

DATE: December 17, 2012

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

THROUGH: Melissa G. Skinner
Director
Office 8, Operations

FROM: Eric B. Greynolds
Program Manager

John Conniff
Senior Trade Analyst

RE: Aluminum Extrusions from the People's Republic of China

SUBJECT: Final Scope Ruling on Refrigerator/Freezer Trim Kits

Summary

Meridian Products LLC (Meridian) filed a scope inquiry in which it requested that the Department of Commerce (the Department) determine that certain refrigerator/freezer trim kits which it imports are excluded from 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

Meridian submitted its request for a scope inquiry on November 13, 2012.² Petitioners³ submitted comments on the Scope Request on December 7, 2012.⁴

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 November 13, 2012, Scope Ruling Request of Meridian (Scope Request).

³ Petitioners are the Aluminum Extrusions Fair Trade Committee.

⁴ See Petitioners' December 7, 2012, submission.



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.⁵ 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.⁶ 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.⁷ 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

The trim kits consist of three different styles of aluminum trim kit packages which are utilized as an aesthetic frame around the perimeter of (though not attached to) a major home kitchen appliance, such as a refrigerator. The products at issue are intended to enhance the appearance of the cabinetry surrounding appliances in consumers' homes and lend a customized, "built-in" look. The major appliance units for which the trim packages apply are stand alone freezers, stand alone refrigerators, and freezer plus refrigerators.⁸

Trim kits are sold as a package of finished parts which when assembled will make up a customized frame to fit around a single freezer unit or a single refrigerator unit. Each trim kit consists of extruded aluminum forms, made from aluminum alloy having elements corresponding to the alloy series designation published by the Aluminum Association commencing with the number 6. The trim kits also include a customer installation kit for the consumer to use during the final assembly in the residential kitchen -- this installation kit includes a hexagonal wrench and fasteners used in the assembly of the trim kit. A set of instructions written in English, Spanish, and French is included in the installation kit.

Meridian states that the products at issue enter the United States under U.S. Harmonized Tariff Schedule (HTS) 8418.99.8060, which provides for other parts for refrigerators, freezers and other refrigerating or freezing equipment.

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

⁵ See Walgreen Co. v. United States, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁶ 19 CFR 351.225(k)(1).

⁷ 19 CFR 351.225(d).

⁸ See Scope Request, at Attachment 1 (for photographs of the products at issue).

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, 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 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 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. Geodesic Domes Scope Ruling⁹

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.”¹⁰ 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.”¹¹ 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.¹²

B. Cutting & Edging Scope Ruling¹³

In its scope inquiry request, Plasticoid Manufacturing Inc. (Plasticoid) argued that certain finished cutting and marking straight edges that it imports are outside the scope of the Orders. Plasticoid argued that the products at issue constituted finished goods and, therefore, met the exclusion criteria in the scope of the Orders.

The Department found that the physical characteristics of the products at issue (e.g., aluminum extrusion of a rectangular shape) match the physical description of subject merchandise, which includes aluminum extrusions in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. The Department also disagreed that the product at issue constituted a “finished good.” The Department explained that 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. Accordingly, the Department found that the products at issue did not meet the exclusion criteria for finished merchandise.

⁹ 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).

¹⁰ See id., at 7.

¹¹ Id.

¹² Id.

¹³ See the Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Cutting and Marking Straight Edges,” (November 13, 2012) (Cutting & Edging Scope Ruling).

C. Window Kits Scope Ruling¹⁴

IAP Enclosures, an exporter, requested a scope ruling on two products: punched window kits and ribbon window kits. IAP Enclosures argued that, at the time of importation, the kits contained all of the parts, including frame and glass, necessary to assemble a finished window.

Petitioners argued that IAP Enclosures failed to provide sufficient information to support its claim that the products at issue constitute “finished goods kits.”

The Department found that the product kits at issue contained all of the necessary parts, including glass panels to fully assemble a final, finished good, and, as such, they constituted “finished goods kits” that are excluded from the Orders.

D. Shower Doors Scope Ruling¹⁵

Sapa Extrusions Inc. (Sapa), an importer, requested a scope ruling on shower door kits. The product at issue consisted of a glazed shower door panel (glass surrounded by an aluminum frame), door handles, pivot and strike door jambs (with seals), a drip rail (with vinyl and end plugs), snap-in fillers, and the required screws, spacer, washers, and tape for assembly. Sapa argued that all parts needed for the completion of a finished good were included in its shower door kit at the time of importation, and have the capability to be assembled “as is” into a finished product.

The Department determined that Sapa’s shower doors kits contained all of the parts necessary to assemble a final finished product - a shower door - at the time of importation. Thus, the Department found that Sapa’s shower door kits met the exclusion criteria contained in the scope of the Orders for finished goods kits.

E. Banner Stands Scope Ruling¹⁶

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.”

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.¹⁷ The Department explained that the products at issue contained all of the parts required to assemble a completed

¹⁴ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Window Kits,” (December 6, 2011) (Window Kits Scope Ruling).

¹⁵ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling; Shower Door Kits,” (November 7, 2011) (Shower Doors Scope Ruling).

¹⁶ 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).

¹⁷ See *id.*, at 9-10.

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.”¹⁸ The Department further explained that, during the investigation, it found that certain 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.¹⁹ 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.²⁰

F. Anodes Scope Ruling²¹

A.O. Smith Corporation (AO Smith), an importer, requested a scope ruling on aluminum anodes for water heaters (water heater anodes). The water heater anodes at issue consisted of a rod made of aluminum alloy formed around a stainless steel or carbon steel core with a carbon steel cap. According to AO Smith, the steel core and the steel cap could amount to over 50 percent of the total weight of the anode, depending on the length of the product. AO argued that a water heater anode is a finished downstream product that functions separately from a water heater. Thus, AO smith argued that the water heater anodes at issue met the exclusion criteria for final finished goods.²²

The Department found that the water heater anodes at issue were finished merchandise and thus are excluded from the scope of the Orders. The Department found that a water heater anode is a finished product because it contains all the components of a water heater anode (i.e., the aluminum, the steel/carbon steel rod, and the carbon steel cap) which are permanently assembled, completed and ready to use as an aluminum anode which works to prevent corrosion in a water heater.²³

¹⁸ Id., at 9 – 10.

¹⁹ Id.

²⁰ Id.

²¹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Aluminum Anodes for Water Heaters,” (October 17, 2012) (Anodes Scope Ruling).

²² Id., at 5 -7.

²³ Id., at 5 -7.

Arguments of the Interested Party

Meridian's Scope Request

Meridian's trim kits should be excluded from the Orders as "finished goods kits." First, Meridian's trim kits are a packaged combination of parts that contain, at time of importation, all of the necessary components to assemble a complete frame to surround a refrigerator or freezer. All of the components are fully fabricated and do not require further cutting, punching, or other processing prior to their assembly and installation around the finished refrigerator or freezer unit. Because the frame is assembled "as is" from the components provided in the trim kits, the Department should confirm that Meridian's trim kits fall under the exclusion for finished goods kits and thus are not within the scope of the Orders. In addition, Meridian's trim kits are in a form ready to be sold directly to, and used by, the consumer/end-user.

Trim kits do not require any additional parts prior to the assembly. In that regard, the assembled frames from the kits are analogous to completed picture frames, which are explicitly excluded from the scope. Like picture frames, which are designed to surround and enhance the appearance of the picture selected by the user, the subject trim kits are intended to surround and enhance the appearance of the appliance (though unlike picture frames, the subject trim kits do not "hold" the appliance nor do they provide any structural support function). In this regard, the Department should find that Meridian's trim kits are finished goods kits.

In the Banner Stands Scope Ruling, the Department found that the subject products, which contain all of the parts to assemble a complete exhibition frame on which printed graphical materials may be hung, are outside the scope.²⁴ The Department also found that the products, which contain all of the parts required to assemble a completed exhibition from on which readily interchangeable fabric covers with graphics may be attached, are outside the scope.²⁵ In this ruling, the Department reasoned that the products at issue were akin to picture frames because they incorporated interchangeable materials that can be modified according to the end user's needs and specifications. Meridian's trim kits are extruded aluminum structures that augment finished products, *i.e.*, refrigerators or freezers that can be changed with the customer's needs.

Furthermore, in the Shower Doors Scope Ruling, the Department found that the kits contain all of the parts necessary to assemble a final finished product – a shower door – are outside the scope of the Orders.²⁶ In the Window Kits Scope Ruling, the Department excluded the products at issue from the Orders because the Department found that the kits contain at the time of importation all of the parts, including the glass panels, necessary to assemble a finished window.²⁷ Finally, in the Anodes Scope Ruling, the Department found "a water heater anode is a finished product that works in conjunction with another finished product, a water heater."²⁸ To reach this conclusion, the Department compared the function of the water heater anode with the window kits, noting that a water heater anode works in the same fashion as a window with glass

²⁴ See, *e.g.*, Banner Stands Scope Ruling, at 9 – 11.

²⁵ See Banner Stands Scope Ruling, at 9 – 10.

²⁶ See Shower Doors Scope Ruling, at 6.

²⁷ See Window Kits Scope Ruling, at 5.

²⁸ See Anodes Scope Ruling, at 6.

as a finished product, which “works in conjunction with a house or structure.”²⁹ This comparison also applies to Meridian’s trim kits, because the trim kits are complete and ready-to-use products and merely enhance the aesthetics of refrigerators and freezers.

In short, based on these rulings, the Department should find that Meridian’s trim kits are finished good kits that are excluded from the scope of the Orders.

Petitioners’ Comments

Meridian’s trim kits are nothing more than fabricated aluminum extrusions, which do not meet the “finished goods kit” exclusion. As described by Meridian, the trim kits consist of extruded aluminum forms, made from aluminum alloy having elements corresponding to the alloy series designation published by the Aluminum Association commencing with the number 6. Therefore, the trim kits clearly meet the definition of subject merchandise in the scope of the orders:

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.

Further, the scope of the orders states that subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, like Meridian's trim kits. While Meridian may import these appliance frames with all the components necessary to assemble the trim for a refrigerator or freezer, the frames themselves, however, are not standalone “final finished goods.” Meridian’s claim that the products at issue are analogous to those examined in the Window Kits Scope Ruling is off point. Even Meridian acknowledges that the products examined in the Window Kits Scope Ruling qualified as a finished goods kit because they contained all the necessary parts upon importation, including the glass panel. In contrast, the products at issue are analogous to a window frame that lacks a glass insert. Thus, the trim kits at issue serve no purpose as a standalone product, just as a window frame would serve no purpose without any glass. Therefore, the trim kits cannot fit within the finished goods kit exclusion from the scope, as they do not form a complete finished good.

The scope of the Orders does not include or exclude parts based on their end uses. The end-use language in the scope merely serves to identify types of products. The fact that the products are identified by reference to their end use - as trim kits for refrigerators/freezers – does not change their status as subject aluminum extrusions. In that way, the trim kits are analogous to fence posts, which are specifically included in the scope, and the products examined in the Cutting & Edging Scope Ruling, which the Department recently determined were within the scope of the orders.

Department’s Position: We have examined the description of the products in the Scope Request, the scope language, and the Department’s previous scope rulings concerning the Orders. Pursuant to 19 CFR 351.225(k)(1), we find that the scope and prior rulings are dispositive as to whether the products at issue are subject merchandise. Accordingly, the

²⁹ Id.

Department finds it unnecessary to consider the additional factors specified in 19 CFR 351.225(k)(2).

Aside from an assembly tool, fasteners, and an instruction booklet, the products at issue consist of aluminum extrusions extrusion made of 6000 series aluminum alloy. Thus, the physical characteristics of the products at issue (e.g., aluminum extrusion frames of a particular 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.³⁰

The scope of the Orders also includes extrusions “that are cut-to-length, machined, drilled, {and} punched.” We find that Meridian’s products are “aluminum extrusions which are shapes and forms,” made of an aluminum alloy that is covered by the scope of the Orders. Therefore, the products at issue meet the description of subject extrusions.

Concerning Meridian’s argument that its products are excluded because they are “finished goods kits,” 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, Meridian’s products are merely aluminum extrusions that meet the physical description of subject merchandise, referred to by their end use: as frames for refrigerators and freezers.

Further, the fact that the products at issue are ready for use “as is” at the time 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.

Meridian argues that the products at issue are akin to the picture frames that are listed as excluded merchandise in the scope of the Orders. It also argues that the products at issue are analogous to the products examined in the Banner Stands Scope Ruling as well as the product examined in the Anodes Scope Ruling. We disagree. In the Geodesic Domes Scope Ruling, the Department found that the geodesic dome frame kits at issue contained all the parts necessary to

³⁰ See scope of the Orders.

assemble a complete geodesic dome and, thus, met the “initial requirements for inclusion into the finished goods kit exclusion.”³¹ However, 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.³²

We find that the trim kits at issue (which, aside from an assembly tool, fasteners, and an instruction booklet) consist entirely of aluminum extrusions and, thus, are similar to the products examined in the Geodesic Dome and Cutting & Edging Scope Rulings. 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, Meridian’s products do not meet the exclusion for finished merchandise.

In light of our findings that the products at issue are akin to those examined in the Geodesic Domes and Cutting & Edging Scope Rulings, we disagree that the trim kits are excluded from the scope of the Orders, like the products at issue in Window Kits, Shower Doors, Anodes, and Banner Stands Scope Rulings. As noted above, even products that meet the “initial requirements for inclusion into the finished goods kit exclusion” may nonetheless fall within the scope of the Orders if the Department finds that, as an initial matter, they consist of solely extruded aluminum products.³³ As noted above, unlike the products examined in the Window Kits, Shower Doors, Anodes, and Banner Stands Scope Rulings, which included non-aluminum extruded materials (e.g., glass paneling, plastic carrying cases, etc.), the products at issue in the instant scope ruling consist entirely of extruded aluminum merchandise. Further, we disagree that the trim kits are akin to excluded picture frames, because in order to be excluded, the picture frame must include all necessary parts, including those which are not extruded aluminum, and are not fasteners. In contrast, the trim kits consist entirely of extruded aluminum. We also disagree that the trim kits are akin to the banner stands, because the trim kits are not meant to display graphical material which is intended to be customizable.

We also note that Scope Request states that the products at issue also contain an assembly wrench, fasteners, and an instruction booklet. However, the scope of the Orders states that the exclusion for “finished goods kits” shall not be met virtue of the mere inclusion of “fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusion product.” We find that the fasteners included with the product at issue at the time of importation meet the definition of extraneous fasteners and packaging materials described in the scope. We further find that the assembly tool and instruction booklet do not render the products at issue into finished goods because they are not assembled into or part of the assembled trim kit.

³¹ See Geodesic Dome Scope Ruling at 7.

³² Id.; The Department reached the same conclusion in the Cutting & Edging Scope Ruling at 10 – 11.

³³ See, e.g., Geodesic Dome Scope Ruling, at 7.

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 products described in the Scope Request do not meet the exclusions for “finished merchandise” and “finished goods kits.” Therefore, we recommend finding that the products at issue are within the scope of the Orders. Further, we recommend finding 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