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Scope: 20-foot telescoping flagpole
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January 8, 2015

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

THROUGH: Melissa G. Skinner
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Antidumping and Countervailing Duty Operations

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Antidumping and Countervailing Duty Operations

FROM: James Terpstra
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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 Camco Manufacturing, Inc. 20-foot
telescoping flagpoles

SUMMARY

On September 10, 2013, the Department of Commerce ("Department") received a scope ruling request from Camco Manufacturing, Inc. ("Camco")¹ to determine whether its 20-foot telescoping flag poles are finished merchandise and thus outside the scope of the antidumping ("AD") and ("CVD") *Orders* on aluminum extrusions from the People's Republic of China ("PRC").² For the reasons described below, we determine that Camco's 20-foot flagpoles are excluded from the scope of the AD and CVD *Orders* on aluminum extrusions from the PRC.

¹ See Letter from Camco, "Aluminum Extrusion from the People's Republic of China: Scope Inquiry Request (A-570-967, C-570-968) (September 10, 2013) ("Scope Ruling Request").

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



BACKGROUND

Camco filed its Scope Ruling Request on September 10, 2013. On September 12, 2013, we issued a deficiency letter to Camco,³ to which it responded on September 26, 2013.⁴ On November 8, 2013, the Aluminum Extrusions Fair Trade Committee (“Petitioner”) submitted comments.⁵ On November 26, 2013, Camco replied to these comments.⁶ On December 13, 2013, Petitioner submitted additional comments.⁷ On January 7, 2014, Camco rebutted these comments.⁸ The Department extended the deadline for ruling on Camco’s 20-foot flagpoles various times, most recently on December 4, 2014, until January 9, 2015.⁹

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

³ See Letter from James Terpstra, Senior Analyst, Office III, to Camco “Deficiencies in Scope Ruling Request” (September 12, 2013) (“Supplemental Questionnaire”).

⁴ See Letter from Camco “Aluminum Extrusions from the People’s Republic of China - Scope Ruling Request Supplemental Questionnaire Response” (September 26, 2014) (“Supplemental Questionnaire Response”).

⁵ See Petitioner’s letter “Comments on Scope Request” (November 8, 2013).

⁶ See Letter from Camco “Response to Petitioner’s Comments” (November 26, 2013).

⁷ See Petitioner’s letter “Additional Comments on Scope Request” (December 13, 2013).

⁸ See Letter from Camco “Rebuttal to Petitioner’s Additional Comments” (January 7, 2014).

⁹ See Letter from Erin Begnal, Program Manager, Office III, to Camco Regarding Extending the Scope Deadline (December 4, 2014).

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 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, 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.¹⁰

¹⁰ 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.¹¹ Pursuant to the Department's regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from the investigations, and prior scope determinations made for the same product.¹² If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling as to whether the merchandise is covered by an order.

Conversely, where the descriptions of the merchandise in the sources described in 19 CFR 351.225(k)(1) are not dispositive, the Department will analyze the factors set forth at 19 CFR 351.225(k)(2). These factors are: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope proceeding is made on a case-by-case basis after consideration of all evidence before the Department.

DESCRIPTION OF MERCHANDISE SUBJECT TO THIS SCOPE REQUEST

Camco imports into the United States finished 20-foot telescoping flagpoles made up of five permanently connected sections of series six aluminum, finials (the capping ball), and carabiners for affixing a standard to the flagpole. The finished flagpoles as imported are packed individually.

The finished flagpoles do not require additional manufacturing, finishing or fabrication, and each individual flagpole is imported in its own individual box. Imported flagpoles include telescoping sections made of aluminum extrusions that are permanently connected. Plastic locking buttons secure the telescoping sections at the height desired by the consumer. Moreover, carabiners are permanently attached to the imported flagpoles. The consumer need do nothing but secure the flagpole to a recreational vehicle or in the ground and affix a standard to the carabiners.¹³ The parts are described in detail below.

Carabiners - The permanently-attached carabiners have five components: the body, actuating lever, rivet, helical compression spring and steel lever. The body, actuating lever and rivet are made from extruded and drawn aluminum. The helical compression spring is made from steel spring wire that is bent into a helix, cut to length and plated. The steel lever is made from steel sheet, which is cut with a blanking die and then formed. The steel lever is inserted into one end of the helical compression spring, and the other end of the spring is inserted into the actuating lever. With the spring compressed, the actuating lever is riveted to the carabiner body.

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

¹² 19 CFR 351.225(k)(1).

¹³ See Scope Ruling Request at 2.

Capping Ball - The capping ball has six components: upper shell, lower shell, carriage bolt, stud, rivet and collar. The upper and lower shells are blanked and formed/punched from aluminum sheet. The aluminum carriage bolt's head is hot-formed, and the body is turned/cut and threaded. The aluminum stud is turned/cut and threaded externally and internally (*i.e.*, tapped) on a lathe. The rivet and the collar are made from extruded aluminum. The shells are mated together, and the carriage bolt is inserted through them. The collar is riveted to the stud. The carriage bolt has thread locker applied to its threaded end and is threaded into the female threads of the stud until the shell halves are held firmly together.

Locking Buttons - The permanently attached locking buttons have three components: housing, pin and helical compression spring. The housing is injection-molded from polycarbonate. The pin is made from stainless steel round bar that is turned and cut on a lathe. The helical compression spring is made from steel spring wire that is bent into a helix, cut to length and plated. The helical compression spring and the pin are inserted into the housing so that the pin compresses the spring.

Tube Stops - There are four permanently attached tube stops. These stops, which are the components that prevent smaller sections of the flagpole from collapsing into larger sections of the flagpole, are injection-molded from polycarbonate.

Tube Caps - There are three permanently attached tube caps- a top tube cap, an intermediate tube cap and a bottom tube cap. These caps are injection-molded from polycarbonate.

Flag Clips - There are two permanently attached flag clips- a double flag clip and a single flag clip. These clips are injection-molded from polycarbonate.

Stainless Steel Screws - Stainless steel screws are used in the manufacture of the finished flagpole.¹⁴

At the time of importation, the 20-foot flagpoles are completely assembled and ready to use.¹⁵ No additional parts are needed, nor is any fabrication required after importation.¹⁶

RELEVANT SCOPE DETERMINATIONS¹⁷

A. Geodesic Domes Scope Ruling¹⁸

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

¹⁴ See Supplemental Questionnaire Response at 4.

¹⁵ See Scope Ruling Request at 2.

¹⁶ *Id.*

¹⁷ See the Department's memorandum entitled, "Transmittal of Past Scope Determinations to the File," dated concurrently with the memorandum ("Past Scopes Memo").

¹⁸ See the Department's memorandum entitled, "Final Scope Ruling on J.A. Hancock, Inc.'s Geodesic Structures," (July 17, 2012) ("Geodesic Domes Scope Ruling").

required no further fabrication or additional parts. The Department found 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.¹⁹ 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.”²⁰ 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 found J.A. Hancock’s kits to not be excluded finished goods kits, and hence covered by the scope of the *Orders*.

B. Cutting and Marking Edges²¹

Plasticoid Manufacturing Inc. (“Plasticoid”) argued that its cutting and marking straight edges were covered by the “finished merchandise” exclusion described in the scope of the *Orders* because they were imported ready for use, as evidenced by the fact that their end-use application required only the cutting and marking edge itself.²² The Department found that the physical characteristics of the products at issue (aluminum extrusion of a rectangular shape) match the physical description of subject merchandise, which includes aluminum extrusions in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods.²³ The Department also disagreed that the product at issue constituted a “finished good.” The Department explained that like the door thresholds or carpet trim, both of which are provided as examples of subject extrusions, Plasticoid’s products are merely aluminum extrusions that meet the physical description of subject merchandise, referred to by their end use: as cutting and marking edges.²⁴

The Department also found Plasticoid’s cutting and marking straight edges to be analogous to Geodesic Domes.²⁵ In particular, the Department found that Plasticoid’s products, like geodesic domes, consisted solely of aluminum extrusions.

C. TACO Boat Cover Poles, Fishing Rod Holders, and Fishing Rod Racks²⁶

At issue in the ruling were poles designed to support a boat cover and prevent it from collecting water; accessory-ready rod holders and weld-on rod holders (imported as a kit), both designed to

¹⁹ *Id.* at 7.

²⁰ *Id.*

²¹ See the Department’s memorandum entitled, “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”).

²² *Id.* at 8-10.

²³ *Id.* at 10.

²⁴ *Id.* at 10-11

²⁵ *Id.*

²⁶ See the Department’s memorandum entitled, “Final Scope Ruling on Telescoping Boat Cover Poles, Fishing Rod Holders, and Fishing Rod Racks” dated August 19, 2014 (“TACO Boat Poles Scope Ruling”).

store or hold a fishing rod and reel; and fishing rod racks.²⁷ The Department found that all products at issue contained non-extruded aluminum materials beyond mere fasteners.²⁸ With respect to the boat cover poles, the Department found that the poles enter the United States ready to use on the boat with no further assembly or completion, and thus satisfied the definition of finished goods, which are excluded from the *Orders*.²⁹ With respect to the accessory-ready rod holders and rod racks, the Department applied its analysis from Side Mount Valve Controls³⁰ to find that these products were “subassemblies” that were fully and permanently assembled and completed products at the time of entry, and were ready for installation with no further finishing or fabrication, and thus satisfied the definition of finished goods, which are excluded from the *Orders*.³¹ Similarly, the Department found that the weld-on rod holders kits were subassemblies that 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.³²

D. Event Décor Parts³³

At issue in the ruling were decor parts and kits used to construct display booths and backdrops for wedding receptions, conventions and other events. The parts and kits were comprised primarily of “Gorilla Pipes,” aluminum extrusion upright and crossbar tubes of varying lengths and fabrications. The requestor offered three models of Gorilla Pipes, which are sold in three different ways: (1) individual Gorilla Pipes, which can be ordered in any quantity and combination and with additional parts, such as steel bases and decorative materials; (2) Pipe Kits, which contain a minimum of two upright Gorilla Pipes, one crossbar Gorilla Pipe, and two weighted steel bases, in order to form a minimum of one complete display structure; and (3) Pipe and Drape Kits, which are Pipe Kits with additional decorative materials of the customer's choosing, such as drapes, garlands and lighting. All Gorilla Pipe models utilized the same universal telescoping crossbars, which are fitted with two cast aluminum hook ends, and a chrome-coated steel button lock.³⁴

In the Event Décor Parts Scope Ruling, the Department found the individually-sold Gorilla Pipes, when sold without the requisite weighted-steel bases, did not contain all parts necessary to fully assemble a complete display structure. In this regard, the Department found the individually-sold Gorilla Pipes to be akin to subject shower door frames and enclosures that do not contain the glass panels at the time of importation. The Department further determined that

²⁷ *Id.* at 5-6.

²⁸ *Id.* at 12.

²⁹ *Id.*

³⁰ See the Department's memorandum entitled “Initiation and Preliminary Scope Ruling on Side Mount Valve Controls,” dated September 24, 2012 (“Side Mount Valve Controls”), unchanged in Memorandum to Christian Marsh entitled “Final Scope Ruling on Side Mount Valves Controls,” dated October 26, 2012.

³¹ See TACO Boat Poles Scope Ruling at 13-14.

³² *Id.*

³³ See the Department's memorandum entitled, “Antidumping Duty (AD) and Countervailing Duty (CVD) Orders on Aluminum Extrusions from the People's Republic of China (PRC): Final Scope Ruling on Traffic Brick Network LLC's Event Décor Parts and Kits,” dated December 2, 2013 (“Event Décor Parts”).

³⁴ *Id.* at 6.

Pipe Kits and Pipe and Drape Kits were excluded from the scope of the Orders because they were akin to the products examined in the EZ Fabric Wall System Scope Ruling and, thus, were finished goods kits that contain at the time of importation all parts necessary to fully assemble a complete display structure.³⁵

E. Drapery Rail Kits (Redetermination)³⁶

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 drapes. 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 drapes 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.

F. Solar Panel Scope Ruling³⁷

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.³⁸ 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 removable/replaceable components, and need not include these removable/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*.³⁹

G. Banner Stands and Back Wall Kits⁴⁰

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

³⁵ *Id.* at 10.

³⁶ 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).

³⁷ See the Department’s memorandum entitled, “Final Scope Ruling on Clenergy (Xiamen) Technology’s Solar Panel Mounting Systems,” (October 31, 2012) (“Solar Panels Scope Ruling”).

³⁸ *Id.* at 6-7.

³⁹ *Id.* at 8-9, citing the Department’s memorandum entitled, “Final Scope Ruling on Banner Stands and Back Wall Kits,” (October 19, 2011) (“Banner Stands and Back Wall Kits”).

⁴⁰ *Id.*

exclusion criteria of the scope of the *Orders*, namely that the products at issue constituted “finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry.” Petitioner argued that the fact that additional accessories could be added to the products at issue (*e.g.*, shelving and lighting) called into question Skyline’s claim that the products constituted finished goods.

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

Camco’s Arguments

Camco argues that its products are excluded from the *Orders* because they are “finished merchandise.” Specifically, the flagpoles that Camco imports are finished merchandise that require no additional manufacturing, finishing or fabrication. Each individual flagpole is imported in its own shipping container. Imported flagpoles include telescoping sections that are permanently connected. Locking buttons secure the telescoping sections at the height desired by the consumer. Moreover, carabiners are permanently attached to the imported flagpoles. The consumer needs to do nothing but secure the flagpole to a recreational vehicle or in the ground and affix a standard to the carabiners.

Camco states that it imports finished 20-foot telescoping flagpoles, which are never removed from the individual box in which they are imported until the consumer opens the box, attaches a banner or flag, displays the banner or flag at the consumer’s desired height, and secures it to a vehicle if the consumer so chooses.

Camco argues that Petitioner’s arguments lack merit because Camco imports finished merchandise, *i.e.*, fully and permanently assembled and completed flagpoles. Camco’s flagpoles are imported individually in their own box, which remains sealed until the consumer opens the box, attaches a banner or flag, and displays the flagpole in any manner the consumer chooses. Because the flagpoles are finished merchandise, they are specifically excluded from the scope of the *Orders*.

Petitioner’s Comments

Petitioner submits that the telescoping flagpoles described in Camco’s scope request are covered by the scope of the *Orders*, in light of the Kitchen Appliance Door Handles, Refrigerator/Freezer

Trim Kits, Geodesic Domes, and the Cutting and Marking Edges scope rulings. Based on the information provided in Camco's supplemental questionnaire response, the telescoping flagpoles consist purely of six series extruded aluminum. Petitioner also claims that the telescoping flagpoles are designed so that the five aluminum sections must be placed in a stabilization device to effectively display a flag. As such, according to Petitioner, Camco's flagpoles do not qualify for the finished goods exclusion because they do not enter with all the components necessary to assemble a final finished good and are nothing more than hollow fabricated aluminum extrusions. Petitioner cites the Department's finding in its scope ruling on Event Décor components, where the Department found that "Gorilla Pipes," products that contain mostly aluminum extrusions, were covered by the *Orders* although the product contained steel ball bearings, steel locking collars, chrome coated steel spring-loaded button-locks, and locking clamps. Importantly, these products did not include a needed stabilization device in order to function as intended and, accordingly, were not finished goods. Similarly, Petitioner argues, the 20-foot telescoping flag poles require the use of a stabilization device that is not imported with the product, but is added after importation.

Furthermore, regardless of whether the additional components listed in Camco's filing are characterized as fasteners, the Department has now confirmed that aluminum extrusions are not removed from the scope of the orders simply because they contain additional non-extruded parts. As Petitioner has stated numerous times, the mere existence of non-extruded aluminum parts does not satisfy the "final finished product" exclusion in the scope. The scope language specifically contemplates that these non-extruded aluminum parts must be essential to the final function of the product.

DEPARTMENT'S POSITION

Pursuant to 19 CFR 351.225(k)(1), 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 scope and the Department's prior rulings are dispositive as to whether the products at issue are subject merchandise. Accordingly, for this determination, the Department finds it unnecessary to consider additional factors specified in 19 CFR 351.225(k)(2). For the reasons set forth below, we find that Camco's 20-foot telescoping flagpoles meet the exclusion criteria for "finished goods" and are not covered by the scope of the *Orders*.

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."⁴¹

Information in Camco's scope request (*e.g.*, narrative statements, photographs, and schematics), indicates that the 20-foot telescoping flag poles include non-extruded aluminum materials such as steel levers, ratchets, locking buttons, compression springs and capping balls, which go beyond mere fasteners. Therefore, we find that the poles meet our first test for determining whether a good constitutes a finished good or finished goods kit within the context of the *Orders*,

⁴¹ See *Orders*.

as established in the Geodesic Domes Scope Ruling.⁴² Similarly, because the Cam-Lock Support Poles include the aforementioned non-extruded aluminum materials, we find that the poles are not akin to goods which consist solely of extruded aluminum, which were found in-scope in the Cutting and Marking Edges Scope Ruling,⁴³ Kitchen Appliance Door Handles⁴⁴ and Refrigerator/Freezer Trim Kits.⁴⁵ Further, the 20-foot telescoping flag pole consists of aluminum extrusions, carabiners, a capping ball, locking buttons, tube stops and caps, flag clips and steel screws. Together these components comprise parts that are fully and permanently assembled at the time of entry.⁴⁶ Thus, the 20-foot telescoping satisfies the exclusion for “finished merchandise.”

Furthermore, we find Camco’s 20-foot telescoping flag poles are similar to the boat cover poles that the Department examined in the TACO Boat Poles Ruling in that they contain telescoping tubes made of extruded aluminum and non-extruded aluminum materials beyond mere fasteners.⁴⁷ Like TACO’s boat cover poles, the poles at issue enter the United States ready to be used by the customer, with no further assembly or completion required, the customer can put the flagpole in the ground, or attach it to a recreational vehicle.⁴⁸ Thus, we find that the poles are “finished goods” which are excluded from the scope of the *Orders*.

In addition, similar to the Drapery Rail Kits (Redetermination),⁴⁹ Banner Stands and Back Wall Kits,⁵⁰ and Solar Panels,⁵¹ Camco’s 20-foot telescoping flagpole can work with removable/interchangeable attachments, *i.e.*, is can be used with interchangeable flags.⁵² 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 Camco’s 20-foot telescoping flagpoles to be imported with interchangeable attachments, *e.g.*, flags, in order to meet the provisions of the finished goods exclusion stated in the scope of the *Orders*. Consequently, we determine that Camco’s 20-foot telescoping flagpoles are fully and permanently assembled and completed at the time of entry, and therefore we find that Camco’s 20-foot telescoping flagpoles are excluded from the scope of the *Orders* as finished goods.

Petitioner argues that Camco’s 20-foot telescoping flagpole is not a finished product without the stabilization device, and cites to Event Décor Parts. In Event Décor Parts, the Department stated,

⁴² 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.

⁴³ See Cutting and Marking Edges at 10-11.

⁴⁴ See the Department’s memorandum entitled, “Final Scope Ruling on Meridian Kitchen Appliance Door Handles” dated June 21, 2013 (“Kitchen Appliance Door Handles”).

⁴⁵ See the Department’s memorandum entitled, “Final Scope Ruling on Refrigerator/Freezer Trim Kits” dated December 17, 2012 (“Refrigerator/Freezer Trim Kits”).

⁴⁶ See Response to Petitioner’s Comments at 4-5.

⁴⁷ See TACO Boat Poles Ruling at 12.

⁴⁸ See Response to Petitioner’s Comments at 2-3.

⁴⁹ See Drapery Rail Kits (Redetermination).

⁵⁰ See Banner Stands and Back Wall Kits.

⁵¹ See Solar Panels Scope Ruling.

⁵² See Response to Petitioner’s Comments at 5-7 and Attachment 4-5.

Based on Traffic Brick's descriptions, we find the individual Gorilla Pipes to be included in the scope of the *Orders* because they do not contain all parts necessary to fully assemble a display structure. Specifically, the individual Gorilla Pipes, when sold alone, without the requisite weighted steel bases to form a complete display structure, and/or in numbers that are not sufficient to form complete display structures, are covered by the scope because they are not imported with the necessary parts to keep the structure(s) erect and stable for the addition of the customer's display materials and therefore do not contain all the necessary parts to fully assemble a final finished good, the display structure.⁵³

We find that there is a fundamental factual difference between this record and Event Décor Parts. In Event Décor Parts, the finished product was identified as a display structure, which was only a finished good (*i.e.*, a display structure) when it included the stabilization device.⁵⁴ The 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." Unlike Event Décor Parts, the 20-foot flagpoles subject to this request do not require a stabilization device; they can be placed into a hole in the ground, *i.e.*, a stabilization device is not a "part" necessary to fully and permanently assemble the finished 20-foot flagpole. Finally, Petitioner contends that the scope language specifically contemplates that non-extruded aluminum parts must be essential to the final function of the product. However, Petitioner relies on scope language that purportedly demonstrates that an item containing more than just aluminum extrusions may be covered by the scope of the *Orders*. Petitioner points to no language in the scope which states that non-extruded aluminum parts must be essential to the final function of the product. Even if the assertion that non-extruded aluminum parts must be essential to the "final function" of the product had some support in the scope language, Petitioner nonetheless fails to support its contention that the non-extruded aluminum components are not in fact essential.

⁵³ See Event Décor Parts at 10

⁵⁴ *Id.* at 4.

RECOMMENDATION

For the reasons discussed above, and in accordance with 19 CFR 351.225(d) and 351.225(k)(1), we recommend finding that the 20-foot telescoping flagpoles addressed by the instant request are not subject to the scope of the *Orders*. If the recommendation in this memorandum is accepted, we will serve a copy of this determination to all interested parties on the scope service list via first-class mail, as directed by 19 CFR 351.225(d).

ST Agree _____ Disagree

Christian Marsh
Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

1/5/15
Date