



A-570-967, C-570-968
Scope Ruling: Circle Door Grille and Door Kit
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December 5, 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
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FROM: Andrew Medley
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Antidumping and Countervailing Duty Operations

RE: Antidumping (“AD”) and Countervailing Duty (“CVD”) Orders on
Aluminum Extrusions from the People’s Republic of China
 (“PRC”)

SUBJECT: Final Scope Ruling on Circle Glass Co.’s Screen and Storm Door
Grille and Patio Door Kits

SUMMARY

Circle Glass Co. (“Circle Glass”) filed a Scope Ruling Request seeking that the Department of Commerce (“Department”) determine whether screen and storm door grilles and patio door kits, which it imports, are outside the scope of the AD and CVD orders on aluminum extrusions from the PRC.¹ On the basis of our analysis of the scope request and comments received, we determined that Circle Glass’ screen and storm door grilles are excluded from the scope of the *Orders* and the patio door kits are covered by the scope of the *Orders*.

¹ See Circle Glass’ letter to the Department titled “Aluminum Extrusions from the People’s Republic of China (570-968): Application for Scope Ruling Regarding Screen and Storm Door Grille and Patio Door Kit Imported by Circle Glass Co.,” April 3, 2014 (“Scope Ruling Request”); *see also* *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

Circle Glass filed its Scope Ruling Request on April 4, 2014.² Petitioner³ submitted comments on July 18, 2014.⁴ In response to a supplemental questionnaire,⁵ Circle Glass submitted a response on August 11, 2014.⁶ The Department extended the deadline for a final scope ruling until December 5, 2014.⁷

DESCRIPTION OF MERCHANDISE SUBJECT TO THIS SCOPE REQUEST

Product 1: Circle Glass' Screen and Storm Door Grille

- Circle Glass' screen and storm door grille is an attachment to a screen door.⁸
- The grille consists of an extruded aluminum frame that has been permanently combined with a non-extruded aluminum mesh grille made of aluminum wire (which is drawn, not extruded).⁹ Extruded aluminum mounting brackets are riveted to the frame.¹⁰ The frame also comes with four steel fasteners (*i.e.*, screws).¹¹
- The grille is imported fully assembled and ready for use as an attachment on a screen door.¹²

Product 2: Circle Glass' Patio Door Kits

- Circle Glass' patio door kit consists of an extruded aluminum door frame, a plastic handle, a steel latch, a strike, rivets, screws, and four steel door roller/corner combination units, each with a steel wheel.¹³
- It is imported and sold without a screen.¹⁴
- As imported, the patio door kits contain all components necessary to assemble a patio screen door and mount it to a doorway—except the screen, which is purchased separately.¹⁵

² See Scope Ruling Request (though the document is dated April 3, 2014, it was not filed with the Department until April 4, 2014).

³ Petitioner is the Aluminum Extrusions Fair Trade Committee.

⁴ See Letter from Petitioner titled "Aluminum Extrusions from the People's Republic of China: Comments on Circle Glass Co.'s Request for Scope Ruling," dated July 18, 2014 ("Petitioner's Comments").

⁵ See Letter from the Department to Circle Glass titled "Aluminum Extrusions from the People's Republic of China—Scope Ruling Request Supplemental Questionnaire," dated July 18, 2014.

⁶ See Letter from Circle Glass titled "Aluminum Extrusions from the People's Republic of China (C-570-968): Response to Supplemental Questionnaire," dated August 11, 2014 ("Supplemental Questionnaire Response").

⁷ See Letter from the Department to All Interested Parties titled "Aluminum Extrusions from the People's Republic of China: Fourth Extension of Time for Scope Ruling," dated October 31, 2014.

⁸ See Scope Ruling Request at 3.

⁹ *Id.* at 3 and 5; see also Supplemental Questionnaire Response at 3.

¹⁰ See Scope Ruling Request at 3 and Supplemental Questionnaire Response at 3.

¹¹ *Id.*

¹² See Scope Ruling Request at 5-6.

¹³ *Id.* at 3-4.

¹⁴ *Id.* at 4 and 10.

¹⁵ *Id.* at 3-4 and 10-11.

SCOPE OF THE ORDERS

The merchandise covered by these *Orders* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (“drawn aluminum”) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including bright-dip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swaged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods ‘kit’ defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat

sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation.

The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a “finished goods kit.” A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled ‘as is’ into a finished product. An imported product will not be considered a ‘finished goods kit’ and therefore excluded from the scope of the investigation merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 mm or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of 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 of these *Orders* is dispositive.¹⁶

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.¹⁷ 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.¹⁸ If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling as to whether the merchandise is covered by an order.

Conversely, where the descriptions of the merchandise 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

¹⁶ See *Orders*.

¹⁷ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010); see also 19 CFR 351.225(k)(1).

¹⁸ See 19 CFR 351.225(k)(1).

appropriate in any given scope proceeding is made on a case-by-case basis after consideration of all evidence before the Department.

RELEVANT SCOPE DETERMINATIONS¹⁹

A. Geodesic Dome Kits Scope Ruling²⁰

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 determined that the geodesic structure kits met 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.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 extrusions product.”²² 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” exclusion applies. Therefore, the Department determined J.A. Hancock’s kits to not be excluded finished goods kits, and hence covered by the scope of the *Orders*.

B. Side Mount Valve Control Kits Scope Ruling²³

At issue in the ruling were certain side-mount valve control (“SMVC”) kits that are used in pumping apparatuses that attached to fire engines. The requestor argued that an SMVC kit, as imported, contains all the components necessary to complete the product and that all SMVC kit components and hardware are fully fabricated and require no further finishing or fabrication

¹⁹ See the Department’s memorandum titled “AD/CVD Orders on Aluminum Extrusions from the PRC: Transmittal of Scope Determinations to the File,” dated concurrently with this memorandum and placed on the record of this proceeding. This memorandum contains the scope rulings primarily relied upon in the Department’s analysis. Other rulings referenced by interested parties, or by the Department in response to arguments made by interested parties, as well as other scope rulings for aluminum extrusions from the PRC, can be found on the Department’s website: <http://enforcement.trade.gov/download/prc-ae/scope/prc-ae-scope-index.html>.

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 Dome Kits”).

²¹ *Id.* at 7.

²² *Id.*

²³ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Initiation and Preliminary Scope Ruling on Side Mount Valve Controls,” dated September 24, 2012 (“Preliminary SMVC Kits Ruling”), unchanged in Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Side Mount Valve Controls,” dated October 26, 2012 (“Final SMVC Kits Ruling”) (collectively, “SMVC Kits”).

prior to being assembled. On this basis, the requestor argued that the kit in question met the exclusion criteria for “finished goods kit.”²⁴

In the ruling, 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 had 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.²⁵

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 kits 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.²⁶

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 kit were fully fabricated, required no further finishing or fabrication prior to being assembled, and was ready for use upon installation. Based on this information, the Department found that the SMVC kits at issue met the exclusion criteria for subassemblies that enter the United States as “finished goods kits.”²⁷

C. Components for Auto Cooling and Heating Systems²⁸ and Valeo Remand Redetermination²⁹

In the Valeo Scope Ruling, the Department determined that Valeo’s T-Series and M-Series parts for heating/cooling systems were covered by the scope of the *Orders* because the products were aluminum extrusions that had undergone further fabrication and such products are specifically covered by the *Orders*. Subsequently, Valeo, Inc. filed a complaint with the CIT alleging that the Department did not address or apply the “subassemblies test” that was established in SMVC

²⁴ See Preliminary SMVC Kits Ruling at 2.

²⁵ *Id.* at 7.

²⁶ *Id.* at 7.

²⁷ *Id.* at 7-8.

²⁸ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Valeo’s Automotive Heating and Cooling Systems,” dated October 31, 2012 (“Valeo Scope Ruling”).

²⁹ See *Valeo, Inc. et al. v. United States*, Court No. 12-00381, dated February 13, 2013 (“*Valeo*”) and the 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*, Court No. 12-00381, dated May 13, 2013 (“*Valeo Remand Redetermination*”). The *Valeo Remand Redetermination* was affirmed by the CIT. See *Valeo, Inc. et al. v. United States*, Court No. 12-00381, dkt#23, dated June 20, 2013 (Court Order Affirming Remand Redetermination).

Kits to the merchandise at issue in Valeo's initial scope request.³⁰ In response, the Department requested and was granted a voluntary remand to consider whether components for cooling and heating systems are covered by the *Orders* based upon the Department's new subassembly test.³¹ In the *Valeo Remand Redetermination*, the Department revised its earlier decision and found the parts outside the scope of the *Orders*. In reaching its decision, the Department noted that the subassemblies test is consistent with the scope of the *Orders* because subassemblies that enter the United States as "finished goods" or "finished goods kits" and are later integrated into a larger structure or system are analogous to products that are explicitly excluded from the scope, such as "windows with glass, or doors with glass or vinyl," each of which includes all of the parts necessary to assemble a complete window or door, but is necessarily integrated into a larger structure.³²

D. Assembled Motor Cases and Assembled Motor Cases Housing Stators³³

At issue in the ruling were certain both assembled motor cases and certain assembled motor cases which house stators, copper wire, and insulation material. The assembled motor cases consisted of two extruded aluminum cylinders in which an inner motor case is inserted into an outer motor case. The stator, one of two major components of an electric motor (the other being the rotor), consisted of an extruded aluminum frame around which copper wire is wound using an automatic winding machine. The stator was then pressed into the inner motor case, which was in turn surrounded by the outer motor case.³⁴ The Department found that the assembled motor cases consisted entirely of extruded aluminum materials, and thus, per the Department's findings in the Geodesic Dome Kits Scope Ruling, found the assembled motor cases, alone, to be inside the scope of the *Orders*.³⁵ Regarding the assembled motor cases housing stators, copper wire and insulation materials, the Department found that "due to the inclusion of the stator (which contains insulated copper wire) the assembled motor cases housing stators do not consist entirely of extruded aluminum."³⁶ As a result, the Department found the assembled motor cases housing stators constituted subassembly finished goods and thus, as in the SMVC Kits scope ruling, were outside the scope of the *Orders*.³⁷

³⁰ See *Valeo Remand Redetermination* at 1-2.

³¹ *Id.* at 2.

³² *Id.* at 8-9.

³³ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Final Scope Ruling on Motor Cases, Assembled and Housing Stators," dated November 19, 2012 ("Motor Cases Housing Stators").

³⁴ *Id.* at 3.

³⁵ *Id.* at 12.

³⁶ *Id.* at 13-14.

³⁷ *Id.* at 14.

E. Shower Doors and Enclosures³⁸

In the underlying antidumping duty investigation on aluminum extrusions from the PRC, the Shower Door Manufacturers Alliance (“SDMA”) contended that it is normal industry practice to purchase glass panels and shower door kits from different suppliers. Therefore, they argued, any kit purchased from the shower door manufacturer would not include glass panels but, nonetheless, would be considered in the industry to be a complete finished product. The Shower Door Manufacturers urged the Department to clarify the scope language to be explicit that a kit for shower door enclosures does not include the glass, so as to avoid confusion on the part of importers and CBP. Petitioner urged the Department to conclude that unassembled shower door frames without glass panels do not qualify for the “kit” scope exclusion. Petitioner noted that aluminum frames without glass would only be considered a “complete finished product” from the perspective of the dealer or distributor, but not a final finished good according to the scope language. The Department agreed with the Petitioner that, at the time of importation, the Shower Door Manufacturers’ unassembled shower door frames did not contain all of the necessary parts to create a final finished good, *i.e.*, a shower door. The Department therefore determined that the shower doors and enclosures were not excluded from the *Orders*.

F. Shower Door Kits³⁹

The products at issue were shower door kits consisting of: a glazed shower door panel (glass surrounded by an aluminum frame), door handles, pivot and strike door jambs (with seals), a drip rail (with vinyl and end plugs), snap-in fillers, and the required screws, spacer, washers, and tape for assembly. The importer, Sapa Extrusions, Inc. (“Sapa”) argued that all parts needed for the completion of a finished good were included in its shower door kit at the time of importation, and had the capability to be assembled “as is” into a finished product.⁴⁰ In the Shower Door Kits scope ruling, the Department determined that the product at issue contained all the parts necessary to assemble a final finished good—a shower door—at the time of importation.⁴¹ The Department therefore determined that the shower door kits were excluded from the *Orders*.

INTERESTED PARTY COMMENTS

Circle Glass’ Scope Request

Based on a 19 CFR 351.225(k)(1) analysis, Circle Glass argues that its (1) screen and storm door grille and (2) patio door kits should be excluded from the scope.

³⁸ See the Department’s memorandum titled “Preliminary Determinations: Comments on the Scope of the Investigations,” dated October 27, 2010, at Comment 7 (“Investigation Prelim Scope Comments”); *see also Aluminum Extrusions from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 18524 (April 4, 2011) and accompanying Issues and Decision Memorandum at Comment 3D (collectively, “Shower Doors and Enclosures”).

³⁹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling: Shower Door Kits,” dated November 7, 2011 (“Shower Door Kits”).

⁴⁰ *Id.* at 5.

⁴¹ *Id.* at 6.

Product 1: Circle Glass' Screen and Storm Door Grille

As in the Department's rulings on Solar Panel Mounting System Kits⁴² and SMVC Kits, Circle Glass asserts that the screen and storm door grille should be considered a finished product even though it is part of a larger structure (*i.e.*, a screen or storm door).⁴³ In that way, the grille is a "full and complete article of commerce" and thus meets the scope exclusion for finished merchandise.⁴⁴

Product 2: Circle Glass' Patio Door Kits

Citing Solar Panel Mounting System Kits, Circle Glass asserts that the fact that the patio door kit does not include a non-essential part, the screen, is insufficient to render the product unfinished.⁴⁵ Circle Glass further argues that, just as a computer printer is complete without its replaceable ink cartridge, a patio door kit is complete without the screen.⁴⁶ Additionally, Circle Glass attempted to distinguish its patio door kits from the shower door kits considered by the Department during the investigation,⁴⁷ explaining that its screen provides no structural integrity, unlike a glass shower door.⁴⁸ Finally, citing to Cutting and Marking Edges⁴⁹ and Boat Ladders and Brackets,⁵⁰ Circle Glass notes that its patio door kits contain a large number of non-aluminum parts (other than fasteners), and thus its patio door kit should qualify for the finished goods kit exclusion.⁵¹

Petitioner's Comments

Product 1: Circle Glass' Screen and Storm Door Grille

Petitioner provided no comments with regards to Circle Glass' screen and storm door grille.

⁴² 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," dated October 31, 2012 ("Solar Panel Mounting System Kits").

⁴³ See Scope Ruling Request at 7-9.

⁴⁴ *Id.* at 2-3.

⁴⁵ *Id.* at 12.

⁴⁶ *Id.* at 11.

⁴⁷ See Shower Doors and Enclosures.

⁴⁸ *Id.* at 12.

⁴⁹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on Cutting and Marking Edges," dated November 13, 2012 ("Cutting and Marking Edges"), where the Department found the all-aluminum finished product to be in-scope.

⁵⁰ 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," dated March 20, 2013 ("Boat Ladders and Brackets"), where the Department excluded some ladder kits as finished goods kits because they consisted of both extruded and non-extruded parts.

⁵¹ *Id.* at 13-14.

Product 2: Circle Glass' Patio Door Kits

Petitioner asserts that Circle Glass's patio door kit does not qualify for an exclusion from the scope because, at the time of importation, it does not contain all parts necessary to fully assemble a final finished good.⁵²

Petitioner also cites to the Court of International Trade's ("CIT") ruling on curtain wall units in *Yuanda*,⁵³ where the CIT found the curtain wall units were not finished merchandise; but rather parts for curtain walls.⁵⁴ According to Petitioner, the CIT held that an excepted final finished good must have consumptive use on its own.⁵⁵

Petitioner cites to *Event Décor*⁵⁶ as an example of a prior case where the Department found a product to be in-scope, despite consisting of both extruded aluminum and other components, because the product otherwise satisfied the parameters of the scope.⁵⁷

Petitioner cites to *Retractable Awnings*,⁵⁸ *Flag Pole Sets*,⁵⁹ and *Disappearing Door Screens*⁶⁰ as examples of cases where the Department declined to exclude merchandise, under the finished goods kit exclusion, because the kits were incomplete at the time of importation.⁶¹ Petitioner further distinguishes Circle Glass' patio door kits from the Department's determination regarding *Solar Panel Mounting System Kits*, stating that the Department found the solar panel mounting system to comprise a final, finished good and to have utility and functionality on its own, while the patio door kit, without the screen, does not.⁶²

Lastly, Petitioner urges the Department to adopt its decision matrix which it developed for purposes of the aluminum extrusions scope proceeding.⁶³

⁵² See Petitioner's Comments at 5.

⁵³ *Shenyang Yuanda Aluminum Industry Engineering Co. v. United States*, 961 F. Supp. 2d 1291 (CIT 2014) ("*Yuanda*").

⁵⁴ See Petitioner's Comments at 7-8.

⁵⁵ *Id.*, at 8-10.

⁵⁶ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "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 Decor Parts and Kits," dated December 2, 2013 ("*Event Décor*").

⁵⁷ See Petitioner's Comments at 12-13.

⁵⁸ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Final Scope Ruling on Certain Retractable Awning Mechanisms," dated October 14, 2011 ("*Retractable Awnings*").

⁵⁹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Final Scope Ruling on 5 Diamond Promotions, Inc.'s Aluminum Flag Pole Sets," dated April 19, 2013 ("*Flag Pole Sets*").

⁶⁰ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Final Scope Ruling on Law St. Enterprises, LLC's Disappearing Door Screens," dated September 12, 2013 ("*Disappearing Door Screens*").

⁶¹ See Petitioner's Comments at 14-17.

⁶² *Id.*, at 17-18.

⁶³ *Id.*, at 18-21 and Exhibit 2.

DEPARTMENT'S POSITION

We examined the description of the products in this scope request, the scope language of the *Orders*, and the Department's prior relevant scope rulings summarized above. Pursuant to 19 CFR 351.225(k)(1), we find that the scope and the Department's prior rulings are dispositive as to whether the products at issue are subject to the *Orders*. Accordingly, for this determination, the Department finds it unnecessary to consider the additional factors specified in 19 CFR 351.225(k)(2).

Product 1: Circle Glass' Screen and Storm Door Grille

The description of the screen and storm door grille in question indicates that it is comprised of aluminum extrusions and non-extruded aluminum components (*i.e.*, a non-extruded aluminum mesh grille made of aluminum wire which is drawn, not extruded.)⁶⁴ Therefore, we find that the screen and storm door grille meets our first test for determining whether a good constitutes a finished good or finished goods kit, as established in the Geodesic Dome Kits scope ruling.⁶⁵ Next, 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." In order to avoid "absurd" results stemming from a rigid definition of finished merchandise, the Department later refined its analysis of the finished goods and finished goods kits exclusion (in SMVC Kits and further supported in the later *Valeo Remand Redetermination* and Motor Cases Housing Stators determinations) to include subassemblies of larger products or systems provided that they enter the United States as finished goods or finished goods kits and require no further finishing or fabrication. Furthermore, the screen and storm door grille enter as fully-assembled finished goods that are permanently assembled, completed, and are ready to be attached to a screen or storm door with no further modification subsequent to importation. As such, Circle Glass' screen and storm door grilles are fully assembled subassemblies ready for immediate installation and use in a larger system, thus analogous to the merchandise considered in the prior Motor Cases Housing Stators ruling, and eligible for the finished goods exclusion based on the same principle enumerated in the prior ruling.

Product 2: Circle Glass' Patio Door Kits

The product at issue is a patio screen door kit. The plain language of the scope 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.

In the underlying investigation, a company, SDMA, argued that a shower door kit without the glass, known as a "Knock Down Unit," or "KD," was a finished goods kit, but we disagreed and determined that the KD kit was not excluded because the completed shower door would only be

⁶⁴ See Scope Ruling Request at 3 and 5; *see also*, Supplemental Questionnaire Response at 3.

⁶⁵ See Geodesic Dome Kits 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.

a final finished good when the glass was included.⁶⁶ On the other hand, in the Shower Door Kits scope ruling, we determined that Sapa's product was excluded because its kit included the glass panel in the shower door. We found in the Shower Door Kits scope ruling that "all of the parts necessary to assemble a final finished product" were included.⁶⁷

The plain language of the scope 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..." Accordingly, if a door is imported into the United States without glass or vinyl in the designated place in the door, according to the language of the scope, that door would not be considered "finished merchandise." Likewise, the same is true with a screen door that is imported into the United States without the screen in the designated place for the screen. Because no screen is included with the patio door kit at the time of importation,⁶⁸ similar to the kits lacking the glass panel in Shower Doors and Enclosures, Circle Glass's patio door kit does not meet the exclusion that requires "all of the necessary parts to fully assemble a final finished good."⁶⁹

Circle Glass cites to Solar Panel Mounting System Kits, asserting that the fact that its patio door kit does not include a non-essential part, the screen, is insufficient to render the patio screen door kit unfinished.⁷⁰ In Solar Panel Mounting System Kits, the Department found the solar panel mounting system kits to contain all the parts necessary to construct a complete finished good (*i.e.*, a solar panel mounting system) and that the mounting systems were finished goods in their own right.⁷¹ The Department stated that the mounting systems were designed to work with removable/replaceable components (*i.e.*, solar panels) and need not include these non-essential components to constitute a finished mounting system. Conversely, in the case of Circle Glass' patio door kit, we determine that Circle Glass' patio door without a screen is not a finished patio screen door absent the screen, as we consider a patio door to be akin to windows or doors, which are only excluded from the scope as "finished windows with glass" and "doors with glass or vinyl".

Circle Glass also cites to Cutting and Marking Edges for the premise that a kit must include both extruded aluminum parts, as well as non-extruded aluminum parts, to be a finished good, and claims that its merchandise meets this requirement.⁷² We do not disagree that a combination of product materials is a factor which the Department considers in determining whether or not a product is a finished good or a finished goods kit, but merely because a kit contains both extruded and non-extruded aluminum parts does not automatically make the contents of the kit, once assembled, a "finished good," under the exclusion language of the scopes of the Orders. As

⁶⁶ See Shower Doors and Enclosures in the Final Issues and Decision Memorandum at Comment 3D.

⁶⁷ See Shower Door Kits at 6.

⁶⁸ See Scope Ruling Request at 4.

⁶⁹ See, *e.g.*, Shower Doors and Enclosures in the Final Issues and Decision Memorandum at Comment 3D.

The scope rulings cited by Petitioner on Flag Pole Sets and Disappearing Door Screens are not applicable here, however, as the Department found those products to be in scope because the items did not enter packaged as a complete kit for consumption, but rather were boxed with like components and were unpacked, rearranged, and repacked for resale after entry into the United States. See Flag Pole Sets at 9; Disappearing Door Screens at 9.

⁷⁰ See Scope Ruling Request at 12.

⁷¹ See Solar Panel Mounting System Kits at 8-9.

⁷² See Cutting and Marking Edges at 10-11.

explained above, even if a kit contained pieces of a door composed of extruded and non-extruded aluminum parts, the scope would not exclude that door unless, among other factors, the glass or vinyl component of such door was included in the kit. Likewise, this is true of the screen in this product.

In that regard, as Petitioner notes, this case is similar to the Event Décor scope ruling.⁷³ In Event Décor, the Department found Gorilla Pipes to be in scope, despite containing non-extruded materials, because the product otherwise satisfied the parameters of the scope.⁷⁴ The Department determined that individual Gorilla Pipes were included in the scope of the *Orders* because they did not contain all parts necessary to fully assemble a complete, finished product (*i.e.*, a display structure).⁷⁵ Thus, our determination that Circle Glass' patio door kit, without the screen, is in-scope is consistent with our determination in Event Décor, because, similarly, here we find Circle Glass' patio door kits to be incomplete as they do not contain all parts necessary to assemble a complete, finished product (*i.e.*, a complete patio screen door).

Additionally, we disagree with Circle Glass' arguments with respect to Boat Ladders and Brackets. Specifically, in the case of Boat Ladders and Brackets, the Department found certain ladder kits to be out of scope because they contained "all the parts needed to fully assemble a finished good with no further fabrication" and contained non-aluminum extrusion components (*i.e.*, plastic steps).⁷⁶ Although the patio screen door kit at issue in this case contains components other than extruded aluminum, it lacks the screen and therefore does not contain "all the parts needed to fully assemble a finished good with no further fabrication." Accordingly, this case is more akin to the Shower Doors and Enclosures from the underlying investigation, which lacked glass, as this door lacks a screen, and, therefore, was determined not to be a finished good kit excluded from the *Orders*.⁷⁷

Circle Glass' attempt to draw comparisons between a printer and replaceable ink cartridge and its patio door kit are inapt, as the Department has made no prior ruling regarding such products, and there appears to be no clear connection between a printer and the patio door kit at issue here. Additionally, Circle Glass' argument regarding the structural integrity provided by the glass shower door is misplaced, since the Department made no mention of such a consideration in either of its scope rulings on shower doors, nor is there any reference to structural integrity in the language of the scope.

In addition, we disagree with Petitioner's reading of *Yuanda* as effectively precluding the Department's subassemblies test. That issue was not before the court, and is not an issue which is relevant in this proceeding. We therefore do not reach the issue in this scope ruling as to whether a finished good must have a consumptive use on its own in order to be excluded from the scope of the *Orders*.

⁷³ See Petitioner's Comments at 12.

⁷⁴ See Event Décor at 10.

⁷⁵ *Id.*

⁷⁶ See Boat Ladders and Brackets at 8.

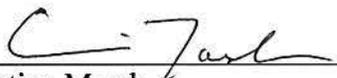
⁷⁷ See Shower Doors and Enclosures in the Final Issues and Decision Memorandum at Comment 3D.

RECOMMENDATION

For the reasons discussed above, and in accordance with 19 CFR 351.225(d), and 351.225(k)(1), we recommend finding that: (1) Circle Glass' screen and storm door grilles are not subject to the scope of the *Orders*; and (2) Circle Glass' patio door kit without a screen does not satisfy the exclusion criteria for finished goods kits and, therefore, is 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

12/5/14

Date