



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
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Scope Ruling: TSS Wind Sign Frames

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

THROUGH: Abdelali Elouaradia
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Antidumping and Countervailing Duty Operations

FROM: Mark Flessner
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Antidumping and Countervailing Duty Operations

SUBJECT: Antidumping and Countervailing Duty Orders on Aluminum
Extrusions from the People's Republic of China: Final Scope
Ruling on TSS, Inc.'s Wind Sign Frames

SUMMARY

On December 8, 2014, the Department of Commerce (Department) received a scope ruling request from TSS, Inc.,¹ (TSS) to determine whether its "Aluminum Exhibit Wind Sign Frame" (Wind Sign Frame) is subject to the antidumping duty (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 Wind Sign Frame is excluded from the scope of the AD and CVD orders on aluminum extrusions from the PRC.

¹ See letter from TSS to the Secretary of Commerce entitled, "Application and Request for Scope Review regarding A-570-967 and C-570-968 for Aluminum Extrusions from People's Republic of China," dated December 8, 2014 (Scope Request).

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

BACKGROUND

On December 8, 2014, TSS requested that the Department determine whether its Wind Sign Frame is outside the scope of the *Orders*. On March 3, 2015, TSS submitted supplemental information regarding its Wind Sign Frame.³ On March 13, 2015, TSS submitted additional supplemental information regarding its Wind Sign Frame.⁴ No comments were received from any other party.

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, *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,

³ See letter from TSS to the Secretary of Commerce entitled, "Aluminum Extrusions from China; Scope Inquiry (Wind Sign Frames); Supplemental Information," dated March 3, 2015 (First Supplement). The supplemental information was submitted after TSS changed representation, *see* letter from TSS to the Secretary of Commerce entitled, "Aluminum Extrusions from China; Scope Inquiry (Wind Sign Frames); Notice of Appearance," dated February 11, 2015.

⁴ See letter from TSS to the Secretary of Commerce entitled, "Aluminum Extrusions from China; Scope Inquiry (Wind Sign Frames); Second Supplemental Filing," dated March 3, 2015 (Second Supplement).

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 (HTSUS): 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, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 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 HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.

The Department is conducting two scope inquiries concerning aluminum extrusions made from 5 series aluminum alloy. Petitioner (Aluminum Extrusions Fair Trade Committee) advocates that the Department impose a certification requirement related to these products, which the Department is considering in the context of these scope proceedings. Parties that wish to file comments on this potential certification requirement must do so on the record of these scope

proceedings.⁵ The final scope rulings, including our decision with respect to the certification issue, are currently due July 7, 2015.

LEGAL FRAMEWORK

When a request for a scope ruling is filed, the Department examines the scope language of the order at issue and the description of the product contained in the scope-ruling request.⁶ Pursuant to the Department's regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from the investigations, and prior scope determinations made for the same product.⁷ If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling as to whether the merchandise is covered by an order.⁸

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

TSS initially described the Wind Sign Frame as follows:

U.S. Tariff Classification #: 7610.90.0080

Products: Aluminum Exhibit Wind Sign Frames ("Wind Signs" or "Products"). The Wind Signs are designed to display or incorporate customizable materials or work (retail advertisements) with removable/replacement components.

Variation #1: LT-10H2, 28 x 44" mitred silver anodized, with springs, packaged individually for resale.

Variation #2: LT-10H2, 41" x 55" mitred silver anodized, with springs, packaged individually for resale.

⁵ See Letter from Trending Imports LLC to the Department, "Aluminum Extrusions from the People's Republic of China: Trending Imports LLC Request for Scope Ruling Concerning 5050 Alloy Extrusions," dated December 12, 2013, and Letter from Kota International, LTD to the Department, "Antidumping Duty and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Scope Ruling Request," dated October 21, 2013.

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

⁷ See 19 CFR 351.225(k)(1).

⁸ See 19 CFR 351.225(d).

Both variations of the Wind Signs come fully assembled and ready for immediate resale to end users without further assembly or modification. End users have the option of inserting the base springs of the fully assembled Wind Signs into a plastic base (sold separately) or bolting them to a steel base (sold separately) with the base of the springs already tapped for the bolts at point of importation. The Wind Signs are marketed and resold by TSS, Inc., with or without the base and in the same fully assembled state as they are imported.

The Wind Signs include extruded aluminum frames with steel springs at the base. Frame pieces open and shut to allow removal and replacement of display sign.⁹

TSS supplemented the description above with the following information:

Wind Signs are an improvement on traditional standing "sandwich board" signs because they are more stable, able to withstand winds and contact without toppling due to flexible, heavy steel springs permanently affixed to the bottom corner portions of the curb sign. After importation, the Wind Sign Frames can be attached to a variety of different bases - a metal base, a plastic base, or a rolling base. {...}

Wind Sign Frames are made of extruded aluminum and non-aluminum (metal and plastic) parts. Wind Sign Frames are designed to display or incorporate customizable materials or work, viz., retail advertisement materials after importation. In addition, the Wind Sign Frames are designed to be used with interchangeable plastic or steel bases after importation, depending on the end-user's choice of base. End-users utilize Wind Signs to promote and advertise products and services offered at drive-through car washes. While not a market served by TSS, Wind Signs are often seen at the entrance of parking lots. {...}

At the time of importation, the only aluminum component of the Wind Sign Frames is the outer frame itself. This frame is miter cut, pre-drilled and assembled utilizing steel, stainless steel, plastic, and chrome plated components. At the time of importation, heavy springs are already permanently attached to an L-shaped steel corner bracket, measuring approximately 6" x 5", to which a steel separator is welded to create a double-sided bracket. The steel separator has pre-drilled holes and the extruded aluminum frame is then affixed to the double-sided bracket using fasteners bolts, thereby permanently and fully attaching the frame to the heavy steel springs. The bottom of the large steel springs are already tapped to accept a fastening bolt supplied by the end-user after importation to affix the Wind Sign Frame to the base of the end-user's choosing, typically steel or plastic. {...}

Approximately thirty-eight percent (38%) by weight of each Wind Sign Frame is made of extruded aluminum (Series 6), while the remaining approximately sixty-two percent (62%) by weight consists of steel and plastic. Each Wind Sign Frame weighs approximately twenty-one (21) pounds. Of the total weight, extruded aluminum makes up approximately eight (8) pounds, while a plastic insert, galvanized steel corner supports

⁹ See Scope Request at 1-2.

placed inside the frame, the flexible, heavy steel springs, and steel fasteners combine for a total weight of approximately thirteen (13) pounds. By composition and weight, Wind Sign Frames predominantly consist of non-aluminum parts permanently and {are} fully assembled at the time of entry into the United States.

The Wind Sign Frames are received in a cardboard carton. After importation, TSS ships the Wind Sign Frame in the same carton in which it is imported to customers who attach the Wind Sign Frame to a steel or plastic base of the customer's choice and insert customizable graphic materials. After importation, TSS does nothing to the Wind Signs Frames other than to ship them to its customers. TSS does not further fabricate, assemble, or repack the Wind Sign Frames post-importation.¹⁰

RELEVANT SCOPE DETERMINATIONS¹¹

A. Banner Stands Kits Scope Ruling¹²

This ruling addressed banner stands and back wall kits, used to showcase graphics and other marketing materials. The requestor argued that the banner stands and back wall kits 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.”¹³

In the Banner Stands Kits Scope Ruling, the Department found that the banner stands and back wall kits met the exclusion criteria.¹⁴ The Department explained that the products at issue contained all of the parts required to assemble a completed exhibition frame on which printed graphical materials may be hung and, thus, met the exclusion criteria in the scope of the *Orders* for “finished goods kits.” The Department noted in the Preliminary Scope Memorandum that a similar product would have been excluded if the kits contained all necessary parts to be fully assembled finished good.¹⁵ Thus, in the Banner Stands Kits Scope Ruling, the Department found that because Skyline’s kit contained all the necessary parts to assemble the finished product at the time of importation, it was excluded as a “finished goods kit.”¹⁶

¹⁰ See First Supplement at 2-4.

¹¹ See the memorandum from Mark Flessner to The File entitled, “Prior Scope Rulings Relevant to this Proceeding,” dated concurrently with this memorandum (Prior Scopes Memorandum).

¹² See the memorandum from John Conniff and Eric B. Greynolds to Christian Marsh entitled, “Final Scope Ruling on Banner Stands and Back Wall Kits,” dated October 19, 2011 (Banner Stands Kits Scope Ruling); *see also* Prior Scopes Memorandum at Attachment 1.

¹³ See Banner Stands Kits Scope Ruling, at 7.

¹⁴ *Id.*, at 9-10.

¹⁵ See the memorandum from John Conniff to Ronald K. Lorentzen entitled, “Preliminary Determinations: Comments on the Scope of the Investigations,” (October 27, 2010) (Preliminary Scope Memorandum).

¹⁶ See Banner Stands Kits Scope Ruling, at 9-10.

B. Drapery Rail Kits (Redetermination)¹⁷

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 or curtains. 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.

C. Geodesic Domes Kits¹⁸

At issue in the ruling were certain geodesic dome frame kits consisting solely of extruded aluminum parts along with nuts, bolts, and washers. The requestor argued that the products at issue constituted finished goods kits because the kits contained all the components necessary to assemble a final finished geodesic dome playground set. It further argued that the products at issue required no further fabrication and are assembled "as is" from the components provided in the kits.

In the ruling, the Department explained that the product at issue met the "initial requirements for inclusion into the finished goods kit exclusion."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 extrusion product."²⁰ 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.²¹

¹⁷ 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 Remand Final). 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). See also Prior Scopes Memorandum at Attachment 3.

¹⁸ See the memorandum from Brooke Kennedy to Christian Marsh entitled, "Final Scope Ruling on J.A. Hancock, Inc.'s Geodesic Structures," dated July 17, 2012 (Geodesic Domes Kits Scope Ruling); see also Prior Scopes Memorandum at Attachment 4.

¹⁹ See Geodesic Domes Kits Scope Ruling, at 7.

²⁰ *Id.*

²¹ *Id.*

D. Motorized Arm Set Kits²²

At issue in this ruling were Pacific Product's motorized arm set kits used for retraction and opening of recreational vehicle (RV) or trailer awnings (rather than by manual crank). As imported, the motorized arm set kits consisted of two fully-assembled motorized arms and all hardware necessary for installation of the arms to RVs or trailers, comprised of sixteen parts made of copper, zinc, aluminum, steel, and plastic. The motorized arm kits were not imported with the awning canopies or roller bars as the motorized arms are sold as stand-alone products at all levels of distribution and retail. Pacific Product argued that its motorized arm kits should be excluded from the *Orders* as finished goods kits. The Department found that the motorized arm sets meet the exclusion criteria for "finished goods kits" because: (a) they contained, upon importation, non-aluminum extrusion components beyond fasteners; (b) they were sub-assemblies, imported as a packaged kit, containing all of the components needed to fully assemble a final "finished good" motorized arm which can be installed on an RV; and (c) the awnings and roller bars were interchangeable with other such awnings and roller bars (in a manner similar to products in the Drapery Rail Kits and Event Décor Parts scope rulings) such that it would be unreasonable to require the inclusion of roller bars and awnings at the time of importation (awnings in particular being customizable pieces to be added or changed by end users according to changing preferences).

E. Boat Poles and Rod Holders Scope Ruling²³

At issue in this scope ruling were boat cover poles, rod holders, and rod racks. The poles were composed of two telescoping tubes of anodized extruded aluminum, an injection molded nylon locking device with a stainless steel pin, nylon injection molded end caps, and a snap button made of nylon injection and stainless steel. The poles were designed to support a boat cover and prevent it from collecting water which could stain and damage the cover. The poles were fully assembled and individually packaged. The rod holders and rod racks were devices designed to store or hold a fishing rod and reel. They were made from extruded aluminum and also came with a soft flexible PVC injection molded liner to protect the fishing rod.²⁴ Concerning the boat cover poles, specifically, the Department found that because the poles contained non-extruded aluminum materials that went beyond fasteners, and because they entered the United States as poles that were immediately ready, with no further assembly or completion, to stand alone and be used to prop up a tarp that covers the deck of a boat, the poles constituted excluded "finished goods" under the scope of the *Orders*.²⁵

²² See the memorandum from Mandy Mallott to Christian Marsh entitled, "Final Scope Ruling on Pacific Product Solutions' Motorized Arm Set Kits," dated November 4, 2014 (Motorized Arm Set Kits Scope Ruling); see also Prior Scopes Memorandum at Attachment 7.

²³ See the memorandum from Eric B. Greynolds to Christian Marsh entitled, "Final Scope Ruling on Telescoping Boat Cover Poles, Fishing Rod Holders, and Fishing Rod Racks," dated August 18, 2014 (Boat Poles and Rod Holders Scope Ruling); see also Prior Scopes Memorandum at Attachment 6.

²⁴ See Boat Poles and Rod Holders Scope Ruling, at 5.

²⁵ *Id.*, at 12.

F. Unger Pole Handles Scope Ruling²⁶

At issue in this scope ruling were nine slightly-differing types of pole handles designed to work with a variety of cleaning/tool heads (*e.g.*, squeegees, brushes, light bulb changers, dusters, push brooms, gutter paddles, paint rollers) that are attached to one end of the poles. Each model is made up of multiple parts. In addition to aluminum tubes of various lengths and diameters, each pole handle incorporates a polypropylene hand grip, a polypropylene tool and accessory attachment head (one of several designs) that accepts a variety of tools and attachments, including those not produced by Unger. The polypropylene grip is attached to one end of the largest diameter tube in each product is ergonomically shaped to provide a better grip for the consumer. Certain models also include the “optiloc” plastic locking collars which are used to connect different pole components together and adjust them. The “optiloc” plastic locking collars are different between products based on the number, length, and width of the pole components being connected and adjusted. The attachment heads differ slightly depending on the specific model of pole handle. Models 964520, 964500, ALI4A and AL140 feature a permanently affixed, non-removable head that accepts tools and accessories with ACME-type threads. This allows attachment of several types of heads and accessories, including those not made by Unger. The consumer screws on its choice of tool or accessory head and unscrews it as described, providing for easy customization based on consumer use and need. Models 91012, 960373 961880, AL14G, and MS14G use an Unger-designed removable threaded head system that provides for tools and cleaning accessories to be attached using ACME-type threads. The Department found that Unger’s pole handles – which might be better described as poles with handles – met the exclusion criteria for “finished goods.” The Department found that Unger’s pole handles were merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry. In addition to extruded aluminum components, Unger’s pole handles included non-extruded aluminum parts such as polypropylene hand grips (which are more than mere fasteners), a polypropylene tool, and an accessory attachment head, with some models containing plastic locking mechanisms.

ARGUMENTS FROM INTERESTED PARTIES

TSS’s Comments

TSS argues that the Wind Sign Frame is finished merchandise at the time of entry to the United States and, therefore, is outside the scope of the order. TSS further states that all the components of the Wind Sign Frame are already assembled and ready to use at the time of importation. TSS states, “{t}he Wind Signs are marketed and resold by TSS with or without the base and in the same fully assembled state as they are imported”²⁷ (*i.e.*, TSS performs no further manufacturing, assembly, or repacking). TSS argues in the alternative that its Wind Sign Frame is a kit, although it summarizes its claim by stating that the Wind Sign Frame is “essentially nothing more than fully assembled picture frames that require no further finishing or fabrication.”²⁸

²⁶ See the memorandum from James Terpstra to Christian Marsh entitled, “Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China: Final Scope Ruling on Unger Enterprises Inc.’s Pole Handles,” dated April 22, 2015 (Unger Pole Handles scope ruling).

²⁷ See Scope Request at 2.

²⁸ *Id.*, at 2-5.

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 Wind Sign Frame merchandise at issue meets the exclusion criteria for “finished merchandise.”

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.”²⁹ The Department frequently refers to this as the “finished goods” exclusion. Specifically, the scope language describes excluded finished merchandise as “containing aluminum extrusions *as parts*”³⁰ We take this language to mean that the excluded “finished merchandise” must contain aluminum extrusions “as parts” plus an additional non-extruded aluminum component. Otherwise, this specific language (*i.e.*, “as parts”) would be read out of the scope, resulting in the different condition “containing aluminum extrusions that are fully and permanently assembled and completed at the time of entry.” Thus, to give effect to this “as parts” language, we find that to qualify for the finished merchandise exclusion the product must contain aluminum extrusions as parts, and therefore must include some non-extruded aluminum component.

Our interpretation in this regard is supported by the illustrative examples of excluded “finished merchandise” contained in the scope, all of which contain extruded aluminum and non-extruded aluminum components (*e.g.*, finished windows with glass, doors with glass or vinyl, etc.). In comparison, we note that those products specifically included in the *Orders*, such as window frames and door frames, do not constitute finished merchandise because they cannot be considered to “contain { } aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry.”³¹ Rather, the in-scope window frames and door frames are the only parts of the product.

Moreover, we find that the term “as parts” in the scope exclusion necessarily requires a plural construction, rather than encompassing both the singular “part” and plural “parts,” given the context provided by other terms in the exclusion, such as “containing” and “assembled” as well the examples of excluded finished merchandise, all of which contain at least an aluminum extrusion component and non-extruded aluminum component.

²⁹ See the *Orders*.

³⁰ *Id.* (emphasis added).

³¹ *Id.*

Information in TSS's Scope Request (*e.g.*, narrative statements and photographs) indicates that that its Wind Sign Frame is merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry.³² The list of components in the scope request demonstrates that, in addition to extruded aluminum components, the Wind Sign Frame includes non-aluminum (metal and plastic) parts such as plastic inserts, galvanized steel corner supports, heavy steel springs, and steel fasteners.³³ In addition, narrative statements and photographs show that the Wind Sign Frame is completely assembled when it enters the United States.³⁴ On such basis, we conclude that the Wind Sign Frame meets the requirements of the finished goods exclusion.

We also draw guidance from the "finished goods kit" exclusionary language in the scope. The scope language states: "{t}he 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*...."³⁵ Thus, we find that the difference between "finished goods" and "finished goods kits," as described in the scope, is that the former is assembled upon entry while the latter is unassembled upon entry. While the scope goes on to say that "{a}n 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," we dispute the notion that an unassembled product in kit-form that consists solely of extruded aluminum, save for fasteners, would fall within the scope of the *Orders* while the identical product, entering the United States as an assembled good, would fall outside the scope of the *Orders*. Accordingly, to read the scope to apply in a consistent manner to a given product – whether the product enters assembled as a finished good or unassembled as a finished good kit – we are considering the fasteners language when considering whether a product constitutes a finished good that is excluded from the order.

In light of the plain language of the scope, a finished good under this exclusion must be assembled with both aluminum extrusions and non-extruded materials which are more than mere fasteners. This interpretation of the plain language of the scope ruling was further clarified by the principles enumerated in the Geodesic Dome Kits Scope Ruling and recent additional scope rulings pertaining to the "finished goods" exclusion.³⁶

Information in TSS's Scope Request indicates that upon importation its Wind Sign Frame contains both extruded aluminum components and non-extruded aluminum materials, such as plastic inserts, galvanized steel corner supports, the flexible, and heavy steel springs – all of

³² See First Supplement at 3, at Exhibits 3-4.

³³ *Id.*, at 3.

³⁴ See Scope Request at 11 and Exhibit 11; see also First Supplement at Exhibits 3-4.

³⁵ See the *Orders* (emphasis added).

³⁶ See Geodesic Domes 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 and accordingly found that the products at issue did not meet the exclusion criteria for a finished goods kit. See also, *e.g.*, Boat Poles and Rod Holders Scope Ruling (applying the same analysis to "finished goods") at 12.

³⁶ See First Supplement at Exhibit 1.

which go beyond mere fasteners.³⁷ In this regard, TSS's Wind Sign Frame shares physical characteristics with Skyline Displays Inc.'s Banner Stands, which were imported in parts and determined to be covered by the "finished goods kit" exclusion from the scope of the *Orders* in the Banner Stands Kits Scope Ruling.³⁸ The Banner Stands were composed of both aluminum and non-aluminum components, and like the Wind Sign Frame, the main purpose of the Banner Stands were to hold a graphic in place.³⁹

Furthermore, record information reflects that the Wind Sign Frame is fully assembled upon importation.⁴⁰ The Wind Sign Frame requires no re-sorting or re-packaging of components upon importation, nor does it require further finishing, assembly (other than attaching the frame to the selected aluminum, plastic, or steel base upon use), or fabrication prior to use.⁴¹

Additionally, we conclude that the bases to which the Wind Sign Frames are typically added after importation are interchangeable with other such bases.⁴² Choice of bases is dependent upon, and subject to, the taste or requirements of the individual consumer. Indeed, the Wind Sign Frame is attached to the base only after delivery to the customer, and the customer may use a plastic or steel base "supplied by parties other than TSS."⁴³ As explained above, in the Drapery Rail Kits (Redetermination) and Motorized Arm Set Kits Scope Ruling, the Department concluded that it would be unreasonable to require the inclusion of certain pieces which are customizable and can be changed by end users according to changing preferences (such as drapes, curtains, and awnings).⁴⁴ Likewise, we have determined the various bases which are to be attached to TSS's Wind Sign Frame can also be changed by end users in accordance with their changing preferences. We therefore determine that it would be unreasonable to require the inclusion of bases at the time of importation in order to recognize the Wind Sign Frame as a finished good for purposes of the scope exclusion.

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 Wind Sign Frame LT-10H2 (in both its 28-inch by 44-inch variant and its 41-inch by 55-inch variant) is a finished good that falls under the exclusion to the scope of the *Orders* for "finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry."

³⁷ See Scope Request at 1-2 and First Supplement at 3.

³⁸ See Banner Stands Kits Scope Ruling at 9-11.

³⁹ *Id.*, at 10.

⁴⁰ See Scope Request at 3.

⁴¹ *Id.*, at Exhibit 4.

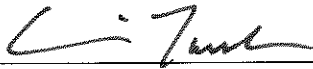
⁴² *Id.*, at Exhibit 1.

⁴³ *Id.*, at 13.

⁴⁴ See Drapery Rail Kits Redetermination at 8-9; see also Motorized Arm Set Kits Scope Ruling at 11.

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

6/15/15

Date