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Scope Inquiry
Trade Booth Kits
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E&C AD/CVD OIII: EBG

June 23, 2014

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

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

FROM: Eric B. Greynolds *EBG*
Program Manager, Office III
Antidumping and Countervailing Duty Operations

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

SUBJECT: Final Scope Ruling on Trade Booth Kits

SUMMARY

On November 8, 2013, the Department of Commerce (Department) received a scope ruling request from Glenmore Industries LLC (Glenmore)¹ to determine whether the trade booth kits it imports are subject to the antidumping (AD) and countervailing duty (CVD) *Orders*.² On the basis of our analysis of the comments received, we determine that the trade booth kits are excluded from the scope of the *Orders*.

BACKGROUND

On November 8, 2013, Glenmore filed the Scope Request. On December 16, 2013, the Department extended the deadline for a ruling until February 21, 2014.³ On December 16, 2014, Petitioners⁴ filed comments on the Scope Request.⁵ On January 10, 2014, Glenmore responded

¹ See Glenmore's November 8, 2013, submission (Scope Request).

² See *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011) (*AD Order*) and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (*CVD Order*) (collectively the *Orders*).

³ See the Department's December 16, 2014, letter.

⁴ Petitioners are the Aluminum Fair Trade Committee.



to Petitioners' comments.⁶ On February 7, 2014, the Department extended the deadline to April 22, 2014.⁷ On March 19, 2014, the Department requested additional information concerning Glenmore's Scope Request,⁸ to which Glenmore responded on March 28, 2014.⁹ On April 11, 2014, the Department extended the deadline to June 23, 2014.¹⁰

SCOPE OF THE ORDERS

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). 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.

⁵ See Petitioners' December 16, 2014, submission (Petitioners' Comments).

⁶ See Glenmore's January 10, 2014, submission (Supplemental Filing).

⁷ See the Department's February 7, 2014, letter.

⁸ See the Department's March 19, 2014, letter (Deficiency Letter).

⁹ See Glenmore's March 28, 2014, submission (Second Supplemental Filing).

¹⁰ See the Department's April 11, 2014, letter.

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 Harmonized Tariff Schedule of the United States (HTS): 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 HTS chapters. In addition, fin evaporator coils may be classifiable under HTS numbers: 8418.99.8050 and 8418.99.8060. While HTS subheadings are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.

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.¹¹ 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.¹² 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.

¹¹ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

¹² See 19 CFR 351.225(k)(1).

Conversely, where the descriptions of the merchandise are not dispositive, the Department will analyze the factors set forth at 19 CFR 351.225(k)(2). These factors are: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope proceeding is made on a case-by-case basis after consideration of all evidence before the Department.

DESCRIPTION OF MERCHANDISE SUBJECT TO THIS SCOPE REQUEST

The subject articles are polyester knit fabric-covered aluminum wall panels, fabric covered aluminum headers, aluminum posts (columns), and crossbeams, containing all of the components required and necessary to assemble complete commercial display spaces for use at trade shows, conventions, fairs and similar exhibitions and displays.¹³ The trade booth kits include connectors that will be riveted (permanently attached) and integrated as part of the column posts, wall panels, headers, and crossbeams, prior to importation so as to allow for all of the aforementioned pieces to “snap” together and, therefore, no further parts or fabrication are required for final assembly.¹⁴ Glenmore’s customer may specify for the booth kits to include one or more accessories such as flags for booth identification number, shelves, grids, garment hangers, and sign frames; all of which are specially designed for use exclusively with the trade booths and have no other use and all of which will be complete as imported and attachable to the booths without further fabrication or the need for additional parts or components.¹⁵ According to Glenmore, regardless of whether the trade booths contain a complete array of accessories, all trade booths at issue will contain the structural components (*e.g.*, fabric walls, headers posts, and crossbeams) that are required to assemble a finished trade show booth.¹⁶

While these articles may be imported in one or more containers, the entire shipment will be listed on one 7501 Entry Summary and will be on one U. S. Customs entry. Within the containers, due to the size of the components, the columns will be bundled together, the walls will be bundled together, and the headers will be bundled together in specially designed steel crates; however, each shipment will contain a set number of column posts, headers, wall panels and crossbeams, necessary to assemble a predetermined number of display/trade booths, together with the accessories specified by Glenmore’s customer. Each shipment will be specific to a final customer and will contain the trade booth kits and accessories ordered by that customer.¹⁷ Further, at the time of importation, the kits will contain all the necessary components to assemble a trade booth. In addition, the trade booth kits require no post-importation repackaging and/or rearrangement prior to being sold or delivered to the ultimate purchaser.¹⁸

¹³ See Scope Request at 2.

¹⁴ *Id.*

¹⁵ *Id.* at 2 and Exhibit A, which contains specifications for the trade booth kits.

¹⁶ *Id.* at 2-3

¹⁷ See Scope Request at 3 and Exhibit B, which contains sketches of how the trade booths will be packaged.

¹⁸ *Id.* at 4.

PRIOR SCOPE RULINGS RELEVANT TO THIS PROCEEDING¹⁹

Preliminary Scope Memorandum²⁰

Nexxt Show, an importer of exhibition kits from the PRC, argued that the components of the kits were made of series 6000 aluminum alloy, but the components were packaged as complete unassembled pavilion kits and exhibition frames. Nexxt Show argued that its exhibit frames and unassembled pavilion kits consisted of all the components to assemble a finished goods kit and so should have been excluded from the *Orders*.²¹ In the Preliminary Scope Memorandum the Department found that it was unable to determine whether Nexxt Show's kits included all the necessary materials to assemble a finished product. In so doing, however, the Department stated that "if at the time of importation . . . the kits do contain all of the necessary parts to fully assemble a final finished good then they would be excluded from the scope of these proceedings."²²

Geodesic Domes²³

At issue in the ruling were certain geodesic dome frame kits consisting solely of extruded aluminum parts along with nuts, bolts, and washers. The requestor argued that the products at issue constituted finished goods kits because the kits 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."²⁴ 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."²⁵ 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.²⁶

¹⁹ For information regarding the scope rulings referenced in this section, see the Memorandum to the File from Eric B. Greynolds, Program Manager, Office III, Operations, "Prior Scope Rulings Relevant to this Proceeding", dated concurrently with this memorandum.

²⁰ See Memorandum to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, "Preliminary Determinations: Comments on the Scope of the Investigations," (October 27, 2010) (Preliminary Scope Memorandum) at Comment 8; unchanged in *Aluminum Extrusions From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 18524 (April 4, 2011).

²¹ *Id.*

²² *Id.*

²³ 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).

²⁴ *Id.* at 7.

²⁵ *Id.*

²⁶ *Id.*

Banner Stands Scope Ruling²⁷

This ruling addressed banner stands and back wall kits, used to showcase graphics and other marketing materials. The requestor argued that the banner stands and back wall kits 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.”²⁸

In the Banner Stands Scope Ruling, the Department found that the banner stands and back wall kits met the exclusion criteria.²⁹ 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.” The Department noted that in the Preliminary Scope Memorandum Nexxt Show’s exhibition kits would have been 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.”³⁰

EZ Fabric Wall Systems Scope Ruling³¹

This ruling addressed EZ fabric wall systems consisting of the wall units, headers, and columns necessary to assemble complete lightweight, portable, and temporary commercial displays. The requestor explained that while such additional options (*e.g.*, lights, video, display monitors, shelves, counters, doors, and canopies) were available, all of the EZ fabric wall systems included in their scope inquiry request contained the following basic components: wall units (with or without fabric coverings), headers, columns, and a wooden shipping container.³² In the EZ Wall Systems Scope Ruling, the Department found the products at issue were similar to the products examined in the Banner Stands Scope Ruling, which were imported without readily interchangeable graphic materials. The Department found that the EZ fabric wall systems contained all of the parts required to assemble a completed exhibition frame on which readily interchangeable fabric covers with graphics may be attached. As a result, the Department found that the products at issue met the exclusion criteria in the scope of the *Orders* for “finished goods kits.”³³

²⁷ See the 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).

²⁸ *Id.* at 7.

²⁹ *Id.* at 9-10.

³⁰ *Id.* at 9 – 10.

³¹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on EZ Fabric Wall Systems,” (November 9, 2011) (EZ Wall Systems Scope Ruling).

³² *Id.* at 7.

³³ *Id.* at 9-10.

Sun Shades Scope Ruling³⁴

At issue in this ruling were Solarmotion controllable sunshades produced from non-extruded aluminum materials as well as extruded aluminum sheet that was perforated, cut-to-length, formed/rolled into an airfoil shape, and painted. Upon importation the product was delivered directly to the job site where it will be attached to a building via horizontal Solarmotion mullions. Because of their size, the sunshade kits were, at times, imported together in more than one trailer and delivered together to a warehouse where they were staged and delivered directly to the job site.³⁵ In the Sunshades Scope Ruling, the Department found that at the time of importation, the product at issue contained all the parts necessary to assemble a Solarmotion controllable sunshade -- namely the perforated aluminum blades, blade frames, mullions, trim, brackets, linkages, motors, hardware, and controls and, thus, constituted a finished goods kit.³⁶ The Department further determined “that the fact that the product at issue may enter the United States in separate containers does not constitute a basis on which to find that it is within the scope of the *Orders*.”³⁷

Window Kits Scope Ruling³⁸

At issue in this ruling were two types of finished window kits: punched window kits and ribbon window kits. The punched window kits consisted of a series of square or rectangular finished glass window panels, surrounded by window framing. The kits consisted of a variable number of finished glass window panels which are enclosed on all four sides within a structure of lengths of fabricated extruded aluminum channels called receptors.³⁹ The ribbon window kits consisted of a series of window panels with glass, attached together by extruded aluminum receptors. In the Window Kits Scope Ruling, the Department explained that the scope of the *Orders* excludes finished merchandise containing aluminum extrusions, such as “finished windows with glass.” The Department further determined that the window kits were excluded from the *Orders* as finished goods kits provided that they contain at the time of importation all of the parts, including the glass panels, necessary to assemble a finished window or windows.⁴⁰

Disappearing Door Screens Scope Ruling⁴¹

At issue in this ruling were disappearing door screens, which are devices that may be installed across a door opening as a screen, but may be retracted and concealed when not in use. The disappearing screens consisted of the following parts that are primarily constructed of aluminum

³⁴ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Solarmotion Controllable Sun Shades,” (August 17, 2012) (Sun Shades Scope Ruling).

³⁵ *Id.* at 3.

³⁶ *Id.* at 11.

³⁷ *Id.*

³⁸ 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).

³⁹ *Id.* at 4.

⁴⁰ *Id.* at 5.

⁴¹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Law St. Enterprises, LLC’s Disappearing Door Screens,” (September 12, 2013) (Disappearing Door Screens Scope Ruling).

hollow profiles whose aluminum is designated as Aluminum 6063 (or AA 6063): housing, a top track, a bottom track, a track protector, and a side profile. Additionally, the disappearing screens included a mesh screen, a rubber magnet, and an accessory kit.⁴² The requestor argued that the disappearing screens may be assembled “as is” and that further fabrication and cutting are not necessarily required for installation.⁴³ In the Disappearing Door Screens Scope Ruling, the Department analyzed whether the disappearing screens met two criteria in the scope that define finished goods kits: 1) 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 2) requires no further finishing or fabrication, such as cutting or punching, and is assembled “as is” into a finished product. The Department found that the disappearing screens did not meet the first criterion because upon importation it was necessary for the kits to be opened, re-arranged, and re-packaged, before being sold to the end user as a kit ready to be assembled into a finished good.⁴⁴

Event Décor Scope Ruling⁴⁵

At issue in this ruling were decor parts and kits used to construct display booths and backdrops for wedding receptions, conventions and other events. The parts and kits were comprised primarily of “Gorilla Pipes,” aluminum extrusion upright and crossbar tubes of varying lengths and fabrications. The requestor offered three models of Gorilla Pipes, which are sold in three different ways: (1) individual Gorilla Pipes, which can be ordered in any quantity and combination and with additional parts, such as steel bases and decorative materials; (2) Pipe Kits, which contain a minimum of two upright Gorilla Pipes, one crossbar Gorilla Pipe, and two weighted steel bases, in order to form a minimum of one complete display structure; and (3) Pipe and Drape Kits, which are Pipe Kits with additional decorative materials of the customer's choosing, such as drapes, garlands and lighting. All Gorilla Pipe models utilized the same universal telescoping crossbars, which are fitted with two cast aluminum hook ends, and a chrome-coated steel button lock.⁴⁶

In the Event Décor Scope Ruling, the Department found the individually-sold Gorilla Pipes, when sold without the requisite weighted-steel bases, did not contain all parts necessary to fully assemble a complete display structure.⁴⁷ In this regard, the Department found the individually-sold Gorilla Pipes to be akin to subject shower door frames and enclosures that do not contain the glass panels at the time of importation.⁴⁸ The Department further determined that Pipe Kits and Pipe and Drape Kits were excluded from the scope of the *Orders* because they were akin to the products examined in the EZ Fabric Wall System Scope Ruling and, thus, were finished goods kits that contain at the time of importation all parts necessary to fully assemble a complete display structure.⁴⁹

⁴² *Id.* at 5.

⁴³ *Id.*

⁴⁴ *Id.* at 9.

⁴⁵ See Memorandum to Christian Marsh, Deputy Assistant Secretary for AD and CVD Operations, “Aluminum Extrusions from the People’s Republic of China: Final Scope Ruling on Traffic Brick Network, LLC’s Event Décor Parts and Kits,” (December 2, 2013) (Event Décor Scope Ruling).

⁴⁶ *Id.* at 6.

⁴⁷ *Id.* at 10.

⁴⁸ *Id.* at 10.

⁴⁹ *Id.*

Flag Pole Sets Scope Ruling⁵⁰

At issue in this ruling were flag pole sets designed to hold banners. Both sets came with one of three different top sections, each of which includes a dimple that allows the sections to interlock and a plastic end cap that prevents harmers that are attached to the flag pole set from ripping. The sets were sold without harmers. The requestor explained that similarly-sized sections of both models of flag pole sets were bundled together for importation and were entered as separately bundled packages. Each shipment contained a set number of packages of unassembled sections designed and intended to create a predetermined number of three- and/or four-section assembled flag poles sets after the packages entered U.S. customs territory. The packages were entered together on the same Customs Entry Summary (form 7501).⁵¹

In the Flag Pole Sets Scope Ruling, the Department found that the flag pole kits did not meet the criteria for an excluded finished goods kit because, at the time of importation, similarly-sized unassembled flag pole sections were bundled together for shipment, meaning that all of the sections necessary to assemble a final finished product were not packaged together as a complete section in one package and, thus it was necessary for the packages to be opened, and repackaged before being sold to the end user.⁵²

ARGUMENTS FROM INTERESTED PARTIES

Glenmore's Scope Request

Glenmore made the following claims in its scope ruling request:

The trade booth kits at issue have all the parts necessary to assemble a final finished product without further fabrication and, when assembled, they constitute a finished product. Specifically, the imported kits contain headers, column posts, wall panels, crossbeams, riveted connectors, and accessories as specified by the customer.⁵³ Therefore, the trade booth kits meet the exclusion criteria for finished goods kits.

In the EZ Fabric Wall Systems Scope Ruling, the Department found that certain fabric wall systems were outside the scope of the *Orders*.⁵⁴ The products at issue in that ruling were fabric wall systems comprised of wall units, headers and columns necessary to assemble complete, lightweight, portable and temporary commercial displays.⁵⁵ The trade booth kits are analogous to the fabric wall systems. The trade booth kits are also akin to the banner stands and window kits the Department found to be outside the scope of the *Orders* in the Banner Stands Scope Ruling and Window Kits Scope Ruling.⁵⁶

⁵⁰ See Memorandum to Christian Marsh, Deputy Assistant Secretary for AD and CVD Operations, "Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on 5 Diamond Promotions Inc.'s Aluminum Flag Pole Sets," (April 19, 2013) (Flag Pole Sets Scope Ruling).

⁵¹ *Id.* at 5.

⁵² *Id.* at 9.

⁵³ See Scope Request at 8 and Exhibit A.

⁵⁴ See EZ Fabric Wall Systems Scope Ruling at 9-10.

⁵⁵ *Id.* at 7.

⁵⁶ See Banner Stands Scope Ruling at 9-10; see also Window Kits Scope Ruling at 5.

On the other hand, the trade booth kits at issue are distinct from the products examined in the Disappearing Door Screens Scope Ruling. In that ruling, the Department found the door screens were not finished goods kits and, thus, inside the scope of the *Orders* because the parts of the kit were not, at the time of importation, packaged into “individual sets that would allow the final U.S. customers to assemble finished disappearing screens directly” from the importer’s shipment and import packaging.”⁵⁷ Instead, the door screens had to be “un-packaged, re-arranged, and re-packaged before being sold to the end user as a finished goods kit that includes all the parts needed to fully assemble finished disappearing screens.”⁵⁸

In contrast, the trade booth kits at issue do not require any unpacking, rearranging, or repackaging before being sold to the end user. Glenmore imports the trade booth kits in a single shipment. The appropriate number of column posts, headers, wall panels, crossbeams, and accessories, to assemble the predetermined number of display booths are included in the shipment in multiple containers and Glenmore delivers the entire shipment in the import container(s) to the customer for assembly. The use of multiple containers is necessary due to the size of the trade booth kits.⁵⁹

Petitioners’ Comments

In response to Glenmore’s scope ruling request, Petitioners filed these arguments:

The products at issue are nothing more than fabricated extruded aluminum headers, column posts, wall panels, and crossbeams that fall inside the scope of the *Orders*. Glenmore did not provide evidence indicating that the wall panels are, in fact, covered in fabric.

Additionally, the dominant feature of the trade booth kits is provided by the extruded aluminum components. Without the aluminum tubes, the kits at issue, even with the optional accessories added, would not be able to support any fabric attached to the wall panels in a manner that would form a trade booth.

Further, the mere fact that the trade booth kits may contain non-extruded aluminum parts does not necessarily mean that those products are excluded from the scope of the *Orders*. The scope contemplates extruded aluminum products that may contain other parts by stating that, “the scope includes the aluminum extrusion components that are attached . . . to form subassemblies.” The term “components” contemplates that there are other parts that may not be aluminum extrusions. The next sentence of the scope excludes those other non-aluminum extrusions from the scope. Thus, the scope expressly recognizes that products that contain more than just aluminum extrusions are always included within the scope. The Department adopted this interpretation of the scope in the Event Décor Scope Ruling in which it found that certain “gorilla pipes” were covered by the scope although the product contained such non-aluminum parts as steel ball bearings, steel locking collars, chrome steel button locks, and locking clamps. Therefore, the trade booth kits are within the scope even if they are imported with the optional non-aluminum accessories.

⁵⁷ See Disappearing Door Screens Scope Ruling at 9.

⁵⁸ *Id.*

⁵⁹ See Scope Request at 9.

Further, similar to the products examined in the Flag Pole Sets and Disappearing Door Screens Scope Rulings, Glenmore did not demonstrate that the kits at issue enter in a manner that satisfies the criteria for finished goods kits. The information submitted in the scope ruling request fails to substantiate Glenmore's claims that the products at issue enter as finished goods kits and not merely as pieces of extruded aluminum.

In addition, Glenmore did not provide the necessary information because it appears that the company has not imported the trade booth kits subject to the inquiry. Thus, the Department should not rely on the "prototype" sketches provided in Glenmore's scope request.⁶⁰ It is not the Department's practice to evaluate hypothetical situations. Rather, the Department limits its analysis to sales transactions that have taken place.⁶¹ Glenmore failed to provide 7501 entry summary information, actual pictures of the imported products at issue, invoices, supply contracts, or bills of lading. Therefore, the Department should find that the scope ruling request lacks the necessary information.

Finally, the Department should not accept Glenmore's claims that the size of the trade booth components requires it to bundle like components together. This presumes that Glenmore will always order multiple trade booth kits. Glenmore provided no information demonstrating a minimum order requirement for its trade booth kits.

Glenmore's Supplemental Filing

In response to the Petitioner's arguments, Glenmore filed a response providing additional arguments and explanation:

Contrary to Petitioners' claims, the trade booth kits at issue include fabric covered walls and fabric covered headers and, thus, the kits are analogous to the products examined in such prior scope rulings as the EZ Fabric Wall Systems Scope Ruling.

The mere fact that Glenmore bundles various components together for shipment purposes is not a sufficient basis to find that the trade booth kits are inside the scope of the *Orders*. The Department consistently determines that the use of multiple containers does not preclude a given product from meeting the criteria for a finished goods kit.⁶² Further, upon importation, Glenmore will transport the containers to the site specified by the end-user where the booths will be assembled into trade booth kits.

Petitioners are wrong to assert that the Department does not conduct prospective scope inquiries, as evidence by the Department's description of its scope review practice in a 2008 notice amending its Administrative Protective Order regulations: "The product need not be imported into the United States so long as the requestor can show evidence that the product is in production."⁶³ Furthermore, Customs and Border Protection (CBP) advises importers who are

⁶⁰ See Scope Request at Exhibits A and B.

⁶¹ See Event Décor Scope Ruling at 11.

⁶² See, e.g., Sun Shades Scope Ruling at 11.

⁶³ See *Antidumping and Countervailing Duty Proceedings: Documents, Submission Procedures; APO Procedures: Final Rule*, 73 FR 3634, 3639 (January 22, 2008) (*Final Rule*).

unsure of whether a product is covered by the scope to request a prospective ruling from the Department.⁶⁴

Further, subsequent to the submission of the Scope Request, Glenmore actually did import a trade booth kit and included the corresponding entry documents, invoice, packing list, and delivery information in its Supplementary Filing.⁶⁵ The information in the Supplementary filing demonstrates that the trade booth kit included fabric covered wall panels.⁶⁶

Glenmore's Second Supplemental Filing

In response to additional questions provided by the Department, Glenmore summarized its facts and clarified further its arguments on the record:

The trade booth kits at issue include extruded aluminum frames and fabric covered wall panels. Each shipment will be imported in a single shipment on one 7501 entry summary with one invoice and packing list. Depending on the size of the order, the trade booth kits may enter in multiple containers that will require like parts to be bundled together. In all cases, the shipment will be specific to the final customer and will be delivered to the end-user's warehouse from the pier without any packing, re-packing, or manipulation. The parts will be transported in a specially designed steel container that is included as a permanent part of the trade booth kit.

There are no tools required to assemble the trade booth kits. The kits are designed to be "snapped" into place by the end-user.

Glenmore does not and will not maintain any inventory of trade booth kits in the United States.

DEPARTMENT'S POSITION

The Department examined the language of the *Orders* and the description of the product contained in this Scope Request, as well as previous rulings made by the Department. We find that the language of the scope, along with an analysis of the Department's prior scope rulings, are dispositive as to whether the products at issue are subject merchandise. Accordingly, for this determination, the Department finds it unnecessary to consider the additional factors specified in 19 CFR 351.225(k)(2). For the reasons set forth below, we find that the window wall kits at issue meet the exclusion criteria for "finished goods kits."

The scope of the *Orders* explicitly excludes finished goods kits, which are defined as "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."

⁶⁴ See AD/CVD Frequently Asked Questions at http://www.cbp.gov/xp/cgov/trade/priority_trade/add_cvd/program_guidelines/

⁶⁵ See Supplementary Filing at Exhibits 1-3.

⁶⁶ *Id.*

Information in Glenmore's submissions (e.g., narrative statements, photographs, product specifications, as well as an invoice, shipping, and entry summary information from an actual sale made after the filing of the Scope Request), indicate that the trade booth kits at issue include fabric covered wall panels and aluminum headers as well as a portable carrying case and, thus, do not consist entirely of extruded aluminum.⁶⁷ Because the trade booth kits contain non-extruded aluminum materials parts other than fasteners, we find the trade booth kits meet the Department's first test for determining whether a good constitutes a finished goods kit, as established in the Geodesic Domes Scope Ruling.⁶⁸

Further, based on the information supplied by Glenmore, we find that the kits at issue contain, at the time of importation, all of the parts necessary to assemble a finished trade booth, including the fabric covering, and, thus, the trade booths are analogous to the banner stands and EZ fabric wall systems that the Department found to be outside the scope of the *Orders* in prior scope rulings.⁶⁹

We disagree with Petitioners that the Department should not examine Glenmore's scope request where it appeared that Glenmore had not imported the product at issue. As the Department explained in the 2008 *Final Rule*, a "product need not be imported into the United States so long as the requestor can show evidence that the product is in production," which is the case with the instant scope review.⁷⁰ Furthermore, Glenmore directly addressed Petitioners' concerns in this regard by virtue of importing a trade booth kit subsequent to the Scope Request.⁷¹

Further, we disagree with Petitioners that the Department confirmed in the Event Décor Scope Ruling that the scope expressly recognizes that products containing more than just aluminum are necessarily covered as subject merchandise. In the Event Décor Scope Ruling, the Department found that one of three products at issue, individually-sold Gorilla Pipes, was covered by the scope of the *Orders*. In finding the product inside the scope, the Department explained that individually-sold Gorilla Pipes, when sold without the requisite weighted-steel bases, did not contain all parts necessary to fully assemble a complete display structure and, therefore, were akin to subject products like shower door frames and enclosures that do not contain the glass panels at the time of importation.⁷² Thus, contrary to Petitioners' characterization, the Department found the individually-sold Gorilla pipes to be subject merchandise because they did not constitute finished goods kits and did not base its findings on the ratio of extruded aluminum to non-extruded aluminum products. Furthermore, in the Event Décor Scope Ruling, the Department found the two other products at issue, which were comprised of extruded aluminum and non-aluminum parts, to be finished goods kits that were outside the scope of the *Orders*.⁷³

⁶⁷ See Scope Request at 2, 3, 4, 7-8, and 10; see also Supplementary Filing at Exhibits 1-3.

⁶⁸ See Geodesic Scope Ruling at 7, where the Department found that since the products at issue consisted solely of extruded aluminum and fasteners, an exception to the finished goods exclusion provision applied. Accordingly, the Department found that the products at issue did not meet the exclusion criteria for a finished goods kit.

⁶⁹ See Scope Request at 2, 3, 4, 7-8, and 10; see also Supplementary Filing at Exhibits 1-3.

⁷⁰ See *Final Rule*, 73 FR at 3639.

⁷¹ See Supplemental Filing at Exhibit 1.

⁷² See Event Décor Scope Ruling at 10.

⁷³ *Id.* at 10.

We also disagree with Petitioners that the Department should find the products at issue to be inside the scope of the *Orders* because “the dominant feature” of the products “is provided by the aluminum extrusions contained” in the kits. There is no such “dominant feature” test contained in the scope of the *Orders*, nor has the Department applied any such test in prior scope rulings. Therefore, we declined to adopt the “dominant feature” test advocated by Petitioners in the instant scope ruling.

We also disagree with Petitioners that the products at issue fail to meet the definition for finished goods kits because they enter in multiple containers. Such an argument fails to recognize that the size and nature of certain products might justify the need to ship different parts of the product in multiple containers. In the Solar Sun Shades and Window Kits Scope Rulings, the Department found that, “the fact that the product at issue may enter the United States in separate containers does not constitute a basis on which to find that it is within the scope of the *Orders*” because the product was listed on a single 7501 entry summary and that such a fact pattern did not “detract from the determination that the product at issue was outside the scope of the *Orders* because it contained, at the time of importation, all of the necessary parts to assemble a final, finished good.”⁷⁴ Based on information from Glenmore (*e.g.*, prototype packaging sketches and information from an actual sale), we find that the trade booth kits are sold, packaged, shipped, and entered in the United States in the same manner as solar sun shades in that they are imported in one or more containers but the entire shipment is listed on one 7501 entry summary.⁷⁵

Additionally, the information from Glenmore indicates that after importation the trade booth kits will not be unpacked, rearranged, and repackaged prior to sale to the end-user in the United States.⁷⁶ Instead, following importation they are delivered directly to the United States customer. Thus, we find the trade booth kits are distinct from the disappearing door screens, flag pole sets, and individually-sold Gorilla Pipes that the Department found to be within the scope of the *Orders*.⁷⁷

RECOMMENDATION

For the reasons discussed above, and in accordance with 19 CFR 351.225(d) and 19 CFR 351.225(k)(1), we recommend finding that the trade booth kits at issue are finished goods kits and, thus, not subject to the scope of the *Orders*.

⁷⁴ See Sun Shades Scope Ruling at 11; *see also* Window Kits Scope Ruling at 5.

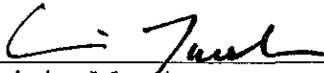
⁷⁵ See Scope Request at 3 and Exhibit B, which contains sketches of how the trade booths will be packaged; *see also* Supplemental Filing at Exhibit 1-3, which contains shipping and entry information for an actual sale.

⁷⁶ See Second Supplemental Filing at 7.

⁷⁷ See Disappearing Door Screens, Flag Pole Sets, and Event Décor Scope Rulings.

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

6/23/14

Date