



C-570-968; A-570-967
Scope Inquiry
Aluminum Rails (Showers & Carpets)
Public Document
Office 3; Operations: JC, EBG

DATE: September 6, 2012

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

THROUGH: Melissa G. Skinner
Director
Office 3, Operations

FROM: John Conniff
Senior Trade Analyst

Eric B. Greynolds
Program Manager

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

SUBJECT: Final Scope Ruling on Aluminum Rails for Showers and
Carpets

Summary

Sinobec Resources LLS (Sinobec) filed a scope inquiry in which it requested that the Department of Commerce (the Department) determine whether certain aluminum rails for showers and carpets (aluminum rails) which it imports are within the scope of the Orders.¹ For the reasons described below, we recommend determining that the aluminum rails at issue are outside the scope of the Orders.

Background

Sinobec filed its request for a scope inquiry on July 26, 2012.² Petitioners did not submit comments regarding the Scope Request.³

¹ See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order, 76 FR 30,650 (May 26, 2011) (AD Order) and Aluminum Extrusions From the People's Republic of China: Countervailing Duty Order, 76 FR 30,653 (May 26, 2011) (CVD Order) (collectively, the Orders).

² See the July 26, 2012, Scope Request of Sinobec (Scope Request).

³ See Petitioners are the Aluminum Extrusions Fair Trade Committee.



Legal Framework

When a request for a scope ruling is filed, the Department examines the scope language of the order and the description of the product contained in the scope-ruling request.⁴ 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.⁵ 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.⁶ If the Department determines that these sources are not sufficient to decide the matter, the Department will consider the five additional factors set forth in 19 CFR 351.225(k)(2). 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.

Descriptions of the Product at Issue

In the Scope Request, Sinobec describes the product at issue as a line of extruded aluminum rails for use in the manufacture of shower doors and carpet fixture frames to affix carpet to a floor. Sinobec states that the products at issue are fabricated to accept a wide variety of door thicknesses and profiles as well as to accept various other hardware to allow the door to open and close. The products may also serve as handles for the shower doors. Sinobec further explains that the carpet rails at issue are fabricated to accept different carpeting styles and thicknesses. Sinobec explains that the products at issue are designed for further fabrication, meaning that manufacturers of shower doors and carpet installation kits in the United States will use the products at issue as input parts in their manufacturing process. Sinobec states that the products are not sold at retail to consumers.

Sinobec states that all products at issue are manufactured using a "5050" aluminum material. Sinobec explains that the "5050" designation is a standard established by the Aluminum Association, under which standard aluminum material contains between 1.1 percent and 1.8 percent magnesium by weight.⁷

Scope of the Orders

The merchandise covered by these 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

⁴ Walgreen Co. v. United States, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁵ 19 CFR 351.225(k)(1).

⁶ 19 CFR 351.225(d).

⁷ See The Aluminum Association, International Alloy Designations and Chemical Composition Limits for Wrought Aluminum and Wrought Aluminum Alloys, at 7 (February 2009), excerpted in pertinent part and annotated at Exhibit A of the Scope Request.

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, 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 mm or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

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

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTS): 7604.21.0000, 7604.29.1000, 7604.29.3010, 7604.29.3050, 7604.29.5030, 7604.29.5060, 7608.20.0030, and 7608.20.0090. 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: 8418.99.80.50 and 8418.99.80.60. While HTS subheadings are provided for convenience and customs purposes, the written description of the scope of these Orders is dispositive.

Arguments of the Interested Party

Sinobec's Scope Request

The Orders specifically exclude from the scope:

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.

The products subject to this scope request are manufactured using a "5050" aluminum material, as defined by the Aluminum Association. Sinobec includes a laboratory testing certificate indicating that the products at issue contain the requisite quantity of magnesium by weight, *i.e.*, between 1.1 percent and 1.8 percent magnesium by weight.⁸ The laboratory testing was completed by SGS-CSTC Standards Technical Services Co., Ltd., which is the Chinese affiliate of SGS, an inspection, verification, testing, and certification company.⁹

In light of this information, Sinobec contends that the Department should conclude that the products at issue meet the exclusion criteria set forth in scope of the Orders.

Department's Position

The scope of the Orders specifically excludes 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.¹⁰ Sinobec asserts that its extruded aluminum rails are manufactured using "5050" material, and has supported this statement with laboratory testing information. We find that the laboratory testing information from SGS-CSTC Standards Technical Services Co., Ltd. contained in Sinobec's Scope Request substantiates Sinobec's claims that the products at issue were manufactured using an Aluminum Association designation of "5050" and that the standard for that designation is aluminum material containing between 1.1 and 1.8 percent magnesium by weight. Therefore, we find that the products at issue are excluded from the scope of the Orders.

Department's Recommendation

For the reasons discussed above, we recommend finding that the products described in Sinobec's Scope Request meets the exclusion for 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, therefore, are outside the scope of the Orders. Further, we recommend finding that the products at issue in the Scope Request do not present a significant difficulty within the meaning of 19 CFR 351.225(f)(3) and, thus, we further recommend that this scope ruling constitutes a final ruling as provided under 19 CFR 351.225(f)(4).

⁸ See Scope Request at Exhibit B.

⁹ *Id.*

¹⁰ See scope of the Orders.

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

Agree

Disagree

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

Date