



A-570-967/C-570-968
Scope: Pocket Door Tracks
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July 22, 2014

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

THROUGH: Melissa Skinner
Director, Office III
Antidumping and Countervailing Duty Operations

Erin Begnal
Program Manager, Office III
Antidumping and Countervailing Duty Operations

FROM: Paul Stolz
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Antidumping and Countervailing Duty Operations

RE: Antidumping and Countervailing Duty Orders on Aluminum
Extrusions from the People's Republic of China

SUBJECT: Final Scope Ruling on Five Lakes Trading, Inc.'s Pocket Door
Tracks

SUMMARY

On March 7, 2014, the Department of Commerce ("Department") received a scope ruling request from Five Lakes Trading, Inc. ("Five Lakes"),¹ to determine whether the pocket door tracks it imports are subject to the antidumping ("AD") and countervailing duty ("CVD") orders on aluminum extrusions from the People's Republic of China ("PRC").² On the basis of our analysis of Five Lakes' request and supplemental information received, we determine that the

¹ See letter from Five Lakes entitled: "Aluminum Extrusions from the People's Republic of China: Request for Scope Ruling Regarding Five Lakes Trading, Inc.," ("Five Lakes request") dated March 7, 2014.

² 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").



pocket door tracks imported by Five Lakes are subject merchandise covered by the scope of the *Orders* on aluminum extrusions from the PRC.

BACKGROUND

On March 7, 2014, Five Lakes requested that the Department determine whether the pocket door tracks it imported were outside the scope of the *Orders*. On April 15, 2014, the Department issued a supplemental questionnaire to Five Lakes.³ Five Lakes submitted its response to the supplemental questionnaire on April 29, 2014.⁴ On July 14, 2014, the Aluminum Extrusions Fair Trade Committee (“Petitioner”) submitted comments in response to Five Lakes’ scope ruling request.⁵

SCOPE OF THE ORDERS

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 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.

³ See letter from the Department entitled “Aluminum Extrusions from the People’s Republic of China: Request for Scope Ruling,” dated April 15, 2014.

⁴ See the letter from Five Lakes entitled “Aluminum Extrusions from the People’s Republic of China; Initial Questionnaire Response,” (“Questionnaire Response”) dated April 29, 2014.

⁵ See Petitioner’s submission, “Aluminum Extrusions from the People’s Republic of China: Comments in Opposition to Scope Ruling Request Regarding Five Lakes Trading, Inc.’s Pocket Door Tracks,” dated July 11, 2014 (“Petitioner’s Comments”).

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 (“HTSUS”): 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8516.90.50.00, 8516.90.80.50, 8708.80.65.90, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.30, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.⁶

⁶ 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.⁷ 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.⁸ 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 consider the five additional factors set forth at 19 CFR 351.225(k)(2). These factors are: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope proceeding is made on a case-by-case basis after consideration of all evidence before the Department.

DESCRIPTION OF MERCHANDISE SUBJECT TO THIS REQUEST

The merchandise subject to this scope request is a pocket door track. In its Questionnaire Response, Five Lakes states that "Aluminum pocket door tracks are extruded from 6063 aluminum, cut to various lengths, and then holes are punched so they can be attached with screws within a pocket door frame."⁹ Furthermore, Five Lakes states that "The pocket door track is imported by itself . . ."¹⁰ In addition, Exhibit A of Five Lakes' request includes a picture of the pocket door track which shows that the pocket door track is a single-piece aluminum extrusion without accessories, attachments, fasteners, or other non-extruded parts of aluminum or any other material. Moreover, Five Lakes states that after importation into the United States, the pocket door track is installed on a wooden header and that the header assembly is included in the door frame subassembly which is installed during residential building construction.¹¹

ARGUMENTS FROM INTERESTED PARTIES

Five Lakes submitted no argument or rationale as to why it believes pocket door tracks are not subject merchandise covered by the scope of the *Orders*.

Petitioner argues that pocket door tracks are included in the scope of the *Orders* and ". . . are not captured or excluded by an exception enumerated in the scope description."¹² Petitioner argues that ". . . each pocket door track is constituted of nothing more than a single extruded piece of aluminum, which is crafted of 6063 alloy." Petitioner argues that pocket door tracks are not

⁷ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁸ See 19 CFR 351.225(k)(1).

⁹ See Five Lakes' Questionnaire Response at 3.

¹⁰ *Id.*, at 4.

¹¹ *Id.*, at 3.

¹² See Petitioner's Comments.

covered by any of the exclusions stated in the scope of the orders, which include: collapsible containers, heat sinks, rectangular wire, finished goods, and finished goods kits. Furthermore, Petitioner argues that the Department should “disqualify” Five Lakes’ request from consideration because Five Lakes failed to state a justification or rationale for its request that the Department determine that pocket door tracks are not covered by the scope of the *Orders*. Petitioner argues that pocket door tracks are “... nothing more than single extruded aluminum forms, crafted from 6xxx-series alloy, and fabricated prior to importation.”¹³

DEPARTMENT’S POSITION

The Department examined the language of the *Orders* and the description of the products contained in this scope request. We find that the scope language is dispositive as to whether the product at issue is subject merchandise. The scope of the *Orders* provides that “The merchandise covered by the *Orders* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents).” Five Lakes reported that the pocket door tracks it imports are “extruded from 6063 aluminum,” which is an alloy series designation beginning with the number six, as covered by the scope of the *Orders*.

Additionally, the scope of the *Orders* provides that, “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.” Five Lakes reported that the pocket door tracks it imports are cut-to-length and punched.¹⁴ Thus, because the pocket door track is solely a fabricated aluminum extrusion, we find that it is covered by the scope of the *Orders*.

In addition, the scope provides that “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.” In our supplemental questionnaire we requested that Five Lakes describe the pocket door track at the time of importation, and whether the pocket door track is imported by itself or with other parts needed for assembly, including fasteners such as screws, bolts and washers. Five Lakes responded that the pocket door track it imports is imported by itself, and subsequent to importation, it is installed on a wooden header and is then incorporated into a door frame assembly.¹⁵ Thus, we find that a pocket door track is a part that is incorporated into a final finished product (*i.e.* a pocket door frame assembly) after importation and is covered by the scope of the *Orders*.

¹³ *Id.*, at 5.

¹⁴ See Five Lakes’ request at 1.

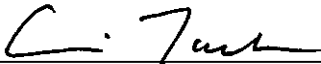
¹⁵ See Five Lakes’ Questionnaire Response at 3-4.

RECOMMENDATION

For the reasons discussed above, and in accordance with 19 CFR 351.225(d), we recommend finding that the pocket door tracks imported by Five Lakes are subject merchandise covered by the scope of the AD and CVD *Orders* on aluminum extrusions from the PRC based on the language of the scope of the *Orders*.

If the recommendation in this memorandum is accepted, we will serve a copy of this determination to all interested parties on the scope service list via first-class mail, as directed by 19 CFR 351.225(d).

Agree Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

7/22/14

Date