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Scope Ruling: Carrand Wash Poles

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November 4, 2015

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

THROUGH: Scot Fullerton
Director
Antidumping and Countervailing Duty Operations, Office VI

FROM: Brian C. Davis *BCD*
International Trade Compliance Analyst
Antidumping and Countervailing Duty Operations, Office VI

SUBJECT: Antidumping and Countervailing Duty Orders on Aluminum
Extrusions from the People's Republic of China: Final Scope
Ruling on Carrand Companies Inc.'s Certain Aluminum
Telescoping Wash Poles

SUMMARY

Based on a scope ruling request from Carrand Companies Inc. (Carrand)¹ to determine whether certain aluminum telescoping wash poles (wash poles) are subject to the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (PRC),² the Department of Commerce (Department) determines that the wash poles at issue are excluded from the scope of the *Orders*.

¹ See Letter from Carrand to the Department, "Aluminum Extrusions from the People's Republic of China: Scope Ruling Request on Telescoping Aluminum Wash Poles," dated May 8, 2015 (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

On May 8, 2015, Carrand requested that the Department determine whether wash poles it produces are outside the scope of the *Orders*. On June 17, 2015, the Department extended the deadline for a ruling by 45 days, until August 6, 2015.³ On June 18, 2015, the Department issued a supplemental questionnaire to Carrand for clarification of its scope request. On August 4, 2015, the Department filed a memorandum to the file clarifying that the 45-day deadline under 19 CFR 351.225(c)(2) starts when the Department receives a properly filed request pursuant to 19 CFR 351.225(c)(1), and that the scope request submitted by Carrand was deficient.⁴ On August 12, 2015, Carrand submitted a supplemental questionnaire response that met the requirements of section 351.225(c)(1) of the Department's regulations,⁵ thus creating a September 28, 2015, deadline for action on Carrand's application. On September 11, 2015, the Department extended the deadline for issuing the final scope ruling by 45 days, until November 12, 2015. No party submitted comments regarding Carrand's scope ruling request.

SCOPE OF THE ORDERS

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

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

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to

³ See Letter from the Department to Carrand dated June 17, 2015.

⁴ See Memorandum to the File, "Scope Request concerning the Antidumping and Countervailing Duty Orders of Aluminum Extrusions from the People's Republic of China: Clarification of Deadline," dated August 4, 2015.

⁵ See Letter from the Department to Carrand dated June 18, 2015.

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 millimeters (“mm”) or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of this order are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (“HTS”): 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTS chapters. In addition, fin evaporator coils may be classifiable under HTS numbers: 8418.99.8050 and 8418.99.8060. While HTS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.⁶

⁶ See the *Orders*.

LEGAL FRAMEWORK

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

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

DESCRIPTION OF MERCHANDISE SUBJECT TO THIS SCOPE REQUEST

According to Carrand, the wash poles covered by this scope request are wash poles used for cleaning automobiles, recreational vehicles (RVs), motorcycles, or boats.¹⁰ The wash poles share the same essential characteristics and similar parts, but vary in telescoping length (40-65") and pole diameter (22-25 mm).¹¹ Specifically, the wash poles covered by this scope request encompass telescoping lengths and pole diameters of 40" (telescoping length) 22 mm (pole diameter), 62" (telescoping length) 22 mm (pole diameter), 62" (telescoping length) 25 mm (pole diameter), and 65" (telescoping length) 22 mm (pole diameter).¹² Each wash pole is designed to be used with a garden hose and may be used with a variety of accessories such as a brush head, mop head, or sprayer attachment.¹³ Carrand's wash poles consist of multiple parts, including tubes, handles, seals, garden hose fittings, and locking clamps.¹⁴ Each wash pole includes two (2) aluminum poles of differing dimensions — one pole fits inside a slightly larger pole to enable the user to lengthen/shorten the pole by sliding the smaller pole in and out to the desired length.¹⁵ The wash poles are fitted with a two-part polypropylene locking collar that the user tightens to lock the telescoping pole to the desired length.¹⁶ Foam comfort grips are attached to each of the wash poles. One end of each wash pole is fitted with a threaded polypropylene end for

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

⁸ See 19 CFR 351.225(k)(1).

⁹ See 19 CFR 351.225(d).

¹⁰ See Scope Ruling Request at 2-3.

¹¹ *Id.*; see also Carrand's Supplemental Response at 1 and Exhibit 1.

¹² See Carrand's Supplemental Response at 1 and Exhibit 1.

¹³ See Scope Ruling Request at 2-3.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

attachment of a garden hose to allow water to flow through the wash poles.¹⁷ The other end contains locking head mechanism or threaded tip (made of plastic or metal) that allows the wash poles to be used with a variety of attachments, such as a wash head brush, a mop head, or a sprayer nozzle.¹⁸

Carrand states the imported wash poles are currently classified under item 7616.99.5090 of the HTS.¹⁹

RELEVANT SCOPE DETERMINATIONS²⁰

A. Pool Poles, Skimmers, and Rakes Scope Ruling²¹

The Department found that certain telescopic pool poles, detachable skimmer poles and leaf skimmers and rakes were comprised of both extruded aluminum components and non-extruded aluminum materials (*i.e.*, plastic handles, plastic frames, and nylon netting), that these non-extruded aluminum materials go beyond mere fasteners.²² Furthermore, the information on record indicated that the requested products were fully and permanently assembled and completed merchandise at the time of entry. Therefore, the Department found that certain poles, skimmers, and rakes met the exclusion criteria for finished goods and were, therefore, excluded from the scope of the *Orders*.²³

B. Banner Stands and Back Wall Kits Scope Ruling²⁴

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.”

In the ruling, the Department found that the banner stands and back wall kits met the exclusion criteria.²⁵ The Department explained that the products at issue contained all of the parts required

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See Scope Ruling Request at 3.

²⁰ See the Memorandum from Brian Davis to The File, “Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China: Prior Scope Rulings Relevant to this Proceeding,” dated concurrently with this memorandum (Prior Scopes Memorandum).

²¹ See the Memorandum from Eric B. Greynolds to Christian Marsh, “Final Scope Ruling on Pool Poles, Skimmers, and Rakes,” dated November 24, 2014 (Pool Poles Scope Ruling); *see also* Prior Scopes Memorandum at Attachment A.

²² See Pool Poles Scope Ruling at 17.

²³ *Id.* at 17-19.

²⁴ See the Memorandum from John Conniff and Eric B. Greynolds to Christian Marsh, “Final Scope Ruling on Banner Stands and Back Wall Kits,” dated October 19, 2011 (Banner Stands and Back Wall Kits Scope Ruling); *see also* Prior Scopes Memorandum at Attachment B.

²⁵ See Banner Stands and Back Wall Kits Scope Ruling at 9-10.

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.”²⁶ Furthermore, the Department agreed with the requestor’s claim that the products at issue were analogous to completed picture frames, which are explicitly excluded from the scope of the *Orders*.²⁷ 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.²⁸

C. Drapery Rail Kits (Redetermination)²⁹

In the original drapery rail kits scope ruling, the Department determined that certain drapery rail kits imported by the Rowley Company (Rowley) were covered by the scope of the *Orders* because the kits were not imported with draperies. The Department subsequently requested a voluntary remand, and on remand, determined that Rowley’s drapery rail kits were excluded from the *Orders* as finished goods kits. In its redetermination, the Department noted that the drapery rail kits were designed to be used with readily interchangeable drapes or curtains that could be changed to fit the end customer’s needs. The Department found it unreasonable to require that the drapery rail kits be imported with the customizable draperies or curtains and, in determining that Rowley’s drapery rail kits were outside the scope of the *Orders*, determined that they contained all the parts necessary to fully assemble a final, finished product.³⁰

D. Solar Panels Scope Ruling³¹

At issue in this ruling were solar panels 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.³² 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 also found that these products could be assembled “as is” into finished products for mounting solar panels. The Department further found that, like picture frames and banner stands and back wall 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. Thus, the Department concluded that the products at

²⁶ *Id.* at 9.

²⁷ *Id.* at 10.

²⁸ *Id.*

²⁹ 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. 12-00055, (February 27, 2013) (Drapery Rail Kits (Redetermination)); 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 C.

³⁰ Drapery Rail Kits Redetermination at 8-9.

³¹ See Memorandum from Brooke Kennedy to Christian Marsh, “Final Scope Ruling on Clenergy (Xiamen) Technology’s Solar Panel Mounting Systems,” dated October 31, 2012 (Solar Panels Scope Ruling); see also Prior Scopes Memorandum at Attachment D.

³² See Solar Panels Scope Ruling at 6-7.

issue were not subject to the *Orders* because they met the criteria for exclusion from the *Orders* as finished goods kits.³³

E. KIK Telescoping Poles³⁴

KIK Custom Products argued that its telescoping poles were finished goods and were not subject to the orders. The Department found that the telescoping poles contained non-aluminum extruded components such as a plastic handle, a plastic cap, plastic connector(s) and plastic peg(s), which went beyond mere fasteners.³⁵ In addition, the Department found that KIK's telescoping poles are fully and permanently assembled and completed at the time of entry.³⁶ In addition, similar to the Drapery Rail Kits (Redetermination), Banner Stands and Back Wall Kits, and Solar Panels, these products are designed to work with removable/interchangeable attachments.³⁷ The various accessories that may be attached to KIK's telescoping pole by end users after importation are interchangeable and are available from KIK and a wide variety of other suppliers.³⁸ Further, each end user chooses which product to use as an attachment.³⁹ The Department therefore determined that it would be unreasonable to require that KIK's telescoping poles be imported with these attachments, and found the product to qualify for the finished goods exclusion.

F. Unger Telescoping Poles⁴⁰

Unger argued that its telescoping poles are finished goods and therefore not subject to the *Orders*. The Department found that, in addition to extruded aluminum components, Unger's telescoping poles include non-extruded aluminum materials such as plastic tube flugs, hand grips, locking collars, locking buttons and cones, which go beyond mere fasteners.⁴¹ In response to arguments by the Aluminum Extrusions Fair Trade Committee, Petitioner in the proceeding, that the non-extruded aluminum parts are mere fasteners or that they are merely "incidental" to the function of the product, the Department observed that the *Orders* contain no requirement regarding "incidental" function, and found that the non-extruded aluminum components integrate into the product in a variety ways beyond that of a mere fastener.⁴² The Department additionally found that the telescoping poles were fully and permanently assembled and completed at the time of entry.⁴³

³³ *Id.* at 8-9.

³⁴ See Memorandum from Paul Stolz to Christian Marsh, "Final Scope Ruling on KIK Custom Products' Telescoping Poles," dated November 3, 2014 (KIK Poles Scope Ruling); see also Prior Scopes Memorandum at Attachment E.

³⁵ See KIK Poles Scope Ruling at 5.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ See Memorandum from James Terpstra to Christian Marsh, "Final Scope Ruling on Unger Enterprises Inc.'s Telescoping Poles," dated February 19, 2015 (Unger Poles Scope Ruling); see also Prior Scopes Memorandum at Attachment F.

⁴¹ *Id.* at 10-11.

⁴² *Id.* at 11.

⁴³ *Id.*

In addition, similar to the products considered in Drapery Rail Kits (Redetermination), Banner Stands and Back Wall Kits, and Solar Panels, Unger’s telescoping poles are designed to work with removable/interchangeable attachments.⁴⁴ The various products that may be attached to Unger’s telescoping poles by end users after importation are interchangeable and are available from Unger and a variety of other suppliers. As a result, the Department determined that the product in question is excluded from the scope of the *Orders* under the finished goods exclusion.

ARGUMENTS FROM INTERESTED PARTIES

Carrand’s Comments

Carrand states the wash poles are fully and permanently assembled with no further manufacturing or processing necessary.⁴⁵ Carrand claims its wash poles constitute finished merchandise and, thus, are excluded from the *Orders*.⁴⁶ Citing to both the *Orders*, and the Rubbermaid Redetermination,⁴⁷ Carrand argues its wash poles meet the finished merchandise exclusion and, thus, fall outside the scope of the *Orders*.⁴⁸ In the Rubbermaid Redetermination, Carrand argues, the Department explained that to give effect to the “as parts” language “the excluded ‘finished merchandise’ must contain aluminum extrusions ‘as parts’ plus an additional non-extruded aluminum component.”⁴⁹ Carrand argues the Department next considered whether a product that is “fully and permanently assembled and completed at the time of entry” in its own right, but missing some other component to function as a final downstream product, can qualify as subject to the “finished merchandise” exclusion.⁵⁰ Carrand cites to the Department’s determination that under its “revised interpretation, we find that a product meeting the initial analysis described above (*e.g.*, a good that contains aluminum extrusions as parts along with additional non-aluminum components) may meet the exclusion criteria for “finished merchandise” provided that the good is “fully and permanently assembled and completed at the time of entry,” regardless of whether it is later incorporated with other components, or assembled into a larger downstream product (*i.e.*, a subassembly).”⁵¹

Carrand argues that in this case, at the time of import, its wash poles are fully and permanently assembled; and the wash pole “is not a subassembly of aluminum extrusions held together by mere fasteners.” Furthermore, “the wash poles are manufactured using aluminum and non-aluminum parts, and designed, sold and used for a specific use and as such the wash pole meets the portion of the finished merchandise exclusion for goods “containing aluminum extrusions as parts.” Carrand further states that “when imported, no further processing, manufacturing, assembly or modifications are needed to the wash pole” and “the fact that the wash pole is used

⁴⁴ *Id.* at 13.

⁴⁵ *See* Scope Ruling Request at 3.

⁴⁶ *Id.*

⁴⁷ *See* Final Results of Redetermination Pursuant to Rubbermaid Commercial Products LLC Court Remand, dated February 6, 2015 (Rubbermaid Redetermination).

⁴⁸ *Id.* at 4.

⁴⁹ *Id.* citing Rubbermaid Redetermination at 13.

⁵⁰ *Id.*

⁵¹ *Id.* at 4 to 5 citing Rubbermaid Redetermination at 14.

with accessories or is connected to garden hose in no way diminishes or changes the wash pole status as finished merchandise.”⁵²

We received no additional comments from interested parties.

DEPARTMENT’S POSITION

The Department examined the language of the *Orders* and the description of the product contained in Carrand’s Scope Ruling Request and Supplemental Response, as well as previous rulings made by the Department. We find that the description of the product, the scope language, and prior rulings are, together, dispositive as to whether the product at issue is 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 Carrand’s wash poles meet the exclusion criteria for “finished merchandise” 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.”⁵³ The Department frequently refers to this as the “finished goods” exclusion. This scope language describes excluded finished merchandise as “containing aluminum extrusions as parts” Thus, 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 must include some non-extruded aluminum component.

The list of components in the Scope Ruling Request demonstrates that, in addition to extruded aluminum components, the wash poles in question include non-aluminum components such as plastic and foam components, including locking clamps, garden hose fittings, and foam grips and clamps.⁵⁴ We find that those non-aluminum components in Carrand’s wash poles go beyond mere fasteners and, in this respect, the wash poles are similar to other poles the Department has considered in recent scope rulings.⁵⁵

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.” Information in Carrand’s Scope Ruling Request and Supplemental Response (*e.g.*, narrative statements) indicates that its wash poles are merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed.⁵⁶ The wash poles in question require no further

⁵² *Id.* at 5 citing Rubbermaid Redetermination at 15.

⁵³ See the *Orders*.

⁵⁴ See Scope Ruling Request at 7; see also Supplemental Response at 1 and Exhibit 1.

⁵⁵ See, *e.g.*, KIK Poles Scope Ruling at 5; see also Prior Scopes Memorandum at Attachment 4.

⁵⁶ See Scope Ruling Request at 5; see also Supplemental Response at 1 and Exhibits 1 and 2 (pages 20-21 and 34-35).

assembly or manufacturing after importation;⁵⁷ they are ready for immediate use as a wash pole designed to be used with a garden hose, and they may be used with a variety of accessories.⁵⁸ As such, Carrand’s wash poles satisfy the criteria for the finished merchandise exclusion based on the language of the scope (*i.e.*, 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”), and is consistent with recent rulings wherein the Department examined whether telescoping pole products satisfy the conditions of the finished merchandise exclusion.⁵⁹

In addition, similar to the Drapery Rail Kits (Redetermination), the Banner Stands and Back Wall Kits Scope Ruling, the Solar Panels Scope Ruling, the KIK Telescoping Poles Scope Ruling, and the Unger Telescoping Poles Scope Ruling, the telescoping wash poles in question can be used with other attachments.⁶⁰ The various attachments that may be used with Carrand’s wash poles by end users after importation—such as brush heads, mop heads, or sprayer attachments—are interchangeable.⁶¹ The choice of such attachments depends upon the preferences of the customer.⁶² Therefore, consistent with the Drapery Rail Kits (Redetermination), the Banner Stands and Back Wall Kits Scope Ruling, and the Solar Panels Scope Ruling, the Department finds that it would be unreasonable to require Carrand’s wash poles to be imported with interchangeable attachments in order to meet the provisions of the finished merchandise exclusion. Consequently, we determine that Carrand’s wash poles, as described in the Scope Request, are fully and permanently assembled and completed at the time of entry, and are excluded from the scope of the *Orders* as finished goods.

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 wash poles at issue, which vary in telescoping length (40-65”) and pole diameter (22-25 mm) (specifically, wash poles encompassing telescoping lengths and pole diameters of 40” (telescoping length) 22 mm (pole diameter), 62” (telescoping length) 22 mm (pole diameter), 62” (telescoping length) 25 mm (pole diameter), and 65” (telescoping length) 22 mm (pole diameter)), are all finished goods that fall 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.” If the

⁵⁷ *Id.*

⁵⁸ *Id.* at 3-4.

⁵⁹ *See, e.g.*, Pool Poles Scope Ruling.

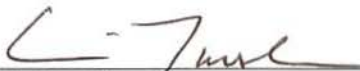
⁶⁰ *See* Scope Ruling Request at 2.

⁶¹ *Id.*

⁶² *Id.* at 7.

recommendation in this memorandum is accepted, we will serve a copy of this determination to all interested parties on the scope service list *via* first-class mail, as directed by 19 CFR 351.225(d).

Agree Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

11/4/15

Date