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Scope Ruling: Dometic Arm Assemblies

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November 23, 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: Victoria Cho
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SUBJECT: Antidumping and Countervailing Duty Orders on Aluminum
Extrusions from the People's Republic of China: Final Scope
Ruling on Dometic Corporation's Lateral Arm Assemblies

SUMMARY

Based on a scope ruling request from Dometic Corporation (Dometic)¹ to determine whether its lateral arm assemblies 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 lateral arm assemblies are excluded from the scope of the *Orders*.

BACKGROUND

On May 1, 2015, Dometic requested that the Department determine whether its lateral arm assemblies are outside the scope of the *Orders*. On July 14, 2015, the Department extended the

¹ See Letter from Dometic Corporation to the Secretary of Commerce, "Aluminum Extrusions from the People's Republic of China: Request for Scope Ruling for Lateral Arm Assemblies," dated May 1, 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*).

deadline for a ruling by 45 days, until August 30, 2015.³ On August 28, 2015, the Department extended the deadline for a ruling by 45 days, until October 14, 2015. On October 14, 2015, the Department extended the deadline for a ruling by 45 days, until November 28, 2015. No party submitted comments regarding Dometic's scope ruling request.

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 brightdip 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

³ See Letter from the Department to Dometic, "Aluminum Extrusions from the People's Republic of China (PRC): Extension of Deadline for Final Scope Ruling," dated July 14, 2015.

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 (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 *Orders* is dispositive.

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.⁴ 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.⁵ 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.⁶

⁴ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁵ See 19 CFR 351.225(k)(1).

⁶ See 19 CFR 351.225(d).

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

Dometic manufactures awning systems which are attached to recreational vehicles (RVs) as optional original equipment or as after-market additions. Generally speaking, the awning systems consist of a fabric awning encased in a metal tube, a roller bar for extending and retracting the awning, metal arms to support the fabric awning once extended, and either a crank if the awning system is manual, or a motor if the awning system is motorized.

Dometic describes its lateral arm assemblies which are subject to this scope request as follows:

The lateral arm assemblies which are subject of this request for scope ruling are used in conjunction with Dometic's 9500 series of fabric awning systems. The lateral arm assemblies are mechanical assemblies which are used to support and provide tension to the fabric portion of these awnings.

Dometic purchases the lateral arm assemblies as fully and permanently assembled and completed, 'off the shelf' items from Birchwoods (Linn) Leisure Products Manufacturer Co., Ltd. of Hangzhou, China, a distributor of goods such as the lateral arm assemblies.

The lateral arm assemblies may be utilized by Dometic manufacture awing systems for attachment to RVs, individual consumers as replacement parts for Dometic awning assemblies, and are capable of use as replacement parts for awning assemblies made by other manufacturers.

A complete 9500 awning system consists of a length of awning fabric, 3 domestically sourced aluminum extrusions which make up the housing for the awning, a roller tube which is also made of a domestically sourced aluminum extrusion, two or three lateral arm assemblies to support the awning fabric (two lateral arm assemblies are used to support awnings up to and including 13 feet in length, and three lateral arm assemblies are used on 15 and 16 foot awnings), a brush cleaning mechanism for the awning fabric, a wind sensor for motorized versions of the 9500 awning, and either a motor (for motorized versions of the 9500 awning) or a crank assembly (for non-motorized versions of the 9500 awning). With the exception of two fasteners discussed below which attach the lateral arm assemblies to the 9500 awning system, the motor (for the motorized version of the 9500 awning system), and the drive gear, the lateral arm assemblies are the only

portion of the 9500 awning system which is imported; all other components are domestically sourced.⁷

Dometic states that the lateral arm assemblies consist not only of extruded aluminum parts, but also non-extruded aluminum parts and non-aluminum parts. The lateral arm assemblies consist of the following 12 elements: (1) an upper arm, which is an aluminum extrusion made from 6063-T5 aluminum; (2) a forearm, which is an aluminum extrusion made from 6063-T5 aluminum; (3) a shoulder joint, which is made of cast steel; (4) two elbow joint castings, which are made of steel; (5) a wrist joint casting, which is made of steel; (6) a stainless steel cable; (7) a spring, which is made of steel; (8) an elbow bolt, which is made of steel; (9) a stainless steel pin; (10) a washer, which is made of steel; (11) stainless steel screws; and (12) tighten connectors, which are made of 6063 aluminum.⁸

Dometic imports the lateral arm assemblies into the United States as is, packed two to a box in cardboard boxes.⁹ Dometic places the boxes into inventory until they are needed for use as part of an awning system. As part of the process of manufacturing its 9500 awning systems, Dometic adds fasteners to each end (shoulder and wrist) of the lateral arm assemblies. The shoulder fastener, or bracket, attaches the lateral arm assembly to the back channel, and the wrist fastener, or bracket, attaches the lateral arm assembly to the lead rail, of the 9500 awning system.¹⁰

These fasteners are assembled from imported components (three aluminum extrusions currently sourced from Hungary but soon to be sourced domestically, steel pivot, plastic parts, domestically-sourced zinc castings, nuts, bolts, and screws) by Dometic in its Indiana facility. No further finishing or fabrication, such as cutting or punching, is used during the attachment of these fasteners to the lateral arm assemblies; rather, the fasteners are attached to preexisting holes located at the ends of the lateral arm assemblies' shoulder and wrist joints. Generally, Dometic does not add the fasteners to the lateral arm assemblies until the lateral arm assemblies are needed to construct an awning system in response to customer orders (or on occasion, as discussed further below, to fulfill an order for an individual lateral arm assembly); however, in order to maintain its production flow, a minimum quantity of lateral arm assemblies with the fasteners pre-attached after importation is maintained in inventory so that Dometic can fulfill orders.¹¹

Dometic states its lateral arm assemblies are currently classified under item 8479.90.94 of the HTS.¹²

⁷ See Scope Ruling Request at 2-4.

⁸ *Id.* at 3.

⁹ *Id.* at 4.

¹⁰ *Id.* at 5.

¹¹ *Id.*

¹² *Id.* at 7.

RELEVANT SCOPE DETERMINATIONS¹³

A. Side Mount Valve Controls¹⁴

In the *Initiation and Preliminary Scope Ruling on Side Mount Valve Controls*,¹⁵ the side mount valve controls (SMVC) at issue in that ruling entered the United States unassembled in kit form, and were assembled and installed for use on fire trucks after importation. The Department found in its final SMVC Scope Ruling that SMVC is considered a “finished good” because they were “designed to work with other parts to form a larger structure or system.”¹⁶ The Department found that “subassemblies,” *i.e.*, merchandise that is ‘partially assembled’ and inherently part of a larger whole,” are excluded from the *Orders* as “finished goods kits,” so long as they contain all of the parts necessary to assemble a complete good, are ready for installation, and require no further finishing or fabrication.¹⁷

B. Valeo Final Remand Redetermination¹⁸

This remand redetermination pertained to certain automotive heating and cooling system components which the Department originally determined were encompassed within the scope of the *Orders*. The products at issue were two distinct types of automotive heating and cooling parts/components, T-Series and M-Series.¹⁹ In the final remand redetermination, the Department, applying the subassemblies test from the SMVC Scope Ruling, concluded that “at the time of importation, the products at issue contain all of the necessary components required for integration into a larger system,” and thus, there was no meaningful distinction between the products at issue and those examined in the SMVC Scope Ruling. As a result, the Department determined that the products at issue were subassemblies that constituted excluded finished merchandise as described in the *Orders*, and were not covered by the scope.

¹³ For information regarding the scope rulings referenced in this section, *see* the Memorandum to the File entitled, “Prior Scope Rulings Relevant to this Proceeding,” dated concurrently with this memorandum.

¹⁴ *See* the memorandum from John Conniff to Christian Marsh, “Final Scope Ruling on Side Mount Valve Controls Innovative,” dated October 26, 2012 (SMVC Scope Ruling).

¹⁵ *See* the memorandum to Christian Marsh, “Initiation and Preliminary Scope Ruling on Side Mount Valve Controls,” dated September 24, 2012 (SMVC Prelim Scope Ruling).

¹⁶ *Id.* at 6-7.

¹⁷ *Id.* at 7.

¹⁸ *See* Final Results of Redetermination Pursuant to Court Remand Aluminum Extrusions from the People’s Republic of China, *Valeo Inc., Valeo Engine Cooling Inc., and Valeo Climate Control Corp. v. United States*, No. 12-00381 (May 14, 2013) (Valeo Final Remand Redetermination), addressing the Department’s findings in the Memorandum regarding: Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China – Final Scope Ruling on Valeo’s Automotive Heating and Cooling Systems, dated October 31, 2012 (“Auto Heating/Cooling Systems Scope Ruling”). The Valeo Final Remand Redetermination was affirmed by the Court of International Trade on June 20, 2013. *See Valeo Inc. v. United States*, Ct. No. 12-00381, dkt. #23, dated June 20, 2013 (Court Order affirming Remand Redetermination).

¹⁹ *See* Valeo Remand Redetermination at 5.

C. Motorized Arm Set Kits Scope Ruling²⁰

At issue in this ruling were Pacific Product's motorized arm set kits used for retraction and opening of 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.²¹ 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 subassemblies, 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 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).²²

D. Window Anchors Scope Ruling²³

The Department found that Guardian Fall Protection, Inc.'s (GF Protection's) window anchor is not within the scope of the *Orders* because, in addition to containing extruded aluminum components, it contains non-extruded aluminum and non-aluminum components that function as more than mere fasteners.²⁴ Thus, GF Protection's Window Anchors satisfy the first test for finding whether a good constitutes a finished good or finished goods kit.²⁵

Furthermore, the Department found that GF Protection's window anchor is imported as a fully and permanently assembled and completed product; it requires no further finishing or fabrication. The Department found GF Protection's window anchor excluded from the scope of the *Orders* under the finished goods exclusion.²⁶ The window anchor is either shipped directly, or placed in inventory for later shipment, to unaffiliated U.S. customers, for immediate use as fall protection safety equipment. The Department further found that while other attachments can be utilized with the Window Anchor as part of a personal fall arrest system, the Window Anchor is, by itself, a finished product with a specific use, *i.e.*, a secure tie-off point. Accordingly, the

²⁰ See 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).

²¹ *Id.* at 6.

²² *Id.* at 11-12.

²³ See memorandum from Deborah Scott to Christian Marsh, "Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on Guardian Fall Protection, Inc.'s Window Anchor," dated April 20, 2015 (Window Anchors Scope Ruling).

²⁴ See Window Anchors Scope Ruling at 8.

²⁵ *Id.* at 8-9.

²⁶ *Id.* at 9.

Department found that GF Protection's Window Anchor can be used with interchangeable attachments which does not prevent it from meeting the finished goods exclusion.²⁷

ARGUMENTS FROM INTERESTED PARTIES

Dometic's Comments

Dometic contends the lateral arm assemblies are not within the scope of the *Orders* because they satisfy the exclusion for "finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry." Dometic argues that the lateral arm assemblies satisfy the Department's interpretation of the finished merchandise exclusion as requiring aluminum extrusions "as parts," *i.e.*, aluminum extrusions plus an additional non-extruded aluminum component.²⁸ According to Dometic, in addition to containing extruded aluminum components, the lateral arm assemblies contain non-extruded aluminum components that function as more than mere fasteners, *i.e.*, they contain a steel cable, steel shoulder joint, steel elbow joint castings, steel wrist joint castings, and steel spring.²⁹

Additionally, Dometic asserts that the lateral arm assemblies fall within the finished merchandise exclusion because:

At the time of importation, the lateral arm assemblies are finished, "off-the-shelf" goods containing aluminum extrusions (forearm and shoulder extrusions) as parts that are permanently assembled and completed at the time of entry. Just as a finished window with glass contains all parts of a window, finished doors with glass or vinyl contain all parts of finished doors, a picture frame with glass pane and backing material contains all parts of the picture frame, and a finished solar panel contains all parts of the solar panel, the imported lateral arm assemblies contain all parts which are necessary to be a complete lateral arm assembly at the time of importation; there is nothing further which is needed to make them lateral arm assemblies.³⁰

Furthermore, Dometic argues that pursuant to the Department's subassemblies analysis from the SMVC scope ruling, goods that are part of a larger whole can satisfy the finished merchandise exclusion. Therefore, Dometic argues, the lateral arm assemblies should be excluded from the scope of the *Orders* under the finished merchandise exclusion because they are part of the larger whole awning system.³¹ Dometic also argues that the lateral arm assemblies are similar to the products at issue in the Motorized Arm Set Kits scope ruling, in which the Department ruled that a motorized arm set which formed part of an RV awning system was a subassembly of the larger system, and thus excluded from the *Orders* as a finished goods kit.³² Finally, Dometic argues that the addition of extraneous fasteners (which are used to attach the lateral arm assemblies to the larger awning system) after the lateral arm assemblies are imported to the United States does

²⁷ *Id.*

²⁸ *Id.* at 13.

²⁹ *See* Scope Ruling Request at 10-13.

³⁰ *Id.* at 13-14.

³¹ *Id.* at 14-17.

³² *Id.* at 17-18 (citing Motorized Arm Set Kits scope ruling at 11).

not remove the lateral arm assemblies from the finished merchandise exclusion because the fasteners are “removable” and “interchangeable” components which are subject to customer preference.³³

Petitioner’s Comments

Petitioner did not provide any comments.

DEPARTMENT’S POSITION

The Department examined the language of the *Orders* and the description of the product contained in Dometic’s Scope Ruling Request, 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 Dometic’s lateral arm assemblies meet the exclusion criteria for the “finished merchandise exclusion” because they are “finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry.”³⁴

The 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.

This interpretation 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.” 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.

³³ *Id.* at 18-41.

³⁴ *See* the *Orders*.

We also find that the non-extruded aluminum component must go beyond a fastener to qualify for the finished merchandise exclusion. Aside from the finished merchandise exclusion, the scope language 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...” Thus, we find that the difference between “finished merchandise” and “finished goods kits,” as described in the scope, is that the former is assembled upon entry while the latter is unassembled upon entry. 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 find unconvincing 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 finished merchandise or unassembled as a finished goods kit – we are applying the fasteners language when considering whether a product constitutes finished merchandise that is excluded from the *Orders*.

Dometic argues that the lateral arm assemblies qualify as excluded finished merchandise under the scope description of the *Orders*. Upon examination of the Scope Ruling Request and the accompanying exhibits, we find that the lateral arm assemblies are imported as finished merchandise, which contain finished parts including those comprised of extruded aluminum and non-extruded aluminum components which go beyond mere fasteners (a steel shoulder joint, steel elbow joint castings, steel wrist joint castings, and a steel spring).³⁵

Further, consistent with the SMVC Scope Ruling, the lateral arm assemblies, which work with a larger awning system, are ready for installation into the downstream product at the time of entry in the United States.³⁶ This is further supported by the Valeo Final Remand Redetermination in which Valeo subassemblies entered the United States as finished merchandise and subsequently were integrated into a larger system. Likewise, the lateral arm assemblies require no further assembly or fabrication after importation; they are ready for immediate use.³⁷ Thus, we find that the lateral arm assemblies are excluded from the scope of the *Orders* as subassemblies that qualify for the finished merchandise exclusion.

The lateral arm assemblies are also similar to the products in the Motorized Arm Set Kits Scope Ruling, which were also part of an RV awning system. In that scope ruling the Department found the products at issue satisfied the exclusion for finished goods kits because they contained, upon importation, non-aluminum extrusion components beyond fasteners and were subassemblies, 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. Although that scope ruling involved the finished goods kit exclusion, the same principles apply equally to Dometic’s lateral arm assemblies. There are also similarities to the products at issue in the

³⁵ See Scope Ruling Request at 3.

³⁶ *Id.* at 17.

³⁷ *Id.*

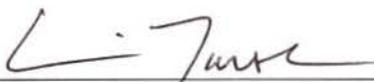
Window Anchors Scope Ruling, which were excluded from the scope of the *Orders* pursuant to the finished merchandise exclusion because they contained aluminum extrusions as parts, and the non-extruded aluminum components went beyond mere fasteners. Because we find that the lateral arm assemblies satisfy the finished merchandise exclusion as subassemblies, we do not need to address Dometic's arguments with respect to the addition of extraneous fasteners (which are used to attach the lateral arm assemblies to the larger awning system) after the lateral arm assemblies are imported to the United States.

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 Dometic lateral arm assemblies are excluded from the scope of the *Orders* under the finished merchandise exclusion.

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

Agree Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

11/23/15

Date