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Scope Ruling
Taco Holders Racks and Poles
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E&C AD/CVD OIII: EBG

August 18, 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

SUBJECT: Final Scope Ruling on Telescoping Boat Cover Poles, Fishing Rod
Holders, and Fishing Rod Racks

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 telescoping boat cover poles (poles), fishing rod holders (rod holders), and fishing rod racks (rod racks) are subject to the antidumping (AD) and countervailing duty (CVD) *Orders* referenced above.² On the basis of our analysis of the Scope Request, we determine that TACO's poles, rod holders, and rod racks are excluded from the scope of the *Orders*.

¹ See TACO's April 18, 2014, 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*).



BACKGROUND

On April 18, 2014, TACO, an importer of recreational marine products, filed the Scope Request. On May 29, 2014, the Department extended the deadline for the ruling until July 17, 2014.³ On June 30, 2014, the Department extended the deadline to August 18, 2014.⁴ No interested party submitted comments in response to the Scope Request.

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, swedged, 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

³ See the Department's May 29, 2014, memorandum to the file.

⁴ See the Department's June 30, 2014, memorandum to the file.

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.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 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.

⁵ See *Orders*.

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

⁷ See 19 CFR 351.225(k)(1).

Conversely, where the descriptions of the merchandise in the sources described in 19 CFR 351.225(k)(1) 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 SCOPE REQUEST

The poles are composed of two telescoping tubes of anodized extruded aluminum, an injection molded nylon locking device with a stainless steel pin, nylon injection molded end caps, and a snap button made of nylon injection and stainless steel. The poles are designed to support a boat cover and prevent it from collecting water which could stain and damage the cover. The pole is used by positioning the pole to the desired height to support the boat cover and locking it in place with a cam locking device.⁸ The poles come in two models that vary in height. TACO provides product drawings and bills of materials for the poles.⁹ Each pole is fully assembled and individually packaged. The boat cover poles are never opened and repackaged, but are combined with other items once imported into the United States. They are fully assembled and individually packaged and sold to the consumer in the same condition as imported.¹⁰ TACO states that the poles enter under HTS subheading 7616.99.5060.¹¹

The rod holders are devices designed to store or hold a fishing rod and reel. They are made from aluminum or stainless steel, with a soft flexible PVC injection molded liner to protect the fishing rod. TACO's rod holders come in two different styles: the accessory-ready rod holders and the flared weld-on rod holders. Each of the two styles features several part numbers that accommodate different sizes and finishes/colors. TACO provides product drawings and bills of materials for the models in the Scope Request.¹² TACO indicates that both types of rod holders enter under HTS subheading 8302.49.6055.¹³

The accessory-ready rod holders are mounted on a boat using fasteners. They are imported with the plastic liner already fitted inside the holder. Each completed rod holder is packaged separately and several rod holders are fitted into boxes for shipment.¹⁴ The Weld-On rod holders, on the other hand, are ready for installation on the boat by welding in their condition as imported. They can be mounted by the boat owner in a variety of locations on the boat such as the t-top, hard top, railings, transom, leaning post, center console, gunnels or other locations throughout the boat. Because weld-on rod holders are welded onto the boat, this style of rod holder is imported as a kit, where the plastic liner is packaged together with the aluminum part of

⁸ See Scope Request at 3-4.

⁹ *Id.* at Exhibit 2.

¹⁰ See Scope Request at 3-4 and Exhibits 1-2.

¹¹ *Id.* at 6.

¹² See Scope Request at 4-6 and Exhibits 3-4.

¹³ *Id.* at 7.

¹⁴ See Scope Request at 5.

the rod holder, rather than being fitted inside, as the welding process would damage the liner if it was already fitted inside the holder.¹⁵

The rod racks are similar in appearance and function to the accessory-ready rod holders except that there are two, three, or four rod holders per rack, attached together on a bar or bars, for mounting as a single unit by fasteners. The fishing rod racks are made of anodized aluminum rod holders and bars, contain PVC injection molded liners for each of the holders and the bar, as well as cast aluminum parts.¹⁶ TACO provides product drawings and bills of materials for the rod racks in the Scope Request.¹⁷ TACO indicates that the rod racks enter under HTS 8302.50.0000.¹⁸

PRIOR SCOPE RULINGS RELEVANT TO THIS PROCEEDING¹⁹

Geodesic Domes Scope Ruling²⁰

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 geodesic dome playground set. 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 Ruling, the Department explained that the product at issue met the “initial requirements for inclusion into the finished goods kit exclusion.”²¹ 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.”²² 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.²³

¹⁵ *Id.* at 5.

¹⁶ *Id.* at 3-6.

¹⁷ *Id.* at Exhibit 5-6.

¹⁸ *Id.* at 6.

¹⁹ For information regarding the scope rulings and remand redetermination references 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 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).

²¹ *Id.* at 7.

²² *Id.*

²³ *Id.*

Preliminary and Final Side Mount Valve Controls Scope Rulings²⁴

At issue in the ruling were certain side-mount valve controls (SMVCs) that are used in pumping apparatuses that attached to fire engines. The requestor argued that an SMVC, as imported, 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. On this basis, the requestor argued that the product in question met the exclusion criteria for “finished goods.”²⁵

In the SMVCs Preliminary and Final Scope Rulings, the Department explained that, upon further reflection of the language in the scope of the *Orders*, it was revising the manner in which it determines whether a given product is a “finished good” or “finished goods kit.” The Department explained that it identified a concern with its prior analysis, namely that it may lead to unreasonable results. The Department explained that an interpretation of “finished goods kit” 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. The Department explained that such an interpretation may expand the scope of the *Orders*, which are intended to cover aluminum extrusions.²⁶

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.” Therefore, the Department analyzed whether the SMVC at issue constituted a subassembly that enters the United States as a “finished goods kit.” In order for such a kit to be excluded from the scope of the *Orders*, the Department found that the SMVC had to be ready for installation and require no further finishing or fabrication.²⁷

The Department concluded that the product at issue contained all of the parts necessary to assemble a complete SMVC and that all the components and hardware of the SMVC were fully fabricated, SMVCs required no further finishing or fabrication prior to being assembled, and SMVCs were ready for use upon installation. Based on this information, the Department found that the SMVCs at issue met the exclusion criteria for subassemblies that enter the United States as “finished goods kits.”²⁸

²⁴ See the Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Initiation and Preliminary Scope Ruling on Side Mount Valve Controls,” (September 24, 2012) (Preliminary SMVC Scope Ruling), unchanged in Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Side Mount Valve Controls,” (October 26, 2012) (Final SMVC Scope Ruling).

²⁵ See Preliminary SMVC Scope Ruling at 2; unchanged in Final SMVC Scope Ruling.

²⁶ *Id.* at 7.

²⁷ *Id.* at 7.

²⁸ *Id.* at 7-8.

Anodes Scope Ruling²⁹

At issue in the ruling were aluminum anodes for water heaters. The water heater anodes at issue consisted of a rod made of aluminum alloy formed around a stainless steel or carbon steel core with a carbon steel cap. The requestor argued that a water heater anode is a finished downstream product that functions separately from a water heater and, thus, the product satisfied the exclusion criteria for finished merchandise.³⁰

In the ruling, the Department found that the water heater anodes at issue were finished merchandise and thus excluded from the scope of the *Orders*. In reaching its decision, the Department concluded that the water heater anodes are finished products because they contain all the components of a water heater anode (*i.e.*, the aluminum, the steel/carbon steel rod, and the carbon steel cap) which are permanently assembled, completed and ready to use as an aluminum anode which works to prevent corrosion in a water heater.³¹

Solar Panel Scope Ruling³²

At issue in this ruling were solar panel mounting systems comprised of extruded aluminum rails as well as extruded and aluminum casted kedges, galvanized steel posts, and various steel bolts, clamps, and brackets.³³ In the ruling, the Department found that the products at issue contained at the time of importation all of the parts necessary to fully assemble a finished good without further fabrication. The Department further found that the products could be assembled “as is” into finished products for mounting solar panels. Thus, the Department concluded that the products at issue were analogous to picture frames with glass excluded from the scope and exhibition booths that the Department found were outside the scope of the *Orders*.³⁴

²⁹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Aluminum Anodes for Water Heaters,” dated October 17, 2012 (Anodes Scope Ruling).

³⁰ *Id.* at 1.

³¹ *Id.*, at 5-7.

³² See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Clenergy (Xiamen) Technology’s Solar Panel Mounting Systems,” (October 31, 2012) (Solar Panels Scope Ruling).

³³ *Id.* at 6-7.

³⁴ *Id.* at 8-9, citing 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).

Valeo Final Remand Redetermination³⁵

This remand redetermination pertained to certain automotive heating and cooling system components which the Department originally determined were encompassed within the scope of the *Orders*. The products at issue were comprised of two distinct types of automotive heating and cooling parts/components, T-Series and M-Series.³⁶ In the final remand redetermination, the Department, applying the subassemblies test from the SMVC Scope Ruling, concluded that “at the time of importation, the products at issue contain all of the necessary components required for integration into a larger system,” and, thus, there was no meaningful distinction between the products at issue and those examined in the SMVC Scope Ruling. As a result, the Department determined that the products at issue were subassemblies that constituted excluded “finished goods,” as described in the *Orders*, and were not covered by the scope.³⁷

Boat Ladders Scope Ruling³⁸

At issue were certain boat ladders, a boat ladder kit, three dock ladder kits, and strip door mounting brackets. The boat ladder kit (Model ESG2) contained aluminum extrusion handrails, with steps made of plastic. The finished aluminum boat ladder consisted of aluminum extrusion handrails with attached steps made of plastic. The aluminum dock ladder kits contained extruded aluminum handrails and extruded aluminum steps, and fasteners to assemble the product and to attach it to a dock. The strip door mounting brackets consisted of aluminum profiles to which aluminum bullets are attached.³⁹ In the Boat Ladders Scope Ruling, the Department found that boat ladders and boat ladder kits comprised of extruded aluminum and non-extruded aluminum parts (that were not fasteners) were outside the scope because they constituted a permanently and fully assembled finished good and finished goods kits, respectively. The Department found that certain dock ladder kits and the strip door mounting bracket, while finished goods, consisted entirely of extruded aluminum and, thus, were inside the scope.⁴⁰

³⁵ See Final Results of Redetermination Pursuant to Court Remand Aluminum Extrusions from the People’s Republic of China, *Valeo Inc., Valeo Engine Cooling Inc., and Valeo Climate Control Corp. v. United States*, No. 12-00381, (May 14, 2013) (Valeo Final Remand Redetermination), addressing the Department’s findings in the Memorandum regarding: Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China – Final Scope Ruling on Valeo’s Automotive Heating and Cooling Systems, dated October 31, 2012 (“Auto Heating/Cooling Systems Scope Ruling”). The Valeo Final Remand Redetermination was affirmed by the Court of International Trade on June 20, 2013. See *Valeo Inc. v. United States*, Ct. No. 12-00381, dkt. #23, dated June 20, 2013 (Court Order affirming Remand Redetermination).

³⁶ See Valeo Final Remand Redetermination at 5.

³⁷ *Id.* at 10.

³⁸ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Asia Sourcing Corporation’s Boat and Dock Ladders and Strip Door Mounting Brackets,” (March 20, 2013) (Boat Ladders Scope Ruling).

³⁹ *Id.* at 5.

⁴⁰ *Id.* at 8-9.

Flag Pole Sets Scope Ruling⁴¹

At issue in this ruling were flag pole sets designed to hold banners. Both sets at issue 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).⁴²

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.⁴³

ARGUMENTS FROM INTERESTED PARTIES

TACO's Arguments

The poles, rod holders, and rod racks are fully assembled, finished goods at the time of importation. Similarly the weld-on rod holders are finished goods kits that require no further finishing or fabrication upon importation. As such, the Department should find the products at issue outside the scope of the *Orders*.

Prior scope rulings issued by the Department support this conclusion. In the SMVC Scope Ruling, the Department found that aluminum extrusion subassemblies may be excluded from the *Orders* if they are imported as “finished goods” or “finished goods kits” and require no further finishing or fabrication.⁴⁴ In the Anodes Scope Ruling, the Department found that the anodes at issue were finished products because they contained all the components of a water heater anode and because they were permanently assembled at the time of importation.⁴⁵ In the Solar Panels Scope Ruling, the Department found that the products at issue contained all the parts necessary to fully assemble a finished good without further fabrication, and, therefore, found the products outside the scope of the *Orders*.⁴⁶ In the Valeo Final Remand Redetermination, the Department concluded that components for cooling and heating systems made of aluminum extrusions that are further fabricated are “subassemblies” that constitute excluded finished goods and, thus, are

⁴¹ 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).

⁴² *Id.* at 5.

⁴³ *Id.* at 9.

⁴⁴ See Preliminary SMVC Scope Ruling at 7 (unchanged in the Final Scope Ruling).

⁴⁵ See Anodes Scope Ruling 5-7.

⁴⁶ See Solar Panels Scope Ruling at 8-9.

outside the scope of the *Orders*.⁴⁷ In the Boat Ladders Scope Ruling, the Department applied two criteria to determine whether the products at issue were excluded: (1) whether all parts necessary for assembly were included at the time of entry, and (2) whether non-aluminum extrusion components, beyond fasteners, were included.⁴⁸

Applying the analyses utilized in the aforementioned scope proceedings will lead the Department to find that the products at issue here are outside the scope of the *Orders*. As with the products discussed above, the poles at issue are fully assembled, finished goods which consist of extruded aluminum as well as non-aluminum components that are comprised of plastic and stainless steel components. The poles at issue are designed and sold as a tool to raise the storage canvas and allow for water to drain without pooling on the canvas and spilling into the boat. No further processing of the poles is required upon importation.⁴⁹ The poles at issue are no different from the boat ladders examined in the Boat Ladders Scope Ruling in that the non-aluminum components (*e.g.*, the plastic end caps and locking mechanism) go beyond mere fasteners.⁵⁰ Further, the poles are distinct from the flag pole sets examined in the Flag Pole Sets Scope Ruling, in which the flag poles which entered the United States were unassembled and in different packages and, subsequent to importation, were rearranged and repackaged prior to sale. In contrast, TACO imports the poles at issue as fully assembled, finished goods that are individually packaged. The poles are not rearranged or repackaged subsequent to sale.⁵¹

The rod racks and accessory-ready rod holders are fully assembled, finished goods at the time of importation and the weld-on rod holders are finished good kits that require no further finishing or fabrication. Just like the valve examined in the Final SMVC Scope Ruling, a product that was designed to be installed into a fire truck, the rod racks and rod holders are finished goods and the weld-on rod holders are finished goods kits even though they are ultimately installed onto a boat.⁵² Further, the Department's rationale from the Anodes Scope Ruling--in which the Department found that the anodes worked in conjunction with a water heater and, thus, constituted a finished good excluded from the scope of the *Orders*--applies equally to the instant proceeding.⁵³ Just like an anode works with a water heater, the accessory-ready rod holders, rod racks, and weld-on rod holders work in conjunction with the boat.

If the Department finds that the description of the product, the scope language, and prior rulings, are, together, not dispositive as to whether the products at issue are subject merchandise, in accordance with 19 CFR 351.225(k)(1), the analysis of the five additional factors set forth at 19 CFR 351.225(k)(2) will demonstrate that the products at issue are outside the scope of the *Orders*.⁵⁴

⁴⁷ See Valeo Final Remand Redetermination at 10.

⁴⁸ See Boat Ladders Scope Ruling at 8.

⁴⁹ See Scope Request at 13-14.

⁵⁰ See Boat Ladders Scope Ruling at 8-9.

⁵¹ See Scope Request at 4, 14.

⁵² See Preliminary SMVC Scope Ruling at 7; unchanged in Final SMVC Scope Ruling.

⁵³ See Anodes Scope Ruling at 5-7.

⁵⁴ For TACO's discussion of how the products at issue meet the five factors set forth under 19 CFR 351.225(k)(2), see pages 18-23 of the Scope Request.

DEPARTMENT'S POSITION

The Department 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 description of the products, the scope language, and prior rulings, are, together, dispositive as to whether the products at issue are subject merchandise, in accordance with 19 CFR 351.225(k)(1). 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 poles, accessory-ready rod holders, and rod racks at issue meet the exclusion criteria for “finished goods.” We further find that the weld-on rod holders meet the exclusion criteria for “finished goods kits.”

As noted above, the scope excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry. 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 information provided by TACO (*e.g.*, narrative statements, drawings, and product specifications) indicates that the poles include plastic end caps, a non-aluminum locking device, a stainless steel pin, and a non-aluminum snap button.⁵⁵ The rod holders and rod racks include PVC injection molded liners.⁵⁶ Thus, the products at issue do not consist entirely of extruded aluminum.⁵⁷ Because the poles, rod racks, and rod holders contain non-extruded aluminum material parts that go beyond mere fasteners, we find the products meet the Department’s first test for determining whether a good constitutes a finished good, as established in the Geodesic Domes Scope Ruling.⁵⁸

Concerning the poles at issue, because they meet the Department’s first test, as established in the Geodesic Domes Scope Ruling, and because they enter the United States as a pole that is immediately ready, with no further assembly or completion, to stand alone and be used to prop up a tarp that covers the deck of a boat, we find that the poles are “finished goods” under the scope of the *Orders*.

With respect to the rod holders and rod racks, in the Preliminary SMVC Scope Ruling, which was unchanged in the Final SMVC Scope Ruling, the Department explained that the scope “includes the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to

⁵⁵ See Scope Request at 4 and Exhibits 1-2.

⁵⁶ *Id.* at 4 and 6 and Exhibits 3-6.

⁵⁷ *Id.*, at 2, 3, 7 and Exhibits 1-2.

⁵⁸ See Geodesic Scope Ruling at 7, where 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.

form subassemblies, *i.e.*, partially assembled merchandise *unless imported as part of the finished goods kit*” (emphasis added).⁵⁹ We further explained that the scope excludes “finished goods containing aluminum extrusions that are entered unassembled in a ‘finished goods kit.’”⁶⁰ The Department also noted that the scope defines a “finished goods kit” as a “packaged combination of parts that contains, at the time of importation, all of the necessary parts and *requires no further finishing or fabrication, such as cutting or punching, and is assembled ‘as is’ into a finished product*” (emphasis added).⁶¹

Thus, in the Preliminary SMVC Scope Ruling, the Department found that, taken together, these passages from the scope indicate 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” after importation, but before the sale to the customer.⁶² Therefore, the Department found that determining whether a product meets the exclusions for “finished goods” and “finished goods kits” simply by examining whether it is part of a larger structure or system fails to account for scope language that expressly allows for the exclusion of kits that contain “subassemblies,” *i.e.*, merchandise that is “partially assembled” and inherently part of a larger whole.⁶³

In the instant scope proceeding, with regard to the accessory-ready rod holders and rod racks, we have applied the finished good subassembly analysis from the Preliminary and Final SMVC Scope Rulings, as well as the Valeo Final Remand Redetermination. With regard to weld-on rod holders, we apply the same analysis from the aforementioned proceedings with respect to finished goods kits.⁶⁴ Therefore, we analyzed whether the accessory-ready rod holders and rod racks at issue constitute merchandise that enters the United States as a “finished goods,” and we analyzed whether the weld-on rod holders constitute merchandise that constitutes a “finished goods kit.”

In order for a product, including a subassembly, to be excluded from the scope of the *Orders* as a finished good, among other criteria, it must consist of parts that are fully and permanently assembled and completed at the time of entry, and it must be ready for installation in a downstream product with no further finishing or fabrication. This is consistent with scope language that excludes merchandise like windows with glass, or doors with glass or vinyl, each of which includes all of the parts necessary for a complete window or door, but are necessarily installed into a larger structure, such as a house.

We find that the accessory-ready rod holders and rod racks at issue contain parts that are fully and permanently assembled and completed at the time of entry.⁶⁵ All the components and hardware of the accessory-ready rod holders and rod racks are fully fabricated and require no

⁵⁹ See Preliminary SMVC Scope Ruling at 7; unchanged in Final SMVC Scope Ruling.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² See, e.g., *id.*

⁶³ *Id.*

⁶⁴ See Memorandum to Christian Marsh, Deputy for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Storm Door Accessory Kits,” (August 1, 2014) at 11-12, in which we applied the analysis from the Preliminary and Final SMVC Scope Rulings concerning subassemblies to the storm door accessory kits at issue.

⁶⁵ See Scope Request at 3-6 and Exhibits 1-6.

further finishing or fabrication prior to being attached to the boat.⁶⁶ Based on this information, we find that these products meet the exclusion criteria for subassemblies that enter the United States as “finished goods.” Similarly, we find that the weld-on rod holders contain, at the time of importation, all of the necessary parts to fully assemble a final finished good and require no further finishing or fabrication, such as cutting or punching, and are assembled “as is” into a finished product and, therefore, meet the exclusion criteria for “finished goods kits.”⁶⁷

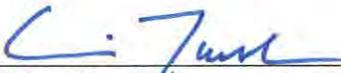
Furthermore, we find that none of the products at issue in this scope proceeding are unpacked, rearranged, and repackaged upon importation and prior to sale in the United States.⁶⁸ Unlike the products examined in the Flag Pole Sets Scope Ruling, each pole, accessory-ready rod holder, and rod rack, is, upon importation, a finished good that is ready for use on a boat without the need for any subsequent repackaging.⁶⁹ We find that the weld-on rod holders are distinct from the Flag Pole Sets Scope Ruling for the same reasons; the weld-on holders are finished goods kits that are, upon assembly, ready for use without repackaging.

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 poles, accessory-ready rod holders, and rod racks at issue are finished goods and, thus, not subject to the scope of the *Orders*. We further recommend finding that the weld-on rod holders at issue are finished goods kits that 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

8/18/14

Date

⁶⁶ *Id.* at 4.
⁶⁷ *Id.* at 5 and Exhibits 3-4.
⁶⁸ *Id.*, at 4, 14, and 18.
⁶⁹ See Flag Pole Sets Scope Ruling at 9, in which 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.