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Scope Inquiry
Cutting and Marking Edges
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MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

THROUGH: Melissa G. Skinner
Director
Office 3, Operations

FROM: Eric B. Greynolds
Program Manager

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RE: Aluminum Extrusions from the People's Republic of China: Final
Scope Ruling on Cutting and Marking Edges

Summary

Plasticoid Manufacturing Inc. (Plasticoid) filed a scope inquiry in which it requested that the Department of Commerce (the Department) determine whether certain cutting and marking straight edges which it imports are within the scope of the Orders.¹ For the reasons described below, we recommend determining that the products at issue are within the scope of the Orders.

Background

Plasticoid submitted its request for a scope inquiry on October 9, 2012.² Petitioners³ did not submit comments regarding the Scope Request.

Legal Framework

When a request for a scope ruling is filed, the Department examines the scope language of the

¹ See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order, 76 FR 30650 (May 26, 2011) and Aluminum Extrusions From the People's Republic of China: Countervailing Duty Order, 76 FR 30653 (May 26, 2011) (collectively, the Orders).

² See the October 9, 2012, Scope Ruling Request of Plasticoid Manufacturing Inc. (Scope Request).

³ Petitioners are the Aluminum Extrusions Fair Trade Committee.



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 Products at Issue

Plasticoid provided a description of the products at issue in the Scope Request. The products at issue are finished cutting and marking straight edges suitable for immediate use in drafting and cutting applications without further manufacturing, assembly, mounting, or combination with any other component, apparatus, or fixture. The products at issue consist of a single hollow extrusion made of 6000 series aluminum alloy. They are no more than 42.125 inches in length. They are less than 1.5 inches in width and less than 0.4 inches tall. The top of the products at issue possess a curved face. The products at issue also have one or more beveled edges to facilitate precise marking and cutting. The products at issue have machined holes for mounting, or for purposes of hanging as a means of storage when not in use. The products at issue also possess textured finger grips along their length to assist in manipulation and to help prevent fingers from sliding into the cutting or marking path. The wall thicknesses of the products at issue are at certain points along the extrusion below 0.77 mm, providing reduced weight for ease of use and maneuverability. Along the bottom face of the products at issue are grooves to allow for smooth gliding on work surfaces. Finally, the products at issue possess both flatness and straightness qualities desired in drafting and cutting applications and may come in any finish. Technical drawings and photos of the products at issue are included in the Scope Request.⁷

Plasticoid states that the products at issue enter the United States under U.S. Harmonized Tariff Schedule # 7604.21.0000, which provides for aluminum rods, bars, and profiles; of aluminum alloys, hollow profiles.

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 Scope Request at Exhibits 1 and 2.

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.

Prior Scope Rulings

A. Baluster Kits⁸

During the underlying investigation, the Department considered comments and made a determination regarding baluster kits. Maine Ornamental explained that it imported baluster kits, which contained aluminum extrusions in a variety of powdered coated finishes to match wood and composite wood decking and railings. It contended that the kits contained all the necessary components to assemble a final finished good and, as such, represented unassembled finished goods.

The Department found that baluster kits were not excluded “kits” as defined by the scope of the investigations and therefore constitute subject merchandise.⁹ The Department determined that Maine Ornamental’s own description of the product indicated that such balusters were designed to work with other parts to form a larger structure. The Department further explained that if used as directed, the balusters represented parts of structures to form a balustrade or deck rail. Thus, the Department found that the baluster kits represented a packaged collection of individual parts, which comprised a single element of a railing or deck system, and, therefore, did not represent a finished product.¹⁰

B. Cleaning System Components¹¹

Rubbermaid Commercial Products LLC (Rubbermaid) filed a scope inquiry in which it requested that the Department determine whether certain cleaning system components (e.g., mop heads, mop handles, and mop frames (or poles)) were within the scope of the Orders. Rubbermaid argued that the frames, handles, and mopping kits at issue were fully and permanently assembled with other components at the time of entry and are ready for sale and, thus, fell squarely under the “finished merchandise” exclusion language of the scope of the Orders.

Petitioners argued that the products at issue, even if they were fully assembled at the time of entry, were merely subassemblies (i.e., components for mops). Thus, Petitioners argued that the frames and handles at issue were within the scope of the Orders.

The Department found that the products at issue were within the scope of the Orders. It found that, individually, the cleaning system components at issue did not constitute a final, finished good. Rather, the Department found the products at issue were designed to function collaboratively in order to form a completed cleaning device (e.g., a pole connected to a frame head, which in turn is connected to a mop head or cloth), but the components to make a final cleaning device were not part of a packaged combination at the time of importation. As a result,

⁸ See Aluminum Extrusions from the People’s Republic of China: Final Determination in the Less-Than-Fair-Value, 76 FR 18524 (April 4, 2011), and accompanying Issues and Decision Memorandum (AD Decision Memorandum) at Comment 3H.

⁹ See AD Decision Memorandum at Comment 3H.

¹⁰ Id.

¹¹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Certain Cleaning System Components,” (October 25, 2012) (Cleaning Systems Scope Ruling).

the Department found the mop handles and frames at issue did not meet the exclusion for “finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry.”

The Department further found that a complete mopping kit would require inclusion of a mop end to meet the exclusionary language that defines a finished goods kit. Because the mopping kits at issue lacked the disposable mop ends at the time of importation, the Department found that they did not constitute a “finished goods kit,” and, thus, fell within the scope of the Orders.

C. Modular Railing Systems¹²

Peak Products, an exporter, sought to export various components of aluminum railing systems (e.g., posts, gates, hand/base rails, pickets, spacers, and glass panels) in individual “kits” to the United States. It argued that each component of an aluminum railing system constituted a completed and fully assembled kit that is ready for sale to the ultimate consumer and, thus, fell under the finished goods kit exclusion of the scope of the Orders.

Petitioners argued that the products at issue were analogous to other products (e.g., baluster kits) that the Department previously determined did not constitute “finished goods kits.”

The Department determined that, based on Peak Product’s description of the products at issue, the products cannot be classified as anything other than parts, as opposed to stand-alone, fully-finished products. It added that Peak Products’ interpretation that components of a kit should be excluded would result in all aluminum extrusions, which otherwise fall within the scope of the Orders, being included in the scope if, after importation, the components would be assembled together with other items. The Department found this interpretation is in direct opposition to the scope of the Orders, which excludes finished goods kits that are “packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good.”

D. Fence Sections, Posts, and Gates¹³

American Fence Manufacturing Company LLC (AFMC), an importer, requested a scope ruling on aluminum fence post sections, posts, and gates. AFMC argued that the products at issue constituted finished goods kits.

The Department found that the products at issue were within the scope of the Orders because they did not contain all of the parts necessary to fully assemble a final finished product. For example, the Department found that several fence sections required cutting after importation. It further found that other products at issue did not meet the exclusion for finished goods kits

¹² See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Certain Modular Aluminum Railing Systems,” (October 31, 2012) (Railing Systems Scope Ruling).

¹³ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on American Fence Manufacturing Company LLC’s Fence Sections, Posts and Gates,” (December 2, 2011) (Fence Sections Scope Ruling).

because they were merely parts of a larger system, namely inputs for a downstream product, a finished fence.

E. Banner Stands and Back Wall Kits¹⁴

In its scope inquiry request, Skyline Displays Inc. (Skyline) argued that banner stands and back wall kits, used to showcase graphics and other marketing materials, fell outside the scope of the Orders because they met the exclusion criteria of the scope of the Orders, namely that the products at issue constituted “finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry.”

Petitioners argued that Skyline had not provided sufficient evidence that its products constitute a finished good that are outside the scope of the Orders. They urged the Department to seek more information regarding the extent to which Skyline produced and sold the graphical materials that users attach to the products at issue. Petitioners further argued that the fact that additional accessories could be added to the products at issue (e.g., shelving and lighting) called into question Skyline’s claim that the products constituted finished goods.

In the Banner Stands Scope Ruling, the Department found that the banner stands and back wall kits described in Skyline’s scope inquiry request met the exclusion criteria.¹⁵ The Department explained that the products at issue contained all of the parts required to assemble a completed exhibition frame on which printed graphical materials may be hung and, thus, met the exclusion criteria in the scope of the Orders for “finished goods kits.”¹⁶ The Department further explained that in the preliminary scope comments it found that Nexxt Show’s exhibition kits would be excluded if the kits contained all necessary parts to be fully assembled finished good. Thus, in the Banner Stands Scope Ruling, the Department found that because Skyline’s merchandise contained all the necessary parts, it was excluded as a “finished goods kit.”

In the Banner Stands Scope Ruling, the Department agreed that the products at issue were analogous to completed picture frames, which are explicitly excluded from the scope.¹⁷ The Department disagreed with Petitioners’ claim that the products at issue failed to meet the exclusion criteria because they lacked printed graphical materials at the time of entry. The Department found that the products at issue were designed to incorporate interchangeable graphical materials that can change with users’ needs. Therefore, the Department found that it would be unreasonable to require that the products at issue be accompanied at the time of importation with affixed graphical material that cannot be removed or altered at a later date.¹⁸

¹⁴ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Banner Stands and Back Wall Kits,” (October 19, 2011) (Banner Stands Scope Ruling).

¹⁵ See *id.* at 9-10.

¹⁶ *Id.* at 9 – 10.

¹⁷ *Id.*

¹⁸ *Id.*

F. Geodesic Domes¹⁹

J.A. Hancock Co., Inc. (JA Hancock), an importer, requested a scope ruling on certain geodesic dome frame kits. The products at issue consisted solely of extruded aluminum parts along with nuts, bolts, and washers. JA Hancock argued that the products at issue constituted finished goods kits. JA Hancock argued that the product at issue contained all the components necessary to assemble a final finished good. It further argued that the products at issue required no further fabrication and are assembled “as is” from the components provided in the kits.

In the Geodesic Domes Scope Ruling, the Department explained that the product at issue met the “initial requirements for inclusion into the finished goods kit exclusion.”²⁰ However, the Department noted that the scope of the Orders states that an “imported product will not be considered a ‘finished goods kit’ . . . merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusion product.”²¹ The Department found that since the products at issue consisted solely of extruded aluminum and fasteners, the exception to the exclusion provision applied. Accordingly, the Department found that the products at issue did not meet the exclusion criteria for a finished goods kit.²²

Arguments of the Interested Party

Plasticoid’s Scope Request

According to Plasticoid, the scope language expressly excludes “finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry.” The products at issue, consisting of a single part -- the finished aluminum extrusion – are final finished merchandise contemplated by this exclusion. The products at issue are used in end-use applications that require no other part, component, or assembly after entry into the United States. Although they can be mounted to a drafting board in some applications, the products at issue are also used in free-hand applications and were designed and are sold for that use. How the products at issue are used is dependent upon the preferences of the user and the specific application. Thus, it is possible that the very same cutting and marking edge may be mounted to perform one application and then un-mounted to perform another application. But outside of such applications, given their dimensions and other machined features, such as the finger grips and mounting/hanging holes, the products at issue have no other commercial use. The products at issue are precisely the type of merchandise Petitioners sought to exclude from the scope of the order, namely “downstream products that have been converted into finished merchandise.”²³

¹⁹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on J.A. Hancock, Inc.’s Geodesic Structures,” (July 17, 2012) (Geodesic Domes Scope Ruling).

²⁰ See *id.* at 7.

²¹ *Id.*

²² *Id.*

²³ See, e.g., Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Precision Machine Parts,” (March 28, 2012) (Precision Machine Parts Scope Ruling) at 9.

In every scope determination issued by the Department dealing with either the fully assembled “finished merchandise” exclusion or the unassembled “finished goods kits” exclusion, the Department has focused on whether the merchandise functioned as a final finished good, either upon entry or upon assembly if a “kit,” and not merely as one element of a larger system. Where the merchandise was simply one element or lacked an integral component, the Department found that it was within the scope of the Orders.²⁴ Where the product was fully functional independent of any other part, component, or element, like the product at issue, the Department determined that the product was not within the scope of the Orders. The Department has employed the same rationale with regard to unassembled kits. The key factor is whether such kits provide all the necessary parts and components to assemble a final finished product. Thus, for example, when examining a variety of fencing and railing kits, the Department has found that none of the products at issue provided all the parts and components necessary to assemble a complete fencing or railing system.²⁵

Applying the rationale discussed above to the products at issue yields an entirely different conclusion. The products at issue are imported ready for use, as evidenced by the fact that their end-use application requires only the cutting and marking edge itself. There is no other integral component that completes the products at issue. The cutting and marking edge, in and of itself, is the finished merchandise.

The products at issue are analogous to the exhibition kits examined in the Banner Stands Scope Ruling in which the Department found that the exhibition kits at issue met the “finished goods kits” exclusion despite the fact that they lacked graphical display materials. Similarly, although the cutting and marking edge may be used in conjunction with a drafting board, the board serves merely as an accessory and not as a component that is integral to the function of the products at issue, which do not require a drafting board for use, and which are regularly used without a drafting board.

Finally, the fact that the products at issue consist of a single aluminum extrusion and may be identified with reference to their end use does not diminish their status as final finished merchandise subject to the exclusion contained in the scope language. In this regard, the products at issue are distinguished from the examples of such products contained in the scope language, including “fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks.”²⁶ Each example identified in the scope language represents a product that may itself be “finished,” but is just one element or component of a broader system, consistent with the analysis the Department has applied in its other scope determinations as discussed above. None of the examples function as an independent finished product. The products at issue are not characterized by their operation as just one element or integral component of a larger system or finished product, and so differ significantly from the examples provided in the scope language.

²⁴ See, e.g., Baluster Kits addressed in the AD Decision Memorandum at Comment 3H, see also Awnings Scope Ruling, and Cleaning System Scope Ruling.

²⁵ See Railing Systems Scope Ruling; see also Fence Sections Scope Ruling.

²⁶ See scope of the Orders.

Although the plain language of the scope of the Orders is sufficient to determine that the product at issue is not within the scope, the additional factors in 19 CFR 351.225(k)(2) support the product's exclusion.²⁷

Department's Position:

We find that the description of the products in the Scope Request, the scope language, and the Department's previous scope determinations in these proceedings to be dispositive concerning whether Plasticoid's cutting and marking edges are subject to the Orders. Accordingly, the Department finds it unnecessary to consider the additional factors specified in 19 CFR 351.225(k)(2). The products at issue consist of a single hollow extrusion made of 6000 series aluminum alloy, and have machined holes and one or more beveled edges.

Thus, the physical characteristics of the products at issue (e.g., aluminum extrusion of a rectangular shape) match the physical description of subject merchandise:

The merchandise covered by the order 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... 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.²⁸

The scope of the Orders also includes extrusions "that are cut-to-length, machined, drilled, {and} punched." The Department finds that Plasticoid's products are "aluminum extrusions which are shapes and forms," made of an aluminum alloy that is covered by the scope of the Orders and have been fabricated, i.e., machined. Therefore, the products at issue meet the description of subject extrusions. We also note that the products are entered under HTS category 7604.21.0000, a category which is listed in the scope of the Orders.

Concerning Plasticoid's argument that its products are excluded because they are "finished merchandise," we disagree. The scope expressly includes aluminum extrusions which are identified by reference to their end use. Like the door thresholds or carpet trim, both of which are provided as examples of subject extrusions, Plasticoid's products are merely aluminum extrusions that meet the physical description of subject merchandise, referred to by their end use: as cutting and marking edges. Thus, the fact that Plasticoid's products are not an element of a larger system, or lack an integral component, such as the products at issue in the Cleaning Systems Scope Ruling, the Railing Systems Scope Ruling, and the Fence Sections Scope Ruling, is irrelevant because the products in those matters are merely aluminum extrusions referred to by their end use.

Further, contrary to Plasticoid's argument, the fact that its products are ready for use at the time

²⁷ See Scope Request at 12 - 14.

²⁸ See scope of the Orders.

of importation does not, by itself, result in the products' exclusion from the Orders. The language of the scope indicates that products otherwise meeting the scope definition for subject merchandise are covered under the Orders regardless of whether they are ready for use at the time of importation:

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.

Plasticoid argues that, unlike door thresholds and carpet trim, which are elements of a broader system, Plasticoid's products have an independent function, as cutting and marking edges. However, in the Geodesic Scope Ruling, the Department found that the products contained all the parts necessary to assemble a complete geodesic dome and, thus, met the "initial requirements for inclusion into the finished goods kit exclusion."²⁹ The Department nonetheless found the geodesic dome kits at issue to be within the scope of the Orders based on the fact that the scope states that the "finished goods kits" exclusion does not apply ". . . merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusion product." Thus, in the Geodesic Scope Ruling, the Department concluded that since the products at issue consisted entirely of extruded aluminum, the exception to the exclusion provision applied. Accordingly, the Department found that the products at issue did not meet the exclusion criteria for finished goods kits.³⁰ Plasticoid's products, which consist solely of aluminum extrusions, are similar to the geodesic dome kits examined by the Department because Plasticoid's products consist entirely of aluminum extrusions. This is also consistent with the express inclusion of subject extrusions in the scope of the Orders that may be identified by reference to their end use, which are subject to the Orders provided they "otherwise meet the scope definition." Thus, Plasticoid's products do not meet the exclusion for finished merchandise.

Plasticoid also argues that its products are of the type that Petitioners intended to exclude from the scope because they are "downstream products that have been converted into finished merchandise."³¹ However, in the Precision Machine Parts Scope Ruling, the Department found that products which have undergone specialized machining processes may be considered subject merchandise because the scope, as well as the International Trade Commission's (ITC) investigation, includes aluminum extrusions that have been "fabricated."³² Here, Plasticoid's products have machined holes, a process which is specifically discussed in the scope of the Orders, and so this fabrication does not exclude Plasticoid's products from the scope of the Orders.

²⁹ See Geodesic Dome Scope Ruling at 7.

³⁰ Id.

³¹ See Scope Request at 9, quoting Precision Machine Parts Scope Ruling at 9.

³² See Precision Machine Parts at 14-15 (stating "information from the ITC and the Department indicates that the scope of the Orders places no such limits on the degree of fabrication . . . in the manner suggested by {the requestor}").

Recommendation

For the reasons discussed above, we recommend finding that the products described in the Plasticoid Scope Request do not meet the exclusion for “finished merchandise.” Therefore, we recommend finding that the products at issue are within the scope of the Orders. Further, we recommend finding that the products at issue in the Scope Request do not present an issue of 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).

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