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International Trade Administration
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Scope Inquiry
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July 13, 2012

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

THROUGH: Wendy J. Frankel
Director, Office 8
Antidumping and Countervailing Duty Operations

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FROM: Brooke Kennedy
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Antidumping and Countervailing Duty Operations

RE: Antidumping (AD) and Countervailing Duty (CVD) Orders on
Aluminum Extrusions from the People's Republic of China (PRC)

SUBJECT: Final Scope Ruling on Electrolux's Fin Evaporator Systems

SUMMARY

On January 24, 2012, the Department of Commerce ("Department") received a scope ruling request from Electrolux North America, Inc., Electrolux Home Products, Inc. and Electrolux Major Appliances ("Electrolux"), to determine whether certain fin evaporator systems ("FESs") are subject to the antidumping duty ("AD") and countervailing duty ("CVD") orders on aluminum extrusions from the People's Republic of China ("PRC") ("Scope Ruling Request"). *See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011) ("AD Order") and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order* 76 FR 30653 (May 26, 2011) (collectively, "Orders"). On the basis of our analysis of the request and the comments received, we have determined the

aluminum components of Electrolux's FESs are within the scope of the AD and CVD orders on aluminum extrusions from the PRC.

BACKGROUND

On January 24, 2012, Electrolux submitted its Scope Ruling Request. On February 8, 2012, the Aluminum Extrusions Fair Trade Committee ("Petitioner"), submitted comments responding to the Scope Ruling Request ("Petitioner's First Rebuttal"). On May 3, 2012, Electrolux responded to the comments presented by Petitioner ("Electrolux's Rebuttal"). On May 14, 2012, Petitioner submitted a rebuttal to Electrolux's May 3, 2012 comments ("Petitioner's Second Rebuttal"). On May 31, 2012, Brazeway, Inc. ("Brazeway"), a domestic producer, submitted comments pertaining to the scope ruling request ("Brazeway Comment").

SCOPE OF THE ORDERS

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

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. 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 bright-dip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions

that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window 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 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 (“HTS”): 7604.21.0000, 7604.29.1000, 7604.29.3010, 7604.29.3050, 7604.29.5030, 7604.29.5060, 7608.20.0030, 7608.20.0090, 8513.90.20, 8302.50, 9403.90.8030, 9506.91.0010, 9506.91.0020, 9506.91.0030, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.19.10, 7616.99.10, and 7616.99.50. 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 HTS chapters. In addition, fin evaporator coils may be classifiable under HTS numbers: 8418.99.8050 and 8418.99.8060. While HTS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive. *See Orders.*

LEGAL FRAMEWORK

When a request for a scope ruling is filed, the Department examines the scope language of the order at issue and the description of the product contained in the scope-ruling request. *See Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010). Pursuant to the Department’s regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from the investigations, and prior scope determinations made for the same product. *See* 19 CFR 351.225(k)(1). If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling as to whether the merchandise is covered by an order.

Conversely, where the descriptions of the merchandise are not dispositive, the Department will initiate a scope inquiry under 19 CFR 351.225(e) and analyze the 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 inquiry is made on a case-by-case basis after consideration of all evidence before the Department.

DESCRIPTION OF MERCHANDISE SUBJECT TO THIS INQUIRY

Electrolux

Electrolux states that FESs are heat dissipation systems for refrigerators. Electrolux described

the FES covered by its scope inquiry as fin evaporator coils (“FECs”) that undergo further manufacturing steps to be processed into FESs before importation. Electrolux states that the FESs are composed of extruded aluminum tubes that are bent and welded together to form a coil, to which “fins” made of aluminum alloy sheet are attached, followed by the attachment of copper “stub” fittings. *See* Scope Ruling Request at 1-2.

Petitioner’s Response

Petitioner argues that FESs are not materially different from the FECs examined in the original investigation. *See Aluminum Extrusions From the People’s Republic of China*, 76 FR 18524 (April 4, 2011) (final determination) and accompanying Issues and Decision Memorandum at Comment 3J. Petitioner claims that both products are composed of extruded aluminum coils, with aluminum fins and copper stubs attached. *See* Petitioner’s First Rebuttal at 2-3, and Petitioner’s Second Rebuttal at 2.

ARGUMENTS FROM INTERESTED PARTIES

Electrolux

In its Scope Ruling Request, Electrolux argues that the FESs are not subject to the *Orders* because they are not “extrusions,” but rather completed assemblies of extruded and non-extruded components. *See* Scope Ruling Request at 4. Electrolux argues that its FESs fall outside the scope because they fit the exclusion for finished merchandise. Electrolux asserts that the FESs do not undergo any further processing once imported into the U.S. before incorporation into refrigerators, meaning they are finished goods and not unlike completed windows (that have to be incorporated into a larger structure), which have been found outside the scope. *See* Electrolux’s Rebuttal at 4.

Electrolux asserts that Petitioner’s argument that FESs are subassemblies “fails because it vastly expands the definition of an in-scope ‘subassembly’ by including intermediate products that contain extrusions as opposed to intermediate products that are themselves extrusions.” *See* Electrolux’s Rebuttal at 2.

Petitioner

Petitioner argues that the FESs are within the scope because 1) they are analogous to the FECs already determined in the investigation to be within the scope, and 2) they are subassemblies that are part of downstream products. *See* Petitioner’s First Rebuttal at 2. Petitioner refutes Electrolux’s argument that subassemblies covered by the *Orders* cannot contain non-aluminum extrusions, noting that the Department already found in the original investigation that FECs fall within the scope as subassemblies for refrigeration systems. Petitioner asserts that FECs subject to the *Orders* include the same type of fins as the FESs that are the subject of this inquiry. *See* Petitioner’s First Rebuttal at 5-6.

Brazeway

Brazeway stated it does not object to a Department determination that finds the specific FESs described by Electrolux to be outside the scope of the *Orders*. Brazeway provides no further elaboration on its position. *See* Brazeway Comment at 1.

RELEVANT SCOPE DETERMINATIONS

AD Final Determination

The Department's *Final Determination* found that FECs are within the scope of the investigations because they are subassemblies for refrigeration units made from extruded aluminum tubes of alloy series designation 1 or 3. The scope of the investigations was then amended accordingly to include the HTS number for FECs. *See Final Determination* and accompanying Issues and Decision Memorandum at comment 3J.

ANALYSIS

In the investigation, Brazeway argued that the Department should find FECs to be subject to the *Orders*. *See id.* No party contested Brazeway's arguments. *Id.* For the Final Determination, the Department agreed with Brazeway that FECs are subassemblies covered by the language of the scope of the *Orders*. *Id.* In comparing the FESs described by Electrolux in this scope ruling request, and the FECs described by Brazeway in the investigation, the Department finds there are no material differences in the products. Electrolux describes its products as consisting of an extruded aluminum coil, fins and stubs. *See* Scope Ruling Request at 1-2. Contrary to what Electrolux claims in its request, this is precisely the description of the FECs examined in the investigation. *See* Brazeway, Inc.'s Comments on Scope of the Investigation and on Product Characteristics for Antidumping Questionnaire (May 10, 2010) at 4. Thus, the Department has already reached a determination that a product with these characteristics is within the scope of the investigation in its *Final Determination*.

Electrolux's assertion that subassemblies defined by the scope cannot contain non-aluminum extrusion parts or components is incorrect. Electrolux bases this argument on the language in the Petition that states that "aluminum extrusions that may be partially assembled into a finished product (*e.g.*, two or more aluminum extrusions attached by welding or fasteners)" are covered. *See* Electrolux Rebuttal at 2. Though this language specifically addresses subassemblies that are composed solely of aluminum extrusions, it does address subassemblies containing non-aluminum extrusion parts. Further, the language in the scope of the *Orders* itself specifically includes and provides for subassemblies that contain non-aluminum extrusion components: "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." *See AD Order* at 30651 (emphasis added).

RECOMMENDATION

For the reasons discussed above, and in accordance with 19 CFR 351.225(d) and 351.225(k)(1), we recommend finding that the aluminum components of the FESs, addressed by the instant request, are subject to the scope of the orders on aluminum extrusions from the PRC.

If the recommendation in this memorandum is accepted, we will serve a copy of this determination to all interested parties on the scope service list via first-class mail, as directed by 19 CFR 351.303(d).

_____ Agree _____ Disagree

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

Date