.* at 2 and Exhibit 1.

<sup>230</sup> *Id.* at 3.

<sup>231</sup> *Id.* at 3-5.

<sup>232</sup> *Id.* at 6-7.

<sup>233</sup> *Id.* at 10.

exclusion as “finished goods.” In contrast, MJB asserts that, because of the subsequent further processing that is required of “door thresholds,” the products manufactured by Endura for use with pre-hung doors fail to meet exclusion under the “finished goods” provision of the *Orders*.

#### The Petitioner’s May 21, 2018 Comments<sup>234</sup>

The petitioner argues that “door thresholds” and “door sills” are interchangeably used within the industry to refer to the same product.<sup>235</sup> The petitioner further argues that MJB’s proposed distinction between “door sills” and “door thresholds” is undermined by MJB’s reference to “door thresholds” in both the MJB Scope Request and the First Supplemental MJB Scope Request.<sup>236</sup> The petitioner also argues that Columbia uses the terms “door sills” and “door thresholds” in its product catalog.<sup>237</sup> The petitioner asserts that during the LTFV investigation, Columbia asked the U.S. International Trade Commission (ITC) to exclude door thresholds from China.<sup>238</sup> The petitioner further argues that other industry suppliers also use the terms “door threshold” and “door sill” interchangeably.<sup>239</sup> The petitioner asserts that Endura’s door sill patent indicates that “as used herein, the terms ‘doorsill’ and ‘threshold’ may be used interchangeably.”<sup>240</sup> Based on the foregoing, the petitioner reiterates its argument that door sills/door thresholds fail to meet exclusion under the finished merchandise provision of the scope. The petitioner further contends that there are instances “where thresholds do need to be cut to size, whether this is done by the importer or the pre-hanger.”<sup>241</sup> Finally, the petitioner asserts that the “industry considers a door threshold to be merely a part of a door, and that the latter {the door} is the relevant finished product.”<sup>242</sup>

#### The Petitioner’s September 4, 2018 Comments<sup>243</sup>

In its September 4, 2018 Comments, the petitioner placed on the record of the MJB scope proceeding the same factual information that it had previously filed on July 26, 2018, on the record of the Columbia scope proceeding.<sup>244</sup>

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<sup>234</sup> See Petitioner’s May 21, 2018 MJB Scope Comments.

<sup>235</sup> *Id.* at 4 and Exhibit 4.

<sup>236</sup> *Id.* at 3.

<sup>237</sup> *Id.* at 4.

<sup>238</sup> *Id.* at 5-6, citing Letter from Columbia, “Aluminum Extrusions from the People’s Republic of China: Scope Ruling Request for Columbia Aluminum Products LLC,” dated March 14, 2018 (Columbia March 14, 2018 Letter). The Columbia March 14, 2018 Letter is attached at exhibit 5 of the petitioner’s May 21, 2018 MJB Scope Comments.

<sup>239</sup> *Id.* at 6-8.

<sup>240</sup> *Id.* at 7, citing Endura’s United States Patent 9725945 at 9. MJB submitted a copy of Endura’s 9725945 patent at Exhibit 8 of MJB’s April 24, 2018 Comments.

<sup>241</sup> *Id.* at 14-15 and Exhibit 7, wherein the petitioner provided an affidavit from Tim Foster.

<sup>242</sup> *Id.* at 15 and Exhibit 7.

<sup>243</sup> See Petitioner’s September 4, 2018 Letter.

<sup>244</sup> See also Petitioner’s July 26, 2018 Columbia Scope Comments.

The petitioner asserts that the exhibits referenced in its September 4, 2018, submission demonstrate “that door thresholds were intentionally and expressly covered by the *Orders* and may not be removed through any scope exclusion.”<sup>245</sup>

## *Columbia*

### Columbia Scope Request

Columbia maintains that its door thresholds should be excluded from the scope of the *Orders* because it enters the merchandise into the United States as “finished goods.”<sup>246</sup> Columbia asserts that the aluminum extrusion “is only one component of fully and permanently assembled merchandise at the time of entry.”<sup>247</sup> Further, Columbia asserts that its door thresholds are “ready for use at the time of import” and require “no further processing or manufacturing.”<sup>248</sup> Additionally, Columbia states that non-aluminum components “far outweigh the aluminum components both in terms of cost and quality.”<sup>249</sup>

In its Scope Request, Columbia cites to *Fan Blade Assemblies*, where Commerce determined that fan blade assemblies (consisting of a combination of hollow aluminum extrusion injection molded impact resistance glass filled polypropylene caps, galvanized steel balance weights and a series 300 stainless steel blade) met the criteria for exclusion under the finished merchandise provision of the scope of the *Orders*.<sup>250</sup> Additionally, Columbia cites to *Foreline Hose Assemblies*, where Commerce determined that merchandise consisting of a combination of an aluminum bar stock, Flexible PVC tubing, a 302 SST compression spring, and plated steel met exclusion under the finished merchandise provision of the scope of the *Orders*.<sup>251</sup> Similar to the criteria outlined in both *Fan Blade Assemblies* and *Foreline Hose Assemblies*, Columbia asserts that the non-aluminum components contained in its door thresholds render the merchandise outside the scope of the *Orders* as “finished merchandise.”

Columbia further argues that the *Diversified Products* analysis codified at 19 CFR 351.225(k)(2) establish its door thresholds to be outside the scope of the *Orders*.<sup>252</sup> With regard to the physical characteristics of the product, Columbia argues that the non-aluminum components determine the form of the merchandise rather than the aluminum extrusion.<sup>253</sup> As to the expectation of the purchaser, Columbia contends that aluminum extrusions are purchased as inputs for the manufacture of other products to be subsequently manufactured, whereas purchasers of its door

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<sup>245</sup> *Id.* at 2.

<sup>246</sup> *See* Columbia Scope Request at 7.

<sup>247</sup> *Id.*

<sup>248</sup> *Id.* at 2.

<sup>249</sup> *Id.*

<sup>250</sup> *Id.* at 7-8, citing Memorandum, “Final Scope Ruling on Fan Blade Assemblies,” dated July 25, 2014 (*Fan Blade Assemblies*).

<sup>251</sup> *Id.* at 8-9, citing Memorandum, “Final Scope Ruling on Agilent Technologies Inc.’s Foreline Hose Assembly,” dated August 27, 2015 (*Foreline Hose Assemblies*).

<sup>252</sup> *Id.* at 9-12.

<sup>253</sup> *Id.* at 10.

thresholds expect to purchase a finished good.<sup>254</sup> Regarding the end-use of the product, Columbia contends that aluminum extrusions cannot be used without the incorporation of additional parts whereas its door thresholds are a “ready-to-use” product.<sup>255</sup> Concerning the channels of trade, Columbia argues that door thresholds are sold “for a very specific use within the building and construction industry” whereas aluminum extrusions are sold to “a variety of purchasers and industries.”<sup>256</sup> Finally, concerning the manner in which the product is advertised and displayed, Columbia argues that aluminum extrusions are individually sold and advertised according to specification, while its door thresholds are sold to retailers for a ready-to-use product.<sup>257</sup>

#### Columbia’s July 10, 2018 Comments<sup>258</sup>

Columbia asserts that its door thresholds “are imported as a final finished door threshold designed to seal against water and air.”<sup>259</sup> Columbia further argues that, at the time of importation, its door thresholds are “fully boxed and packaged.”<sup>260</sup> In contrast to Columbia’s own door thresholds, Columbia argues that the door thresholds manufactured by Endura “are provided at generic lengths,” whereas Columbia’s customers “specify exact lengths.”<sup>261</sup> Based on the foregoing, Columbia argues that its merchandise qualifies as “finished merchandise” whereas owing to the possibility of future fabrication or cutting, the door thresholds manufactured by Endura would fail to qualify for exclusion under the finished merchandise provision of the *Orders*’ scope.<sup>262</sup>

#### The Petitioner’s July 26, 2018 Comments<sup>263</sup>

The petitioner asserts that door thresholds are specifically delineated as a product that is subject to the *Orders*. The petitioners cite to the following provision of the scope of the *Orders*:

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks... 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.<sup>264</sup>

The petitioner asserts that the specific mention of door thresholds as end-use products that are covered by the scope of the *Orders* renders the finished merchandise exclusion inapposite.<sup>265</sup>

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<sup>254</sup> *Id.* at 10-11.

<sup>255</sup> *Id.* at 11.

<sup>256</sup> *Id.*

<sup>257</sup> *Id.* at 12.

<sup>258</sup> See First Columbia Supplemental Response.

<sup>259</sup> *Id.* at 8.

<sup>260</sup> *Id.* at 7.

<sup>261</sup> *Id.* at 9.

<sup>262</sup> *Id.* at 10-15.

<sup>263</sup> See Petitioner’s July 26, 2018 Columbia Scope Comments.

<sup>264</sup> *Id.* at 10-11.

<sup>265</sup> *Id.* at 11-16.

The petitioner also argues that door thresholds function as part of a door, rather than as a stand-alone product.<sup>266</sup> The petitioner cites to the Colombia Aluminum Products CBP Tariff Classification Ruling, wherein CBP determined that the essential character of aluminum door threshold is imparted by the aluminum extrusion itself.<sup>267</sup> The petitioner further contends that during the investigations, door thresholds similar to the ones manufactured by Columbia were manufactured by other U.S. producers, and asserts that the domestic industry sought coverage for these door thresholds.<sup>268</sup> The petitioner concludes that any door threshold, based upon the foregoing, is covered by the scope of the *Orders* based upon aluminum door thresholds being covered by scope of the LTFV investigation. The petitioner cites to Commerce’s Curtain Wall Units and Complete and Finished Curtain Wall Units scope rulings as other instances where Commerce based its reading on the plain reading of the scope of the *Orders*.<sup>269</sup> The petitioner argues that the Curtain Wall Units and Complete and Finished Curtain Wall Units scope rulings establish that merchandise (which is imported as parts of a finished curtain wall unit) is explicitly covered by the *Orders*.<sup>270</sup>

The petitioner further asserts that Columbia’s door thresholds undergo further finishing, thereby rendering Columbia’s products ineligible for exclusion under the finished merchandise provision.<sup>271</sup> Finally, the petitioner disputes Colombia’s assertion that examination of the factors specified in 19 CFR 351.225(k)(2) support exclusion of the merchandise subject to Colombia’s scope exclusion request.<sup>272</sup> The petitioner contends that door thresholds “are a specific type of merchandise explicitly covered by the scope and thus an examination of the physical characteristics, expectations of the ultimate purchasers, ultimate use of the product, channels of trade in which the product is sold, and the manner in which the merchandise is advertised or displayed would only confirm that they are subject merchandise.”<sup>273</sup>

#### Columbia’s September 27, 2018 Comments<sup>274</sup>

Columbia reiterated its argument that the plastic components contained in its door thresholds provide the weather-proofing feature of the product, and that such a weather-proofing feature would not be possible were the product to be made exclusively from aluminum.<sup>275</sup> With regard to the petitioner’s reliance on the inclusion of door thresholds as an end use of the product in the scope of the *Orders*, Columbia argues that, “the inclusion of the term ‘thresholds’ does not mean that thresholds made of wood or plastic are in scope.”<sup>276</sup> Additionally, citing to *Rubbermaid Commercial Products*, Columbia argues that merchandise may qualify as a “finished product”

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<sup>266</sup> *Id.* at 15.

<sup>267</sup> *Id.* at 7 and Exhibit 3.

<sup>268</sup> *Id.* at 11, 14-15 (citing Certain Aluminum Extrusions from China, Inv. Nos. 701-TA-475 and 731-TA-1177, USITC Pub. 4229 (May 2011) (Final) (ITC Report).

<sup>269</sup> *Id.* at 20.

<sup>270</sup> *Id.* at 20-21.

<sup>271</sup> *Id.* at 33.

<sup>272</sup> *Id.* at 25-26.

<sup>273</sup> *Id.* at 25.

<sup>274</sup> See Second Columbia Supplemental Response.

<sup>275</sup> *Id.*

<sup>276</sup> *Id.* at 4.

and still be incorporated “into a larger assembly.”<sup>277</sup> Finally, Columbia argues that *Whirlpool* establishes that a good does not qualify within the scope of the Orders simply where an aluminum component is present within an assembled good.<sup>278</sup>

#### The Petitioner’s October 23, 2018 Comments<sup>279</sup>

The petitioner again asserts that the scope of the scope of the *Orders*, “expressly identifies door thresholds as a specific type of subject merchandise.”<sup>280</sup> The petitioner further asserts that door thresholds containing both aluminum and non-aluminum components were produced during the investigations and found to be within the scope of the *Orders*.<sup>281</sup> Unlike door thresholds, the petitioner contends that there is no language in the scope of the *Orders* that provides for specific inclusion of the other products cited by Columbia. The petitioner further asserts that during the investigations, Columbia asked CBP for a tariff classification ruling on whether its products were classifiable as door thresholds, and that CBP determined that Columbia’s products were classifiable as door thresholds.<sup>282</sup> Finally, the petitioner reiterates that Columbia’s door thresholds may possibly undergo further processing subsequent to their importation.<sup>283</sup> The petitioner concludes that “{i}f there is any further processing after importation, such as cutting, the products are not finished and cannot be excluded from the scope as ‘finished merchandise’”<sup>284</sup>

#### Columbia’s November 2, 2018 Comments<sup>285</sup>

Columbia argues that references to “door thresholds” in the scope language “reflects Commerce’s quite correct observation that some imported door thresholds are little more than strips of aluminum, perhaps with screw holes for assembly, or with laminate to provide some sort of weatherproofing.”<sup>286</sup> In contrast to such products which are primarily of aluminum content, Columbia argues that the door thresholds described in its scope request, are “finished products which contain extrusions.”<sup>287</sup> Similar to the door thresholds in *Whirlpool*, Columbia argues that its door thresholds are not themselves extrusions.”<sup>288</sup> Citing *Koyo Seiko*, Columbia further argues that CBP tariff classification rulings do not govern antidumping determinations with respect to class or kind.”<sup>289</sup> Columbia also argues that the petitioner’s reliance on *Shenyang Yuanda* is misplaced because that case involved “Curtain Wall parts” rather than entire Curtain Walls.”<sup>290</sup> Finally, Columbia cites to *Midwest Fastener*, where the Court determined that “the

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<sup>277</sup> *Id.* at 9, citing *Rubbermaid Commercial Products*.

<sup>278</sup> *Id.*, citing *Whirlpool* at 1302.

<sup>279</sup> See Petitioner’s October 23, 2018 Columbia Scope Comments.

<sup>280</sup> *Id.* at 3.

<sup>281</sup> *Id.* at 6 and at Exhibit 3.

<sup>282</sup> *Id.* at 8.

<sup>283</sup> *Id.*

<sup>284</sup> *Id.*

<sup>285</sup> See Columbia November 2, 2018 Scope Comments.

<sup>286</sup> *Id.*

<sup>287</sup> *Id.*

<sup>288</sup> *Id.* at 2-3 citing *Whirlpool* at 1296.

<sup>289</sup> *Id.* at 3, citing *Koyo Seiko Co., v United States* 955 F. Supp. 1532, 1540-41 (CIT 1997) (*Koyo Seiko*)

<sup>290</sup> *Id.* at 3, citing *Shenyang Yuanda* at 1351.

entire product, not just a component part, must be defined as a nail to fall within the scope of the *Orders*.”<sup>291</sup>

### The Petitioner’s November 9, 2018 Comments

The petitioner again asserted that the scope of the scope of the *Orders* “expressly identifies door thresholds as a specific type of subject merchandise.”<sup>292</sup> The petitioner further asserts the scope language in the *Orders* contains nothing that excludes merchandise by virtue of the “value, weight or functional characteristics” of the aluminum extrusion relative to that of the non-aluminum componentry.”<sup>293</sup> Finally, the petitioner asserts that “during the underlying investigations, upon {Commerce}’s request for clarification, Petitioner confirmed that “certain covered extrusions may also be final, finished goods in and of themselves.”<sup>294</sup> Lastly, citing to *Walgreens* and *King Supply*, the petitioner argues that Commerce “cannot interpret an antidumping order so as to change the scope of the order, nor can {Commerce} interpret an order contrary to its terms.”<sup>295</sup>

### **COMMERCE’S POSITION**

We examined the language of the *Orders* and the description of the products contained in the Worldwide Scope Request, the MJB Scope Request, the Columbia Scope Request, as well as the supplemental questionnaire responses filed by Worldwide, MJB, and Columbia. We have also examined previous scope rulings, the Petition and supplements thereto, and the ITC Report. We find that the descriptions of the products, the scope language, and prior rulings, together, are 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, *i.e.*, the door thresholds imported by Worldwide, MJB and Columbia, are included within the scope of the *Orders*.

The scope of the *Orders* covers “aluminum extrusions which are shapes and forms, produced by an extrusion process,” made from aluminum alloys with Aluminum Association designations commencing with the numbers 1, 3, and 6 (proprietary equivalents or other certifying body equivalents). Additionally, the scope of the *Orders* states that “{a}luminum 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.”

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<sup>291</sup> *Id.* at 4, citing *Midwest Fastener Corp. v. United States* No. 00131, 2018 WL 473724 (CIT 2018) (*Midwest Fastener*).

<sup>292</sup> See Petitioner’s November 9, 2018 Columbia Scope Comments at 2.

<sup>293</sup> *Id.* at 3

<sup>294</sup> *Id.* at 4, citing Petitioner’s July 26, 2018 Columbia Scope Comments at 12 and Exhibit 7 (containing Letter, “Aluminum Extrusions from the People’s Republic of China: Petitioners’ Response To the Department’s April 6, 2010 Request For Clarification of Certain Items In The Petition,” dated April 9, 2010), and Petitioner’s October 23, 2018 Columbia Scope Comments at 4.

<sup>295</sup> *Id.* at 7, citing *Walgreens* at 1356 and *King Supply Co., v. United States* 674 F.3d 1343, 1348 (Fed Cir. 2012) (*King Supply*).



In the MJB Scope Request, MJB described its merchandise as a door threshold containing an aluminum extrusion plate threshold attached to the following non-aluminum extrusion components: a composite plastic base, a plastic seal, screws and clips, a plastic nose and a plastic rail.<sup>296</sup> MJB indicated in its First Supplemental Response that the extrusions in its door thresholds contain an extruded “aluminum deck.”<sup>297</sup> In the Worldwide Scope Request, Worldwide described its merchandise as a door threshold containing an aluminum extrusion plate threshold attached to the following non-aluminum extrusion components: synthetic plastic polymers such as PVC, polyethylene, polyurethane, polypropylene or thermoplastic elastomer, wood, and stainless steel.<sup>298</sup> In its third supplemental response, Worldwide indicated that the extrusions in its door thresholds contain 6063-T5 extruded aluminum.<sup>299</sup> In the Columbia Scope Request, Columbia described its merchandise as a door threshold containing an aluminum extrusion plate threshold attached to the following non-aluminum extrusion components: PVC extrusions, insert bars, injection molded wood filled plastic substrates, extruded PVC substrates.<sup>300</sup> Columbia stated in its First Supplemental Response that its door thresholds contain an extrusion of series 6XXX aluminum.<sup>301</sup> Based on the descriptions provided by the parties and the language of the scope of the *Orders*, we find that the extruded aluminum components contained in Worldwide’s, MJB’s, and Columbia’s door thresholds fit the description of subject aluminum extrusions as described in the *Orders* as noted above.

The scope of the *Orders* further provides:

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.

Based on the descriptions of the door thresholds discussed above, we find that the aluminum extruded components of MJB’s, Worldwide’s, and Columbia’s door thresholds may be described as parts for final finished products, *i.e.*, parts for doors, which are assembled after importation (with additional components) to create the final finished product, and otherwise meet the definition of in-scope merchandise. With respect to MJB, although it has later described its products as “door sills” rather than “door thresholds,” we find that the merchandise is still

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<sup>296</sup> See MJB Scope Request at 2.

<sup>297</sup> *Id.* at 5. In a later submission, MJB indicates that its product is better described as a “door sill” rather than a “door threshold.” See MJB’s April 24, 2018 Comments at 4-6 (“Sills are the structural components forming the base of a door, while thresholds form the deck atop the sill or, in interior applications, the division separating rooms having different types of floor elements.”) However, based on MJB’s description of its product, as discussed herein, we find that the distinction between “door sill” and “door threshold” does not impact our analysis.

<sup>298</sup> See Worldwide Scope Request at 3.

<sup>299</sup> See Worldwide Third Supplemental Response at 1-2.

<sup>300</sup> See Columbia Scope Request at 3.

<sup>301</sup> See Columbia First Columbia Supplemental Response at 6.

accurately described as parts for final finished products, *i.e.*, parts for doors and is included within the scope of the *Orders* as discussed herein.

Additionally, we find that the door thresholds, which constitute aluminum extrusion components attached to non-aluminum extrusion components, may also be described as subassemblies pursuant to the scope of the *Orders*. Thus, the non-aluminum extrusion components (*i.e.*, the synthetic plastic polymers PVC, polyethylene, polyurethane, polypropylene or thermoplastic elastomer, wood, and stainless steel in MJB's door thresholds; the synthetic plastic polymers, polyethylene, polyurethane, polypropylene or thermoplastic elastomer, wood, and stainless steel in Worldwide's door thresholds, and the PVC extrusions, insert bars, injection molded wood filled plastic substrates, extruded PVC substrates in Columbia's door thresholds), which are assembled with the in-scope aluminum extrusion components, are not included in the scope of the *Orders*.

The scope of the *Orders* also expressly covers aluminum extrusions that may be identified with reference to their end-use, such as door thresholds:

{S} 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.<sup>302</sup>

Thus, the plain language of the scope of the *Orders* specifies that “door thresholds” are included within the scope “if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation.”<sup>303</sup> In light of the above, we find that MJB's, Worldwide's, and Columbia's door thresholds are within the scope of the *Orders*.

This determination is further supported by the sources described in 19 CFR 351.225(k)(1). For example, we find that review of the Petition to the underlying investigations demonstrates that the petitioner expressly included “door thresholds” in the original investigations. For instance, the Petition provides that: “The subject extrusions may be identified as other goods, *e.g.*, heat sinks, **door thresholds**, or carpet trim. Again, such goods that otherwise meet the definition of aluminum extrusions are included in the scope.”<sup>304</sup> The Petition also described the uses of subject aluminum extrusions: “Aluminum extrusions serve in a wide variety of applications. In the construction sector, for example, aluminum extrusions are incorporated into window and **door frames and sills**, curtain walls, **thresholds**, and gutters.”<sup>305</sup> Exhibit I-5 to the Petition further lists “door thresholds” as one of the specifically enumerated examples of “Subject Merchandise” under “Product Type: Aluminum extrusions that are also identified as other goods.”<sup>306</sup>

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<sup>302</sup> See the *Orders*.

<sup>303</sup> *Id.*

<sup>304</sup> See Petition at Volume I, page 5 (emphasis added). See Petitioner's September 4, 2018 Worldwide Scope Letter at Exhibit 6; see also Petitioner's September 4, 2018 MJB Letter at Exhibit 6; see also Petitioner's July 26, 2018 Columbia Scope Letter at Exhibit 6.

<sup>305</sup> *Id.* at page 8.

<sup>306</sup> *Id.* at Exhibit I-5.

In response to a supplemental questionnaire, the petitioner revised the proposed scope language to read:

Subject extrusions may be identified with reference to their end use, such as heat sinks, door thresholds, or carpet trim. Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are finished products and ready for use at the time of importation.<sup>307</sup>

The petitioner explained: “We have clarified that certain covered extrusions may be final, finished goods in and of themselves. Thus, they would be identified according to function or use.”<sup>308</sup>

Although the above language was altered by the time the *Orders* were issued to include reference to fence posts, electrical conduits, and a heat sinks exclusion, the reference to door thresholds remained unchanged. The ITC Report further confirms statements from the Petition that “aluminum extrusions serve in a wide variety of applications such as window and **door frames and sills**, curtain walls, **thresholds**, gutters, solar panel frames, and vehicle parts{,}” and also states that:

Seventeen firms reported that after fabrication, the aluminum extrusions they produce may become known as another product before the point of sale, including bath and shower enclosures, evaporator coils, **doors and door thresholds**, electrical conduit products, floor covering trims, frames, handicap ramps, handles, heat sinks, pedestrian bridges, push bars, retail displays, solar frames, truck racks and rails, and windows.<sup>309</sup>

Thus, our review of the relevant sources under 19 CFR 351.225(k)(1) supports a finding that MJB’s Worldwide’s, and Columbia’s door thresholds are within the scope of the *Orders*.

We disagree with MJB, Worldwide, and Columbia that the door thresholds are excluded from the *Orders* under the finished merchandise exclusion. The finished merchandise exclusion states:

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.

As an initial matter, we find the express inclusion of “door thresholds” within the scope of the *Orders* (regardless of whether the door thresholds are ready for use at the time of importation)

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<sup>307</sup> See Petitioner’s April 9, 2010 Scope Letter at Attachment 3. See Petitioner’s September 4, 2018 Worldwide Scope Letter at Exhibit 7; see also Petitioner’s September 4, 2018 MJB Letter at Exhibit 7; see also Petitioner’s July 26, 2018 Columbia Scope Letter at Exhibit 7.

<sup>308</sup> *Id.* at 4.

<sup>309</sup> See ITC Report at II-5 and II-9. See Petitioner’s September 4, 2018 Worldwide Scope Letter at Exhibit 9; see also Petitioner’s September 4, 2018 MJB Letter at Exhibit 9; see also Petitioner’s July 26, 2018 Columbia Scope Letter at Exhibit 9.

renders the reliance of Worldwide, MJB, and Columbia upon the finished merchandise exclusion inapposite. Furthermore, finding door thresholds excluded under the finished merchandise exclusion would render the express inclusion of “door thresholds” meaningless. Additionally, as noted above, we find that a door threshold may be described as a part for a door, while the finished merchandise exclusion expressly covers finished “doors with glass or vinyl.” Moreover, we note that the same provision of the scope which expressly references “door thresholds” provides an express reference to the heat sinks exclusion:

{S}ubject 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)**.<sup>310</sup>

Thus, in contrast to the heat sinks exclusion referenced in this same section of the scope language, there is no similar language within the scope of the *Orders* which indicates that only those door thresholds that do not meet an exclusion are within the scope of the *Orders*.<sup>311</sup>

We further find the facts in each of the instant three scope requests analogous to those in the Curtain Wall Units Scope Ruling and Complete and Finished Wall Units Scope Ruling.<sup>312</sup> Like curtain walls, door thresholds are expressly mentioned as an example of “subject merchandise” within the scope of the *Orders*. Furthermore, in both the Curtain Wall Units Scope Ruling and Complete and Finished Wall Units Scope Ruling, we declined to find that the products were subject to the finished merchandise exclusion. The Federal Circuit affirmed our determination that in the Curtain Wall Units Scope ruling that such products are subject to the scope of the *Orders* and do not qualify for the finished merchandise exclusion because, among other reasons, “the scope language explicitly includes” the product in question.<sup>313</sup>

In contrast, the other scope rulings cited by Worldwide, MJB, and Columbia (*i.e.*, the Foreline Hose Assembly Scope Ruling,<sup>314</sup> the Seagate Assemblies Homecrest Final Scope Ruling,<sup>315</sup> the Homecrest Final Scope Ruling,<sup>316</sup> the Aluminum Anodes Final Scope Ruling,<sup>317</sup> the Sign-Zone Events Tent Scope Ruling,<sup>318</sup> the Fan Blade Assemblies Final Scope Ruling,<sup>319</sup> and the Side Mount Valve Control Kits Scope Ruling<sup>320</sup>) involved an examination of products which were not specifically delineated as being either in-scope or outside-scope in the scope language. Similarly, the products at issue in *IKEA Supply*, *Meridian Products*, and *Rubbermaid*

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<sup>310</sup> See the *Orders* (emphasis added).

<sup>311</sup> Concerning “heat sinks,” the scope of the *Orders* reads: “Also excluded from the scope of this order are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.” *Id.*

<sup>312</sup> See Curtain Wall Units Scope Ruling at 9; see also Complete and Finished Wall Units Scope Ruling at 22-26.

<sup>313</sup> See *Shenyang Yuanda II* at 1359.

<sup>314</sup> See Foreline Hose Assembly Final Scope Ruling at 5-6.

<sup>315</sup> See Seagate Assemblies Homecrest Final Scope Ruling at 10-11.

<sup>316</sup> See Homecrest Final Scope Ruling at 8-10.

<sup>317</sup> See Aluminum Anodes Final Scope Ruling at 5-7.

<sup>318</sup> See Sign-Zone Event Tent Scope Ruling Memorandum at 10-11.

<sup>319</sup> See Fan Blade Assemblies Final Scope Ruling at 7-8.

<sup>320</sup> See SMVC Kits Scope Ruling.

*Commercial Product* were neither specifically described within the *Orders* as either in-scope, or outside-scope.<sup>321</sup> Because those products were not specifically identified in the scope language, the determinations involved an analysis as to whether the scope exclusion for finished merchandise applied. Here, based on the specific inclusion of “door thresholds” within the scope of the *Orders*, we agree with the petitioner that the finished merchandise scope exclusion is inapplicable with respect to the products at issue in these scope requests.

Finally, unlike the situations in American Fence Manufacturing,<sup>322</sup> Ameristar Fence Products,<sup>323</sup> and Origin Point Brands,<sup>324</sup> we find that no analysis as to whether the “finished goods kit” exclusion of the scope is required. As previously indicated, in the instant scope proceedings, door thresholds are specifically delineated in the scope language as subject merchandise. In contrast, while “fence posts” are also listed in the same provision of the scope as door thresholds, the American Fence Manufacturing, the Ameristar Fence Products and the Origin Point Brands scope rulings each involved products that were beyond just fence posts. In American Fence Manufacturing, the products involved included “fence post sections, bulk products and posts and gates.”<sup>325</sup> Similarly, in Ameristar Fence Products, the scope ruling involved aluminum fence sections, posts with caps and gates.<sup>326</sup> Finally, in Origin Point Brands, Commerce considered whether aluminum fence panels, posts and gates fell within the scope of the *Orders*.<sup>327</sup> The multiple products which were at issue in American Fence Manufacturing, Ameristar Fence Products, and Origin Point Brands differentiate those scope rulings from these scope proceedings where the products at issue are confined exclusively to door thresholds.

The petitioner also argued that Worldwide’s, MJB’s, and Columbia’s door thresholds may require further cutting and customization after the merchandise enters the United States, thus rendering them ineligible for the finished merchandise scope exclusion. However, we find that because of the explicit inclusion of door thresholds as in-scope merchandise, it is unnecessary for Commerce to further consider the finished merchandise or finished goods kit exclusions in these scope proceedings. The petitioner has further argued that Commerce’s determination in the aluminum extrusions anti-circumvention proceeding involving 5050 extrusions, and the Colombia Aluminum Products CBP Tariff Classification Ruling support treating door thresholds as an in-scope product. We again find consideration of these arguments, and any remaining arguments raised herein by the parties, unnecessary given the explicit mention of door thresholds as in-scope merchandise within the scope of the *Orders*.

## 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 the products subject to the scope requests from

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<sup>321</sup> See, generally, *IKEA Supply, Meridian Products, and Rubbermaid Commercial Products*; see also the *Orders*; Petitioner March 31, 2010 Scope Letter at I-5.

<sup>322</sup> See American Fence Manufacturing Scope Ruling at 9-10.

<sup>323</sup> See Ameristar Scope Ruling at 10-11.

<sup>324</sup> See Origin Scope Ruling at 10.

<sup>325</sup> See, generally, American Fence Manufacturing Scope Ruling.

<sup>326</sup> See, generally, American Fence Products Scope Ruling.

<sup>327</sup> See, generally, Origin Point Brands Scope Ruling.

Worldwide,<sup>328</sup> MJB,<sup>329</sup> and Columbia<sup>330</sup> are included within the scope of the *Orders*. Additionally, as noted above, we further find that the non-aluminum extrusion components (*i.e.*, the synthetic plastic polymers PVC, polyethylene, polyurethane, polypropylene or thermoplastic elastomer, wood, and stainless steel in MJB's door thresholds; the synthetic plastic polymers, polyethylene, polyurethane, polypropylene or thermoplastic elastomer, wood, and stainless steel in Worldwide's door thresholds, and the PVC extrusions, insert bars, injection molded wood filled plastic substrates, extruded PVC substrates in Columbia's door thresholds), which are assembled with the in-scope aluminum extrusion components, are not included in 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 lists *via* first-class mail, as directed by 19 CFR 351.225(d).

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

12/19/2018

X

*James Maeder*

Signed by: JAMES MAEDER

James Maeder

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

<sup>328</sup> Worldwide door threshold models: (1) 99-496, (2) 99-558, (3) 99-2240, (4) 99-2241, (5) 99-2242, (6) 99-2243, (7) 99-2244, (8) 99-2255, (9) 99-2300, (10) 99-2340, (11) 99-2861, (12) 99-2911, (13) 99-2912, (14) 99-2930, (15) 99-2961, (16) 99-2970, (17) 99-3061, and (18) 99-8100.

<sup>329</sup> MJB models: (1) ISE28SA5ML, (2) ISE30SA5ML, (3) ISE32SA5ML, (4) ISE36SA5ML, and (5) ISE72SA5ML.

<sup>330</sup> Columbia models: (1) 881, (2) 950, (3) 951, (4) 955, (5) 982, (6) 988, (7) 990, (8) 122, (9) 128, and (10) 129.