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International Trade Administration
Washington, D.C. 20230

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Scope Inquiry: MagPole
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DATE: November 19, 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: James Terpstra
Senior International Trade 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 Klik-Klik Systems Inc. ("Klik-Klik")
MagPole

SUMMARY

On March 20, 2013, the Department of Commerce ("Department") received a scope ruling request from Klik-Klik,¹ to determine whether its MagPole is subject to the antidumping ("AD") and countervailing duty ("CVD") orders on aluminum extrusions from the People's Republic of China ("PRC").² On the basis of our analysis of the comments received, we determined that the

¹ See letter from Klik-Klik: Scope ruling request, Aluminum Extrusions from the People's Republic of China (A-570-967, C-570-968), Mag Poles (April 25, 2013) ("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").

MagPole is excluded from the scope of the AD and CVD orders on aluminum extrusions from the PRC.

BACKGROUND

On March 20, 2013, Clik-Clik requested that the Department determine whether its MagPole is outside the scope of the *Orders*. On April 10, 2013, we issued a supplemental questionnaire to Clik-Clik.³ Clik-Clik responded to it adequately on April, 25, 2013.⁴ We extended the deadline several times, most recently on September 2, 2014.⁵

SCOPE OF THE ORDERS

The merchandise covered by the order{s} 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,

³ See Letter from James Terpstra, Senior International Trade Analyst to Clik-Clik: Supplemental Questionnaire dated April 10, 2013 (“Supplemental Questionnaire”).

⁴ See letter from Clik-Clik “Requested Supplemental Questionnaire Answers” dated April 25, 2013 (“Supplemental Questionnaire Response”).

⁵ See Letter from Erin Begnal, Program Manager, to Interested Parties: Extension of Time for Scope Ruling (September 2, 2014)

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 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 this order 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, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 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, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 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.⁶

⁶ See Orders.

LEGAL FRAMEWORK

When a request for a scope ruling is filed, the Department examines the scope language of the order at issue and the description of the product contained in the scope-ruling request.⁷ Pursuant to the Department's regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from the investigations, and prior scope determinations made for the same product.⁸ If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling as to whether the merchandise is covered by an order.⁹

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

Clik-Clik described the MagPole as a telescoping extension pole used by interior electrical sign installers. The MagPole is a fully functioning, five foot six inch long, five section, push button, telescoping extension pole that will extend up to 18 feet in total length. A rubber bumper encloses the lower five inches of Tube # 1. The next four sections (Tube #2, Tube #3, Tube #4, Tube #5) are each constructed of hexagon shaped 6063 aluminum alloy extrusions that have been anodized, cut to length, machined and de-burred. These four tubes have incrementally smaller outside diameters so that when assembled they fit one inside the other.

Clik-Clik provided a list of components and their material composition; these include: 1) aluminum extrusion tubes, 2) fiberglass tubes, 3) plastic handles, 4) plastic/copper buttons, 5) steel springs, 6) steel rolling pins, 7) zinc end pieces, 8) aluminum rivets, 9) rubber bumpers, and 10) paper labels.

The upper ends of Tubes #1, #2, #3, and #4 are each surrounded by a four inch long molded black plastic handle which is secured to the tube by one aluminum rivet. Within each of the four black plastic handles is a spring-loaded push button of molded blue plastic that, when depressed by the user, allows for the manual extension or closure of the next tube. The blue plastic push button pivots on a steel pin which extends from within the blue plastic push button and into the black plastic handle. A metal spring is positioned between the push button and the handle. The upper end of Tube #5 is fitted with a cast zinc ACME thread end piece which is attached to the tube with two rivets. The lower ends of Tubes #2, #3, #4 and #5 each recess into the upper end

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

⁸ 19 CFR 351.225(k)(1).

⁹ 19 CFR 351.225(d).

of the previous tube by 1-3/4 inches and, are each fitted with plastic stops which are secured to the tube by aluminum rivets.

At the time of importation, the MagPole is fully assembled and functioning. Shipments contain four MagPoles in individual shipping tubes in a cardboard box, which are shipped to unaffiliated distributors at distribution centers.

Clik-Clik explained that the MagPole is used with a variety of attachments from a variety of suppliers; these attachments are removeable/replaceable components. These attachments include a MagMover, ClikMagnets, and other products used in a variety of ways including washing windows, painting walls, and removing cobwebs.

RELEVANT SCOPE DETERMINATIONS¹⁰

A. Drapery Rail Kits (Redetermination)¹¹

In the original drapery rail kits scope ruling, the Department determined that certain drapery rail kits imported by the Rowley Company (“Rowley”) were covered by the scope of the *Orders* because the kits were not imported with draperies. The Department subsequently requested a voluntary remand, and on remand, determined that Rowley’s drapery rail kits were excluded from the *Orders* as finished goods kits. In its redetermination, the Department noted that the drapery 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 drapery rail kits be imported with the customizable draperies or curtains and, in determining that Rowley’s drapery 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 Domes Scope Ruling¹²

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.

¹⁰ See the Department’s Memorandum” Prior Scope Rulings Relevant to this Proceeding, dated concurrently with this memorandum.

¹¹ See Final Results of Redetermination Pursuant to Court Remand, Aluminum Extrusions from the People’s Republic of China, *Rowley Company V. United States*, Court No. 12-0005 (February 27, 2013) (“Drapery Rail Kits (Redetermination)”); see also Past Scopes Memo at Attachment 1. See also *Rowley Company v. United States*, Consol. Ct. No. 12-00055 (CIT May 23, 2013) (Court Order affirming Remand Redetermination) (“Drapery Rail Kits (Redetermination)”).

¹² 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”); see also Past Scopes Memo at Attachment 2.

In the ruling, the Department explained that the product at issue met the “initial requirements for inclusion into the finished goods kit exclusion.”¹³ 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.”¹⁴ 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.¹⁵

C. Solar Panel Scope Ruling¹⁶

At issue in this ruling were solar panel mounting systems comprised of extruded aluminum rails as well as extruded and cast aluminum kedges, galvanized steel posts, and various steel bolts, clamps, and brackets.¹⁷ 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, like picture frames, banner stands and backwall kits, the mounting systems were designed to work with removeable/replaceable components, and need not include these removeable/replaceable components to constitute a finished good. These 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*.¹⁸

D. Banner Stands and Back Wall Kits¹⁹

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

¹³ *Id.* at 7.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ 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”); see also Past Scopes Memo at Attachment 4.

¹⁷ *Id.* at 6-7.

¹⁸ *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) (“Banner Stands and Back Wall Kits”).

¹⁹ See Banner Stands and Back Wall Kits.

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’ 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.

ARGUMENTS FROM INTERESTED PARTIES

Clik-Clik’s Comments

Clik-Clik argues that the MagPole is finished merchandise at the time of entry to the United States and, therefore, is outside the scope of the order. Clik-Clik further argues that all the components of the MagPole are permanently assembled and ready to use at the time of importation. Though the MagPole may be used with interchangeable tools, these tools are not necessary to the function of the MagPole as telescoping extension poles.

Petitioner’s Comments

Petitioner did not comment.

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 MagPole at issue meets the exclusion criteria for “finished goods.”

As noted above, the scope of the *Orders* excludes “finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry.”²⁰

The list of components in the Supplemental Questionnaire Response demonstrates that in addition to extruded aluminum components, the MagPole includes non-extruded aluminum materials such as fiberglass tubes, plastic handles, plastic buttons, rubber bumpers and steel rolling pins which go beyond mere fasteners.²¹ Therefore, we find that the MagPole meets our first test for determining whether a good constitutes a finished good or finished goods kit, as established in the Geodesic Domes Scope Ruling.²²

²⁰ See *Orders*.

²¹ See Supplemental Questionnaire Response at 3 - 4.

²² See Geodesic Domes 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.

Further, information in Clik-Clik's Scope Request indicates that that the MagPole is merchandise containing aluminum extrusions as parts that is fully and permanently assembled and completed at the time of entry. For example, invoices, packing lists, and photographs show that Clik-Clik's MagPole is completely assembled when it enters the United States.²³

In addition, similar to the products considered in Drapery Rail Kits (Redetermination),²⁴ Banner Stands and Back Wall Kits,²⁵ and Solar Panels,²⁶ the MagPole is designed to work with removeable/interchangeable attachments.²⁷ The various products that may be attached to the MagPole by end users after importation are interchangeable and are available from Clik-Clik and a wide variety of other suppliers.²⁸ Further, each end user chooses which product to use as an attachment.²⁹ Therefore, consistent with Drapery Rail Kits (Redetermination), Banner Stands and Back Wall Kits, and Solar Panels, the Department finds that it would be unreasonable to require the inclusion of interchangeable attachments that can change with users' needs at the time of importation, for the Department to consider the MagPole to be a finished good for purposes of the scope exclusion. Consequently, as noted above, we determine that Clik-Clik's MagPole is fully and permanently assembled and completed at the time of entry, and therefore we find Clik-Clik's MagPole is excluded from the scope as a finished good.

²³ See Supplemental Questionnaire Response at 7 - 11.

²⁴ See Drapery Rail Kits (Redetermination) at 8 - 9.

²⁵ See Banner Stands and Back Wall Kits at 10.

²⁶ See Solar Panels Scope Ruling at 9.

²⁷ See Supplemental Questionnaire Response at 11 - 16.

²⁸ See Scope Request at 5.

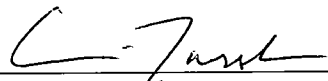
²⁹ *Id.*

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 MagPole is a finished good and, thus, 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

11/19/14

Date