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Scope Proceeding: Recreational Marine Products

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August 1, 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

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

FROM: Raquel Silva
Sr. International Trade Compliance Analyst, Office III
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 TACO's Recreational Marine Products

SUMMARY

On April 18, 2014, the Department of Commerce ("Department") received a scope ruling request from TACO Metals Inc. ("TACO"),¹ to determine whether its recreational marine products, specifically its universal backrest kits ("backrest kits") and universal T-Top kits ("T-Top kits"), are subject to the antidumping ("AD") and countervailing duty ("CVD") orders on aluminum extrusions from the People's Republic of China ("PRC").² For the reasons described below, we determined that TACO's backrest kits and T-Top kits are excluded from the scope of the AD and CVD orders on aluminum extrusions from the PRC.

¹ See letter from TACO entitled, "Aluminum Extrusions from the People's Republic of China: Request for a Scope Ruling on Certain Specialty Marine Products: Universal Backrest and T-Tops," dated April 18, 2014 ("TACO's Scope Request").

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").



BACKGROUND

On April 18, 2014, TACO requested that the Department determine whether its recreational marine products imported from the PRC are outside the scope of the *Orders*.³ The Department extended the deadline for ruling on TACO's products, most recently on July 3, 2014, until September 2, 2014.⁴

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.

³ See TACO's Scope Request.

⁴ See the Department's letter entitled, "Aluminum Extrusions from the People's Republic of China: Extension of Time for Scope Ruling," dated July 3, 2014.

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 is dispositive.⁵

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.⁶ 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.⁷ If the Department determines that

⁵ See *Orders*.

⁶ *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁷ 19 CFR 351.225(k)(1).

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 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 two products subject to TACO's request are: (1) backrest kits; and (2) T-Top kits. Backrest kits are sold as optional back support for leaning posts, which are stool-like seats for the center consoles of open deck fishing boats.⁸ The backrest kits consist of: (i) two vertical support arms made of extruded and anodized 6 series aluminum and injection molded plastic sleeves; and (ii) one horizontal backrest made of PVC board backing, a soft urethane foam cushion, marine grade vinyl fabric; and (iii) hardware made of stainless steel.⁹ The backrest kit components are packaged as complete kits into one single box before entering the United States; the complete kits are shipped to TACO's U.S. customers as entered, without any opening, re-sorting or re-packaging.¹⁰

T-Top kits are structures installed over center consoles of open deck fishing boats to provide overhead protection from weather, additional holders for fishing rods and other implements, and additional places to hold onto when on board.¹¹ They are designed to be adjustable to fit a variety of boat models.¹² TACO's T-Top kits consist of: (i) 2 side frames, a top frame, and a cross bar, each made of 6 series anodized extruded aluminum tubes, cast aluminum bar joints, cast aluminum plate bases, and nylon sleeves and caps; and (ii) hardware made of stainless steel.¹³ TACO imports all the components necessary to assemble a complete T-Top in one large package; smaller boxes within the package house individual like components.¹⁴ The packages are not opened or re-arranged after importation, and are shipped to the U.S. customer as entered.¹⁵ TACO states that if the customer purchases a canvas cover for the T-Top frame, a canvas in the color of the customer's choosing (*i.e.*, blue, black or white) is added to the kit after importation.¹⁶

⁸ See TACO's Scope Request, at 3 – 4, and Exhibit 1.

⁹ *Id.* at 3 – 4, and Exhibit 2.

¹⁰ *Id.*, at 4, and Exhibit 1.

¹¹ *Id.*, at 5, and Exhibit 3.

¹² *Id.*

¹³ *Id.*, at 5, 15 – 16, and Exhibit 4.

¹⁴ *Id.*, at 5, 16 – 20, and Exhibit 3.

¹⁵ *Id.*

¹⁶ *Id.* at 17, and Exhibit 7.

ARGUMENTS FROM INTERESTED PARTIES

TACO's Comments

In its scope request, TACO argues that its backrest and T-Top kits should be excluded from the *Orders* as finished goods kits. With regard to the backrest kit, TACO contends that the backrest kit package contains all parts necessary to fully assemble a finished good, without any further fabrication.¹⁷ TACO differentiates the backrest kit from Geodesic Structure Kits¹⁸ and Kitchen Appliance Door Handles¹⁹ by noting that the backrest kit contains a significant amount of essential, non-aluminum extrusion material (*i.e.*, the PVC, urethane and vinyl back support portion).²⁰ TACO further argues that although its backrest kits are to be used with leaning posts, they should not be included in the scope of the *Orders* as sub-assemblies.²¹ Instead, TACO likens the backrest kit to Side Mount Valve Controls,²² which the Department found to be ready for assembly and installation as imported, and therefore to be a sub-assembly excluded from the scope of the *Orders*.²³

Regarding the T-Top kit, TACO argues that it should be excluded from the *Orders* as a finished goods kit because, at the time of importation, the T-Top kit includes all components necessary to assemble and mount a universal frame on a fishing boat, including several critical non-aluminum extrusion components beyond fasteners.²⁴ TACO states that the T-Top is akin to Solar Panel Mounting Systems,²⁵ Banner Stands and Back Wall Kits,²⁶ and Drapery Rail Kits (Redetermination),²⁷ which the Department found to be excluded from the scope despite their entering the United States without solar panels, marketing materials or drapes, respectively.²⁸ Similarly, TACO notes that the T-Top canvas is an interchangeable addition that the end user

¹⁷ *Id.*, at 13.

¹⁸ See the Department's memorandum entitled, "Antidumping (AD) and Countervailing Duty (CVD) Orders on Aluminum Extrusions from the People's Republic of China (PRC): Final Scope Ruling on J.A. Hancock, Inc.'s Geodesic Structures," dated July 17, 2012 ("Geodesic Structure Kits").

¹⁹ See the Department's memorandum entitled, "Antidumping (AD) and Countervailing Duty (CVD) Orders on Aluminum Extrusions from the People's Republic of China (PRC): Final Scope Ruling on Meridian Kitchen Appliance Door Handles," dated June 12, 2013 ("Kitchen Appliance Door Handles").

²⁰ *Id.*, at 13 – 14.

²¹ *Id.*, at 14 – 15.

²² See the Department's memorandum entitled, "Antidumping (AD) and Countervailing Duty (CVD) Orders: Aluminum Extrusions from the People's Republic of China (PRC): Preliminary Scope Rulings on Side Mount Valve Controls," dated September 24, 2012; unchanged in the Department's memorandum entitled, "Antidumping Duty (AD) and Countervailing Duty (CVD) Orders: Aluminum Extrusions from the People's Republic of China (PRC): Final Scope Ruling on Side Mount Valve Controls," dated October 26, 2012 ("Side Mount Valve Controls").

²³ *Id.*

²⁴ *Id.*, at 15 – 16.

²⁵ See the Department's memorandum entitled, "Antidumping Duty (AD) and Countervailing Duty (CVD) Orders on Aluminum Extrusions from the People's Republic of China (PRC): Final Scope Ruling on Clenergy Technology's Solar Panel Mounting Systems," dated October 31, 2012 ("Solar Panel Mounting Systems").

²⁶ See the Department's memorandum entitled, "Antidumping Duty (AD) and Countervailing Duty (CVD) Orders on Aluminum Extrusions from the People's Republic of China (PRC): Final Scope Ruling on Banner Stands and Back Wall Kits," dated October 19, 2011 ("Banner Stands and Back Wall Kits").

²⁷ See *Rowley Company v. United States*, Consol. Ct. No. 12-00055 (CIT May 23, 2013) (Court Order affirming Remand Redetermination) ("Drapery Rail Kits (Redetermination)").

²⁸ *Id.*, at 16 – 18.

customizes to his/her boat per his/her own preferences.²⁹ TACO further likens the T-Top to Event Décor Pipe Kits³⁰ and Solarmotion Controllable Sunshades,³¹ stating that like T-Top kit components are packaged together and in separate boxes from non-like components, and then all boxes containing the parts needed for one kit are packaged together, forming complete kits.³²

No other interested party commented on TACO's scope request.

RELEVANT SCOPE DETERMINATIONS³³

A. Draperly Rail Kits (Redetermination)³⁴

In the original draperly rail kits scope ruling, the Department determined that certain draperly rail kits imported by the Rowley Company ("Rowley") were covered by the scope of the *Orders* because the kits were not imported with drapes. The Department subsequently requested a voluntary remand, and on remand, determined that Rowley's draperly rail kits were excluded from the *Orders* as finished goods kits. In its redetermination, the Department noted that the draperly rail kits were designed to be used with readily interchangeable drapes or curtains that could be changed to fit the end customer's needs. The Department found it unreasonable to require that the draperly rail kits be imported with the customizable drapes or curtains and, in determining that Rowley's draperly rail kits were outside the scope of the *Orders*, determined that they contained all the parts necessary to fully assemble a final, finished product.

B. Geodesic Structure Kits³⁵

J.A. Hancock Co., Inc. ("J.A. Hancock"), an importer of geodesic structure kits (a set of aluminum poles and assembly hardware that can be assembled into landscaping structures or climbing structures for children), argued that its kits contained all parts necessary to fully assemble a final geodesic structure. J.A. Hancock further noted that the components in its kits required no further fabrication or additional parts. The Department found that the geodesic structure kits meet the initial requirements for exclusion as a "finished goods kit," as they are a packaged combination of parts containing all necessary components to fully assemble a final finished good. However, the Department noted an exception to the "finished goods kits" exclusion, which states that a product will not be considered a "finished goods kit" simply by including fasteners in the packaging. As J.A. Hancock's kits only consist of extruded aluminum poles and fasteners, the Department found that the exception to the "finished goods kit"

²⁹ *Id.*, at 16.

³⁰ See the Department's memorandum entitled, "Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on Traffic Brick Network, LLC's Event Décor Parts and Kits," dated December 2, 2013 ("Event Décor Pipe Kits").

³¹ See the Department's memorandum entitled, "Antidumping Duty (AD) and Countervailing Duty (CVD) Orders on Aluminum Extrusions from the People's Republic of China (PRC): Final Scope Ruling on Solarmotion Controllable Sunshades," dated August 17, 2012 ("Solarmotion Controllable Sunshades").

³² *Id.*, at 18 – 20.

³³ See the Department's memorandum entitled, "Transmittal of Past Scope Determinations to the File," dated concurrently with the memorandum ("Past Scopes Memo").

³⁴ See *Draperly Rail Kits (Redetermination)*; see also *Past Scopes Memo*, at Attachment 1.

³⁵ See *Geodesic Structure Kits*; see also *Past Scopes Memo*, at Attachment 2.

exclusion applies. Therefore, the Department found J.A. Hancock's kits to not be excluded finished goods kits, and hence covered by the scope of the *Orders*.

C. Side Mount Valve Controls³⁶

In its scope inquiry request, Innovative Controls Inc. ("Innovative Controls") argued that certain side mount valve controls ("SMVCs") that it imports are finished goods that are outside the scope of the *Orders*. Innovative Controls argued that an SMVC, as imported, is an excluded "finished good" because it contains all the components necessary to complete the product, and that all SMVC components and hardware are fully fabricated and require no further finishing or fabrication prior to being assembled. Petitioner argued that the SMVC itself is not a "final finished good" because it is a component of a larger firefighting apparatus, and in order for the SMVC to perform any function it must be ultimately attached to the firefighting apparatus.

In its scope ruling on Side Mount Valve Controls, the Department noted that an interpretation of "finished goods" or "finished goods kits," which requires all parts to assemble the ultimate downstream product, may lead to absurd results, particularly where the ultimate downstream product is, for example, a fire truck. Therefore, the Department determined that the scope, taken as a whole, indicates that "subassemblies" (*i.e.*, "partially assembled merchandise") may be excluded from the scope provided that they enter the United States as "finished goods" or "finished goods kits" and that the "subassemblies" require no further "finishing" or "fabrication." Since the SMVCs contained all of the parts necessary to assemble a complete product without further fabrication prior to assembly, the Department found that, upon assembly and mounting on a fire truck, it is ready for use. Thus, the Department found that the SMVC at issue met the exclusion criteria for subassemblies that enter the United States as "finished goods kits."

D. Banner Stands and Back Wall Kits³⁷

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." Petitioner argued that the fact that additional accessories could be added to the products at issue (*e.g.*, shelving and lighting) called into question Skyline's claim that the products constituted finished goods.

The Department found that the banner stands and back wall kits met the exclusion criteria because they contained all of the parts required to assemble a completed exhibition frame on which printed graphical materials may be hung, thereby meeting the exclusion criteria in the scope of the *Orders* for "finished goods kits." Furthermore, the Department agreed with Skyline's claim that the products at issue were analogous to completed picture frames, which are explicitly excluded from the scope. Specifically, the Department found that the products at issue were designed to incorporate interchangeable graphical materials that can change with users'

³⁶ See Side Mount Valve Controls; *see also* Past Scopes Memo, at Attachment 3.

³⁷ See Banner Stands and Back Wall Kits; *see also* Past Scopes Memo, at Attachment 4.

needs. Therefore, the Department concluded it would be unreasonable to require that the products at issue be accompanied at the time of importation with affixed graphical material that could not be removed or altered at a later date.

DEPARTMENT'S POSITION

Pursuant to 19 CFR 351.225(k)(1), the Department has examined the language of the *Orders* and the description of the products contained in this scope request, as well as previous rulings made by the Department. We find that the scope and the Department's prior rulings are dispositive as to whether the products at issue are subject merchandise. Accordingly, for this determination, the Department finds it unnecessary to consider additional factors specified in 19 CFR 351.225(k)(2). For the reasons set forth below, we find that TACO's backrest kits and T-Top kits meet the exclusion criteria for "finished goods kits," and are not covered by the scope of the *Orders*.

The scope of the *Orders* provides that an imported product will not be considered for exclusion as a "finished goods kit" merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.³⁸ The scope further provides that a finished goods kit: 1) 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, and is assembled "as is" into a finished product. "

The two products at issue are TACO's backrest kits and T-Top kits. The record demonstrates that both products contain, upon importation, non-aluminum extrusion components beyond fasteners.³⁹ The backrest kits are imported with a back support cushion assembly comprised of PVC board, urethane foam cushion, and vinyl cover; the T-Top kits are imported with cast aluminum adjustable joints, cast aluminum base plates, and plastic sleeves and caps.⁴⁰ Both products are further imported as packaged kits, containing all of the parts needed to fully assemble a final finished backrest and T-Top, respectively.⁴¹ Neither product requires further finishing or fabrication after importation, nor re-sorting or re-packaging of kit components upon importation.⁴²

We agree with TACO that its backrest kits, like Side Mount Valve Controls,⁴³ are sub-assemblies that are not necessarily covered by the scope merely because they are used with leaning posts on a boat.⁴⁴ To the contrary, the backrest kits, as entered into the United States, contain all components needed to assemble a complete sub-assembly product (*i.e.*, a backrest) that is ready for installation on a leaning post and require no further finishing or fabrication. Therefore, we find that the backrest kits are excluded from the scope as complete finished goods kits.

³⁸ See also Geodesic Structure Kits (determining that where kits only consisted of extruded aluminum poles and fasteners, the exception to the exclusion for finished goods kits applied).

³⁹ *Id.*, at 13, 15, Exhibits 1 – 4.

⁴⁰ *Id.*, at Exhibits 2 and 4.

⁴¹ See TACO's Scope Request, at 13 – 19, Exhibits 1 and 3.

⁴² *Id.*, at 14 – 15, 18 – 19, Exhibits 1 and 3.

⁴³ See Side Mount Valve Controls; see also Past Scopes Memo, at Attachment 3.

⁴⁴ See TACO's Scope Request, at 9 – 10, 14 – 15.

Additionally, we agree with TACO that, similar to Drapery Rail Kits (Redetermination)⁴⁵ and Banner Stands and Back Wall Kits,⁴⁶ the canvas cover that is added to the T-Top kits after importation is interchangeable with other canvas covers, depending on the tastes of the consumer. Further, the canvas cover is a customizable piece that can be changed by the end customers per their changing preferences. Therefore, consistent with Drapery Rail Kits and Banner Stands, the Department finds that it would be unreasonable to require the inclusion of a canvas cover at the time of importation for the Department to consider the T-Top kits a finished goods kit for purposes of the scope exclusion. Consequently, we have determined that TACO's T-Top kits are imported with all the necessary components to assemble a complete finished product. As discussed above, TACO's T-Top kit requires no further finishing or fabrication after importation. Additionally, the T-Top kits are assembled as is, and ready for installation on boats upon assembly. Thus, we find T-Top kits to be excluded from the scope as complete finished goods kits.

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 backrest kits and T-Top kits addressed by the instant request are not subject to 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



Date

⁴⁵ *Id.*, at 11, 16 – 18, citing to Drapery Rail Kits (Redetermination); *see also* Past Scopes Memo, at Attachment 1.

⁴⁶ *Id.*, at 10, 16 – 18, citing to Banner Stands and Back Wall Kits; *see also* Past Scopes Memo, at Attachment 4.