



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-570-967

C-570-968

Scope Ruling: Delphi Tube and
Block Assemblies
Public Document
AD/CVD Operations, OVI: VC

November 24, 2015

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

THROUGH: Scot Fullerton
Director
AD/CVD Operations, Office VI

FROM: Victoria Cho
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 Delphi Tube and Block Assemblies

SUMMARY

Based on a scope ruling request from Delphi Tube and Block Assemblies (Delphi)¹ to determine whether certain tube and block 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 certain aluminum tube and block assemblies for automotive heating and cooling systems are included in the scope of the *Orders*.

¹ See Letter from Delphi Automotive Systems, LLC to the Secretary of Commerce, "Aluminum Extrusions from the People's Republic of China: Request for Scope Ruling for Certain Tube and Block Assemblies for Automotive Heating and Cooling Systems," dated May 18, 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 18, 2015, Delphi requested that the Department determine whether its automotive tube and block assemblies are outside the scope of the *Orders*. On June 15, 2015, the petitioner submitted an extension request to file comments. On June 17, 2015, the Department extended the deadline for ruling by 45 days, until August 16, 2015. On August 6, 2015, Delphi submitted comments to supplement its Scope Ruling Request in light of recent decisions by the Court of International Trade.³ On August 13, 2015 the Department extended the deadline for a ruling by 45 days, until September 30, 2015.⁴ On September 28, 2015, the petitioner⁵ submitted comments on the Scope Ruling Request.⁶ On September 30, 2015, the Department extended the deadline for a ruling by 45 days, until November 14, 2015.⁷ On November 13, 2015, the Department extended the deadline for a ruling by two weeks, until November 28, 2015.⁸

ALUMINUM EXTRUSIONS

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.

³ See Letter from Delphi Automotive Systems, LLC to the Secretary of Commerce, “Aluminum Extrusions from the People’s Republic of China; Comments on Scope in Light of Recent Court Decisions,” dated (August 6, 2015) (Delphi’s August 6, 2015 submission).

⁴ See Letter from the Department to Delphi, “Aluminum Extrusions from the People’s Republic of China (PRC): Extension of Deadline for Final Scope Ruling,” dated August 13, 2015.

⁵ The petitioner is Aluminum Extrusions Fair Trade Committee (the petitioner).

⁶ See Letter from the petitioner, “Aluminum Extrusions from the People’s Republic of China: Comments on Delphi Automotive Systems, LLC Scope Ruling Request and Additional Comments Regarding Tube and Block Assemblies,” dated September 28, 2015 (the petitioner’s comments).

⁷ See Letter from the Department to Delphi, “Aluminum Extrusions from the People’s Republic of China (PRC): Extension of Deadline for Final Scope Ruling,” dated September 30, 2015.

⁸ See Letter from the Department to Delphi, “Aluminum Extrusions from the People’s Republic of China (PRC): Extension of Deadline for Final Scope Ruling,” dated November 13, 2015.

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, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

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

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation. The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

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

investigation merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusion product.

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

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

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

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 7609.00.00, 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.⁹ 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.¹⁰ 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.¹¹

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

Delphi describes its aluminum tube and block assemblies as follows:

The aluminum tube and block assemblies (“Assemblies”) for Delphi’s automotive heating and cooling systems (also commonly referred to as the heating, ventilation, and air conditioning, “HVAC” systems) are evaporator core parts consisting of aluminum blocks and inlet-outlet tubes. The Assemblies are made to proprietary specifications and to fit specific car models. Delphi imports these Assemblies from China and other countries.¹² The Assemblies are made from two types of raw materials: extruded aluminum tube stock in coils and machined extruded aluminum bar stock. Delphi’s supplier sources both materials from third party suppliers. Each Assembly consists of a shaped aluminum block and two bent aluminum tubes, the inlet and outlet tubes that are fitted into the block.¹³

⁹ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

¹⁰ See 19 CFR 351.225(k)(1).

¹¹ See 19 CFR 351.225(d).

¹² See Scope Ruling Request at 2.

¹³ *Id* at 3.

To produce the inlet and outlet tubes, the extruded aluminum tube stock in coils is straightened, cut to length and bent based on the customer's design. The tubes are then subject to a five-step end-forming process and a wash process. The end-forming process involves sophisticated operations and machinery. To manufacture the aluminum block, the aluminum bar stock is cut to length; holes are machined and chamfered to accommodate the formed tubes; threads are drilled and tapped; and the block is then put through a wash process. After the above processes are complete, the outlet pipe is mechanically locked into the block to control rotation. The inlet pipe is assembled into the block and a skiving or staking operation is performed to keep the inlet pipe from sliding out of the block. As imported, these items are finished articles ready for installation into automotive HVAC systems. Neither Delphi nor its customer performs further operations on the Assemblies themselves.¹⁴

Delphi states that its articles are currently classified under item 8415.90.8045 of the HTS.¹⁵

RELEVANT SCOPE DETERMINATIONS¹⁶

A. Geodesic Domes Kits Scope Ruling¹⁷

J.A. Hancock Co., Inc. (J.A. Hancock), an importer of geodesic structure kits (a set of aluminum poles and assembly hardware that can be assembled into landscaping structures or climbing structures for children), argued that its kits contained all parts necessary to fully assemble a final geodesic structure. J.A. Hancock further noted that the components in its kits required no further fabrication or additional parts. The Department determined that the geodesic structure kits met the initial requirements for exclusion as a "finished goods kit," as they are a packaged combination of parts containing all necessary components to fully assemble a final finished good.¹⁸ However, the Department noted that the scope of the *Orders* states that an "imported product will not be considered a 'finished goods kit' ...merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusions product."¹⁹ As J.A. Hancock's kits only consist of extruded aluminum poles and fasteners, the Department found that the exception to the "finished goods kit" exclusion applies. Therefore, the Department determined J.A. Hancock's kits to not be excluded finished goods kits, and hence covered by the scope of the *Orders*.

¹⁴ *Id.*

¹⁵ *Id.* at 4.

¹⁶ For information regarding the scope rulings referenced in this section, see the Memorandum to the File entitled, "Prior Scope Rulings Relevant to this Proceeding, Petition for the Imposition of Antidumping and Countervailing Duties: Aluminum Extrusions from the People's Republic of China, (March 31, 2010) (Petition), *ITC Final Report on Certain Aluminum Extrusions from China*, Inv. Nos. 701-TA-475 & 731-TA-1177, USITC Pub. 4229 (May 2011) (ITC Report)," dated concurrently with this memorandum (ITC Report, Petition Scope Section, and Relevant Scope Rulings Memorandum).

¹⁷ See the memorandum from Brooke Kennedy to Christian Marsh, "Final Scope Ruling on J.A. Hancock, Inc.'s Geodesic Structures," dated July 17, 2012 (Geodesic Domes Kits Scope Ruling).

¹⁸ See Geodesic Domes Kits Scope Ruling at 7.

¹⁹ *Id.*

B. All Points Cleats Scope Ruling²⁰

In the All Points Cleats Scope Ruling, the products at issue were Cleats, which are mounting devices used to mount items such as pictures and mirrors to a wall, and consist of a single piece of extruded aluminum cut to various lengths with holes drilled every two inches along the product's length.²¹ The Department found that the cleats were not excluded by the finished merchandise exclusion, in part, because they did not contain parts other than aluminum extrusions. The Department noted that the "finished goods" exclusion specifies that excluded merchandise contain aluminum extrusions "as parts." Thus, to give effect to this "as parts" language, the Department found that to qualify for the finished merchandise exclusion the product must contain both aluminum extrusions and some non-extruded aluminum component.²²

C. Delphi Core Heater Tubes Scope Ruling²³

In the Delphi Core Heater Tubes Scope Ruling, the products at issue were "core tubes" for automotive heating and cooling (HVAC) systems, comprised of extruded hollow, tubular parts fabricated from aluminum extrusions that are bent and end-formed based on customer designs.²⁴ In other words, the products in question were comprised entirely of extruded aluminum. The Department determined that a product cannot meet the requirements of the exclusions for "finished merchandise" or "finished goods kits" when such merchandise is comprised solely of extruded aluminum parts and fasteners. The Department thus found that the products at issue did not meet the Department's first test for determining whether a good constitutes a finished good or finished good kit, *i.e.*, whether the product contains parts other than aluminum extrusions and mere fasteners.²⁵

D. Solar Panels Scope Ruling²⁶

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.²⁷ 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

²⁰ See Memorandum from Paul Stolz, Senior International Trade Analyst, through Erin Begnal Program Manager, Office III, and Melissa G. Skinner, Director, Office III, to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Re: "Final Scope Ruling on All Points Industries Inc.'s Cleats," April 2, 2015 (All Points Cleats Scope Ruling).

²¹ *Id.* at 5.

²² *Id.* at 12.

²³ See Memorandum from Eric B. Greynolds, International Trade Analyst, Office III, Melissa G. Skinner, Director, Office III, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Regarding: "Final Scope Ruling on Delphi Core Heater Tubes," October 14, 2014 (Delphi Core Heater Tubes Scope Ruling).

²⁴ *Id.* at 4 - 5.

²⁵ *Id.* at 10 - 11.

²⁶ 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).

²⁷ *Id.* at 6-7.

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 issue were not subject to the *Orders* because they met the criteria for exclusion from the *Orders* as finished goods kits.²⁸

E. Valeo Final Remand Redetermination²⁹

At issue was whether certain automotive heating and cooling system components were encompassed within the scope of the *Orders*. The products at issue were comprised of two distinct types of automotive heating and cooling parts/components, T-Series and M-Series.³⁰ In the final remand determination, the Department, applying the subassemblies test from the SMVC Scope Rulings,³¹ 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 is no meaningful distinction between the products at issue and those examined in the SMVC Scope Rulings. As a result, the Department determined that the products at issue were subassemblies that constitute excluded “finished goods,” as described in the *Orders*, and were not covered by the scope.³²

F. Cutting and Marking Edges Scope Ruling³³

In the Cutting and Marking Edges Scope Ruling, the products at issue were finished cutting and marking straight edges suitable for immediate use in drafting and cutting applications without further manufacturing, assembly, mounting, or combination with any other component, apparatus, or fixture.³⁴ Because the products at issue consisted of a single hollow extrusion made of aluminum alloy, the Department found that the merchandise was covered by the inclusive language of the scope, was not covered by the exclusion for “finished merchandise,” nor any other exclusion, and was therefore covered.³⁵

²⁸ *Id.* at 8-9.

²⁹ 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 (CIT). See *Valeo, Inc. et al v. United States*, Ct. No. 12-00381 (CIT June 20, 2013).

³⁰ See Valeo Final Remand Redetermination at 5.

³¹ 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).

³² *Id.* at 10.

³³ See Memorandum from John Conniff, International Trade Analyst, through Eric B. Greynolds, Program Manager, Office III, and Melissa G. Skinner, Director, Office III, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Regarding: “Aluminum Extrusions from the People’s Republic of China: Final Scope Ruling on Cutting and Marking Edges,” dated November 13, 2012 (Cutting and Marking Edges Scope Ruling).

³⁴ *Id.* at 2.

³⁵ *Id.* at 10-11. The scope ruling was later appealed to the CIT and subsequently dismissed. See Order of Dismissal in *Plasticoid Manufacturing Inc. v. United States*, Ct. No. 12-00407 (CIT March 25, 2015).

G. TSS Wind Sign Frames Scope Ruling³⁶

In the TSS Wind Sign Frames Scope Ruling, the products at issue were “wind sign” frames which contained extruded aluminum frames, plastic parts, and steel springs, which are designed to display “customizable materials or work (retail advertisements),” which open and shut to allow removal and replacement of display signs, and which are designed to withstand wind.³⁷ The Department found that products met the exclusion criteria for “finished merchandise.” As with the All Points Cleats Scope Ruling, as well as the Unger Pole Handles Scope Ruling, the Department noted that the finished merchandise exclusion specifies that excluded merchandise contain aluminum extrusions “as parts.” Thus, to give effect to this “as parts” language, the Department found that to qualify for the finished merchandise exclusion the product must contain both aluminum extrusions and some non-extruded aluminum component. Accordingly, because the products at issue contained non-extruded aluminum parts (which are more than mere fasteners), in addition to extruded aluminum components, the Department found that TSS’s wind signs were merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, and thus, excluded by the finished merchandise exclusion.³⁸

H. Unger Pole Handles Scope Ruling³⁹

In the Unger Pole Handles Scope Ruling, the products at issue were several pole handles designed to work with a variety of cleaning/tool heads that are attached to the poles. In addition to aluminum tubes of various lengths and diameters, each pole handle incorporates a polypropylene hand grip, a polypropylene tool and one of several accessory attachment heads that accept a variety of tools and attachments.⁴⁰ The Department found that the products at issue met the exclusion criteria for “finished goods.” As with the All Points Cleats Scope Ruling, the Department noted that the “finished merchandise” exclusion specifies that excluded merchandise contain aluminum extrusions “as parts.” Thus, to give effect to this “as parts” language, the Department found that to qualify for the finished merchandise exclusion the product must contain both aluminum extrusions and some non-extruded aluminum component. Accordingly, noting that the products at issue contained non-extruded aluminum parts (which are more than mere fasteners), in addition to extruded aluminum components, 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, and thus, excluded by the “finished merchandise exclusion.”⁴¹

³⁶ See Memorandum from Mark Flessner, Analyst, through Abdelali Elouaradia, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Regarding: “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,” June 15, 2015 (TSS Wind Sign Frames Scope Ruling).

³⁷ *Id.* at 5-7.

³⁸ *Id.* at 11-12.

³⁹ See Memorandum from James Terpstra, Senior International Trade Analyst, through Erin Begnal Program Manager, Office III, and Melissa G. Skinner, Director, Office III, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Re: “Final Scope Ruling on Unger Enterprises Inc.’s Pole Handles,” April 22, 2015 (Unger Pole Handles Scope Ruling).

⁴⁰ *Id.* at 5-6.

⁴¹ *Id.* at 12-13.

I. Meridian Products Scope Ruling⁴²

At issue in this ruling were Meridian’s imported refrigerator/freezer trim kits (Trim Kits) from the PRC comprised of all extruded aluminum parts, which the Department determined met the exclusion criteria of the *Orders* as a “finished goods kits.” First, Meridian’s Trim Kits are a packaged combination of parts that contain, at time of importation, all of the necessary components to assemble a complete frame to surround a refrigerator or freezer. All of the components are fully fabricated and do not require further cutting, punching, or other processing prior to their assembly and installation around the finished refrigerator or freezer unit. The frame is assembled “as is” from the components provided in the trim kits and Meridian’s trim kits are in a form ready to be sold directly to, and used by, the consumer/end-user. Trim kits do not require any additional parts prior to the assembly. In a recent Court of International Trade (CIT) decision in *Meridian Products*, the Court found that an excluded finished good, in an unassembled form, may be composed entirely of extruded aluminum parts.

ARGUMENTS FROM INTERESTED PARTIES

Delphi’s Comments

Delphi contends the Assemblies are excluded from the scope of the *Orders* as both “finished merchandise” and a “finished goods kit,” based on the plain scope language. The merchandise covered by the *Orders* are “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 number 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents....”⁴³ Delphi claims that its merchandise is “finished merchandise containing aluminum extrusions as parts (two tubes and one block) that are fully and permanently assembled and completed at the time of entry.”⁴⁴ Delphi asserts that its Assemblies require no further assembly and manufacturing before they are integrated into automobile HVAC systems. Thus, Delphi argues its Assemblies satisfy the test for finding whether they meet the plain language of the scope.⁴⁵ In the alternative, Delphi also asserts that the Assemblies require no further assembly and manufacturing before they are integrated into an automobile upon entry;⁴⁶ therefore, Delphi argues, the Assemblies can also be excluded from the scope of the *Orders* as a “finished goods kit” because the scope excludes finished goods that contain aluminum extrusions that enter unassembled as a kit and can be assembled upon entry.⁴⁷

Delphi argues that language in the Petition and ITC Report⁴⁸ supports its claim that its merchandise was not intended to be subject to the *Orders*, but was intended instead to be excluded as finished merchandise. Delphi claims that the original investigation never intended

⁴² See the memorandum from John Conniff to Christian Marsh, “Final Scope Ruling on Refrigerator/Freezer Trim Kits,” dated December 17, 2012 (Meridian Products Scope Ruling) and see also *Meridian Products, LLC v. United States*, Slip Op. 15-67 (CIT) June 23, 2015 (*Meridian Products*).

⁴³ See Scope Ruling Request at 4-5.

⁴⁴ *Id.* at 5.

⁴⁵ *Id.* at 5.

⁴⁶ *Id.* at 8-9.

⁴⁷ *Id.*

⁴⁸ See ITC Report (attached to ITC Report, Petition Scope Section, and Relevant Scope Rulings Memorandum).

for aluminum parts for automotive HVAC as subject merchandise because the petition excluded “final finished goods containing aluminum extrusions that are imported in finished forms.”⁴⁹ Furthermore, Delphi contends that the ITC and the petitioner never considered the downstream aluminum auto parts industry and market in the injury investigations that have been converted to finished merchandise.⁵⁰

Also, Delphi claims that its Assemblies are similar to the tube and block assemblies for the automotive HVAC systems that the Department found to be outside the scope of the *Orders* in the Valeo Final Remand Redetermination.⁵¹ Delphi asserts that the Department determined in the Valeo Final Remand Redetermination that Valeo’s parts were outside the scope of the *Orders* because the scope excludes finished goods and the components are finished merchandise under the Department “subassemblies test.”⁵² Delphi argues that its Assemblies fall within the finished merchandise exclusion because they are complete subassemblies.

Specifically, in its August 6, 2015, submission Delphi comments that the CIT in *Meridian Products* decided that an excluded finished good, in an unassembled form, may be composed entirely of extruded aluminum. Delphi also relies on the July 22, 2015, opinion in *Rubbermaid*,⁵³ in which it contends that the CIT expressed doubt about the requirement of non-extruded aluminum components for a finished good to be excluded and indicated that the non-extruded aluminum requirement for the finished merchandise exclusion seems to be clearly at odds with the plain language of the scope excluding “finished merchandise containing aluminum extrusions as parts” because nothing in the word “parts” requires that the “parts” must be made of at least two different materials.⁵⁴

Delphi argues that its Assemblies are aluminum extrusions in “parts” that are made from two types of raw materials: extruded aluminum tube stock in coils and machined extruded aluminum bar stock. Delphi’s supplier sources both materials from third party suppliers and each Assembly consists of a shaped aluminum block and two bent aluminum tubes, the inlet and outlet tubes that are fitted into the block. Accordingly, Delphi argues that its merchandise should be excluded as a complete subassembly.

Petitioner’s Comments

The petitioner asserts that Delphi’s products are merely fabricated aluminum extrusions, which meet the definition of subject aluminum extrusions under the scope and do not meet the “finished merchandise” exclusion. The petitioner contends that the scope language states that “aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication.”⁵⁵ The petitioner further comments that virtually every production process identified by Delphi in its scope request is explicitly identified in the scope

⁴⁹ See Scope Ruling Request at 11.

⁵⁰ *Id.* at 11-12.

⁵¹ See Scope Ruling Request at 6 and see also Delphi’s August 6, 2015 submission.

⁵² *Id.* at 7 and see also Delphi’s August 6, 2015 submission.

⁵³ See *Rubbermaid Products, LLC v. United States*, Slip Op. 15-79 (CIT) July 22, 2015 (*Rubbermaid*).

⁵⁴ See Delphi’s August 6, 2015 submission at 6.

⁵⁵ See the petitioner’s comments at 4.

language and that the scope intends to cover all fabrication that may be performed on aluminum extrusions.⁵⁶

The petitioner asserts that the minor fabrication processes that Delphi performs on its Assemblies that are not listed in the scope, such as straightening and tapping, are covered by the scope.⁵⁷ And because Delphi's products consist of only fabricated extruded aluminum, Delphi's Assemblies meet the definition of subject merchandise and are subject to the *Orders*.

The petitioner also contends that Delphi's Assemblies do not meet the finished merchandise nor the finished goods kit exclusion. The petitioner argues just because Delphi's Assemblies require no further fabrication after it is imported into the United States, does not automatically remove the product from the scope of the *Orders*. The petitioner highlights that, contrary to Delphi's claims, the scope states "subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks *Such goods are subject merchandise.*"⁵⁸ Moreover, the petitioner asserts that Delphi completely ignores the Department's requirements that excludable "finished merchandise" must be comprised of both extruded aluminum and non-extruded aluminum components. As the Department has frequently explained, the petitioner further argues that the scope language reads that any excluded "finished merchandise" must contain aluminum extrusions "as parts" combined with at least one additional, non-extruded aluminum component.⁵⁹

The petitioner contends that Delphi's reliance on the Department's redetermination in the Valeo Final Remand Redetermination is misplaced. The petitioner contends that the Department previously rejected such reasoning in the Delphi Core Heater Tuber Scope Ruling on similar grounds,⁶⁰ and therefore, should reject Delphi's argument this time that its Assemblies which consists solely of aluminum extrusions are similar in products imported by Valeo.⁶¹ Also, the petitioner contends that it does not agree with the Department's subassemblies test articulated in SMVC and that the Department should only apply this test to subassemblies that contain non-aluminum extruded parts.⁶² Accordingly, the petitioner claims that Delphi's Assemblies would not qualify as finished merchandise under the Department's subassemblies test. Lastly, the petitioner states that there is no indication that Valeo's auto parts are the same as Delphi's Assemblies.⁶³ The petitioner argues that Valeo's auto parts were comprised of aluminum extrusions and non-aluminum extruded materials, whereas Delphi's Assemblies are comprised solely of aluminum extrusions.

DEPARTMENT'S POSITION

The Department examined the language of the *Orders* and the description of the product contained in Delphi's Scope Ruling Request, as well as previous rulings made by the

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* at 5-6.

⁵⁹ *Id.* at 7.

⁶⁰ *Id.* at 8 Delphi Core Heater Tuber Scope Ruling at 12-13.

⁶¹ *Id.*

⁶² *See* the petitioner's comments at 9.

⁶³ *Id.*

Department. We find that the description of the product, the Petition, 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 Delphi's Assemblies are covered by the scope of the *Orders*.

The scope of the *Orders* explicitly 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," and "finished goods kits" which are defined as "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." The scope also provides that 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.

Information in Delphi's Scope Ruling Request indicates that its Assemblies are merchandise containing aluminum extrusions as "parts", which are comprised of two tubes and a block, and are "part" of an automotive HVAC system that are fully, permanently, and completely assembled at the time of entry.⁶⁴ The Assemblies require no further assembly or fabrication after importation; they are ready for immediate use.⁶⁵ As such, Delphi's claims that its Assemblies satisfy the criteria for the finished goods exclusion. Delphi states that 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..." (emphasis added). Thus, Delphi concludes that the scope language describes excluded finished merchandise as "containing aluminum extrusions *as parts*..."

However, as previously explained in the All Points Cleats Scope Ruling, the Unger Pole Handles Scope Ruling, and the TSS Wind Sign Frames Scope Ruling, we take this language to mean that the excluded "finished merchandise" must contain both aluminum extrusions "as parts" as well as an additional non-extruded aluminum component.⁶⁶ 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 both aluminum extrusions as parts, as well as some component besides aluminum extrusions. As such, Delphi's Assemblies are subject merchandise because they are composed entirely of aluminum extrusions.

Delphi argues in its submissions that the scope as proposed in the Petition suggested that its Assemblies were not contemplated as subject merchandise. Delphi claims that the Petition

⁶⁴ See Scope Ruling Request at 9.

⁶⁵ *Id.*

⁶⁶ See All Points Cleats Scope Ruling at 12, Unger Pole Handles Scope Ruling at 12 - 13, and TSS Wind Sign Frames Scope Ruling at 11 - 12.

excluded “final finished goods containing aluminum extrusions that are imported in finished forms.”⁶⁷ We disagree, as the Petition itself does not support Delphi’s contention.

In Exhibit I-5 to the Petition, the Petitioner provided several “product examples” which it said were examples of subject merchandise, and provided three examples of products which would meet the exclusion for “fully assembled finished goods containing aluminum extrusions:” windows, doors, and solar panels.⁶⁸ All three of these “finished merchandise” examples have both non-aluminum extrusions and aluminum extrusion components. On the other hand, the examples of in-scope merchandise in the Petition appear include products such as Delphi’s Assemblies:

Subject Merchandise	
Product Type	Product Examples
Aluminum extrusions, not further fabricated	Mill finish, painted, powder coated, anodized, or otherwise coated aluminum extrusions
Aluminum extrusions with subsequent drawing	Drawn aluminum tubing
Aluminum extrusions with fabrication	Precision cut, machined, punched, drilled, bent, or otherwise fabricated aluminum extrusions
Aluminum extrusions that are parts intended for use in intermediate or finished goods	Aluminum extrusions designed for use in, <i>e.g.</i> , a door, window, or solar panel
Aluminum extrusions partially assembled into intermediate goods	Two or more aluminum extrusions partially assembled (<i>e.g.</i> , via welding, mechanical fasteners, or other attachment mechanism) into an intermediate good where the aluminum extrusions constitute the essential material component of the subassembly
Aluminum extrusions that are also identified as other goods	Carpet, window, or door thresholds; fence posts; heat sinks
Non-Subject Merchandise	
Product Type	Product Examples

⁶⁷ See Scope Ruling Request at 11.

⁶⁸ See Petition at 4 (attached to ITC Report, Petition Scope Section, and Relevant Scope Rulings Memorandum).

Unassembled products containing aluminum extrusions, <i>e.g.</i> “kits” that at the time of importation comprise all necessary parts to assemble finished goods	Shower frame kits, window kits, unassembled unitized curtain walls
Fully assembled finished goods containing aluminum extrusions	Windows, doors, solar panels
The subject merchandise also excludes the following: 1) pure, unwrought aluminum in any form; 2) aluminum extrusions falling within the 2000, 5000, or 7000 series of The Aluminum Association; and 3) aluminum products produced by other than the extrusion process (<i>e.g.</i> by casting or rolling).	

Delphi’s Assemblies are “aluminum extrusions, not further fabricated,” and therefore would be considered subject merchandise under the examples provided in the Petition.

With respect to Delphi’s argument regarding the ITC Report, we disagree that the ITC never considered the downstream aluminum auto parts industry and market in the injury investigation. The ITC considered aluminum extrusions to be inputs in the manufacture of many other products within broad downstream industries including the automotive industry.⁶⁹ In fact, the ITC explained in its report that subject aluminum extrusions are often finished and further processed.⁷⁰

Furthermore, the ITC Report does not indicate that products which are composed entirely of aluminum extrusions, even aluminum extrusions which are fabricated in a manner described in the scope as indicative of subject merchandise are excluded “finished merchandise” under the scope of the *Orders*. Accordingly, we do not agree with Delphi that the ITC Report supports its contention that the Delphi’s Assemblies meet the requirement of “finished merchandise” and should be excluded from the scope of the *Orders*.

As an initial matter, the ITC found that aluminum extrusions “are used as inputs into the manufacture and construction of a wide variety of other products within the following broad downstream industries: building and construction; *automotive* and transportation; engineering products; and electric and alternative energy.”⁷¹ Therefore, we disagree that the ITC did not contemplate the numerous downstream products and industries that utilize aluminum extrusions, including the automotive industry.⁷² Additionally, even if the ITC did not specifically analyze the automotive parts segment of the economy in the underlying investigation that does not mean the products at issue were intended to be excluded from the *Orders*. In fact, Delphi’s product meets the physical description of an aluminum extrusion product covered by the scope of the *Orders* for the reasons indicated above.

Indeed, if the Department were to determine that a product consisting only of aluminum extrusions satisfies the finished merchandise exclusion, such a determination would, in fact,

⁶⁹ See ITC Report at I-3 and I-10.

⁷⁰ *Id.* at I-3, I-10, and I-11.

⁷¹ See ITC Report at I-3.

⁷² *Id.*

“expand” that scope exclusion to such an extent that it would encompass the entire scope of the *Orders*. That is, all aluminum extrusion products could be considered finished merchandise, and therefore would be excluded. Under Delphi’s proposed interpretation, any aluminum extrusion product, as long as it can be identified by end use, could be considered finished merchandise. This is contrary to the text of the scope which clearly covers aluminum extrusions meeting certain physical descriptions which “may be identified with reference to their end use.” It is unclear under such a scenario what products, if any, would be left to be covered by the scope of the *Orders*. We therefore disagree with Delphi’s interpretation of the scope of the *Orders*.

Delphi’s interpretation is also consistent with our past scope rulings. In the Cutting and Marking Edges Scope Ruling, the Department found merchandise which consisted merely of a single hollow aluminum extrusion were not excluded under the “finished merchandise: exclusion and were covered by the scope.”⁷³ Likewise, in the Delphi Core Heater Tubes Scope Ruling, and the All Points Cleats Scope Ruling, the Department also found that products which consist only of aluminum extrusions are not finished merchandise under this scope language.⁷⁴

The Department agrees with the petitioner that the Department previously rejected Delphi’s interpretation in the Delphi Core Heater Tuber Scope Ruling on similar grounds,⁷⁵ and therefore, should reject Delphi’s argument this time that its Assemblies which consists solely of aluminum extrusions are similar in products imported by Valeo.⁷⁶ We also agree with the petitioner that the Department should only apply the SMVC Scope Ruling test to subassemblies that contain non-aluminum extruded parts.⁷⁷ The Department disagrees with the claims made by Delphi in its August 6, 2015 submission. There is no indication that Valeo’s auto parts are the same as Delphi’s Assemblies,⁷⁸ and Valeo’s auto parts were comprised of aluminum extrusions and non-aluminum extruded materials, whereas Delphi’s Assemblies are comprised solely of aluminum extrusions.

Furthermore, with respect to Delphi’s August 6, 2015 submission, pertaining to the Valeo Final Remand Redetermination, as explained in Delphi Core Heater Tuber Scope Ruling, it is the Department’s practice to apply the “subassembly finished goods test” to subassembly products (to determine whether merchandise is covered by the “finished merchandise” exclusion).⁷⁹ However, as the Department explained, its analysis in the Valeo Final Remand Redetermination was incomplete for one of the two models of products it was analyzing because the Department did not first confirm that the products at issue do not consist solely of extruded aluminum:

Concerning the Valeo Final Remand Redetermination, the Department issued the redetermination in May 2013, which was shortly after the October 2012 establishment of the “subassembly finished goods” test in the SMVC Kits Scope Ruling and the Department’s determination that products that consist solely of

⁷³ See Cutting and Marking Straight Edge Scope Ruling at 10-11.

⁷⁴ See Delphi Core Heater Tubes Scope Ruling at 10-11 and All Points Cleats Scope Ruling at 12.

⁷⁵ *Id.* at 8 Delphi Core Heater Tuber Scope Ruling at 12-13.

⁷⁶ *Id.*

⁷⁷ See the petitioner’s comments at 9.

⁷⁸ *Id.*

⁷⁹ See Delphi Core Heater Tubes Scope Ruling at 10-11.

extruded aluminum are subject merchandise in the November 2012 Cutting & Marking Edges Scope Ruling. In the Valeo Final Remand Redetermination, the Department examined two models of automotive heating and cooling components, a T-Series, which was comprised of a shaped and bent extruded aluminum tube that also contained foam material at one end and an M-Series model that was comprised of a shaped extruded aluminum tube. The Department applied the “subassembly finished goods” test to both products. Upon review of the Valeo Final Remand Redetermination, we conclude that the Department did not consider at the time it issued the remand redetermination that the M-Series model did not contain non-aluminum materials. In that regard, the Department’s analysis in the Valeo Final Remand Redetermination is not consistent with the manner in which the Department previously or subsequently analyzed whether products meet the exclusion criteria for finished goods and finished goods kits.

Accordingly, the Department determines that its application of the “subassembly finished goods test” in the Valeo Final Remand Redetermination was consistent with its practice with respect to the T-Series model, but was inconsistent with its treatment of aluminum extruded products in other scope determinations with regard to the M-Series model. As explained above, it is the Department's practice to apply the “subassembly finished goods test” to subassembly products only after it has first confirmed that the products at issue do not consist solely of extruded aluminum.⁸⁰

Moreover, as Delphi alludes, this approach (to confirm that the products at issue do not consist solely of aluminum extrusions) is consistent with the approach taken in Kitchen Appliance Door Handles Scope Ruling,⁸¹ and other subsequent scope rulings, such as the Delphi Core Heater Tubes Scope Ruling at 11-12. Accordingly, because the Delphi’s consists entirely of extruded aluminum, we have determined that it is not covered by the “finished merchandise” exclusion to the scope of the *Orders*.

In response to Delphi’s reliance on the CIT’s decision in *Meridian Products*, and the language in *Rubbermaid*, we note that the *Meridian Products* decision is on remand, is not final and conclusive, and is not binding on the agency for purposes of this scope ruling. With respect to the *Rubbermaid* decision, the CIT ultimately affirmed the Department’s remand redetermination,

⁸⁰ See Delphi Core Heater Tubes Scope Ruling at 11-12 (citing as an example, “Cutting & Edging Scope Ruling at 9-10, which pre-dates the Valeo Final Remand Redetermination.”)

⁸¹ See Memorandum from Eric B. Greynolds, Program Manager, Office III, and Melissa G. Skinner, Director, Office III, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Regarding: “Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China (PRC); Final Scope Ruling on Kitchen Appliance Door Handles with and without Plastic End Caps,” dated August 4, 2014 (Kitchen Appliance Door Handles Scope Ruling), currently on appeal in *Meridian Products LLC and Whirlpool Corp. v. United States*, Court No. 13-00246.

which continued to apply the same interpretation of the finished merchandise exclusion.⁸² To the extent that the Court otherwise expressed additional views, such information is *dicta* and therefore, not binding on the agency. Accordingly, the Department finds that neither of those sources undermines or otherwise calls into question the reasonableness of Commerce's interpretation and practice in this respect.

Furthermore, Delphi's Assemblies also does not satisfy the criteria for the "finished goods kits" exclusion. That exclusion states that excluded merchandise also includes the following:

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.

In the Geodesic Dome Kits Scope Ruling, as noted above, the Department concluded that because the scope of the *Orders* states that an "imported product will not be considered a 'finished goods kit' ...merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusions product," this meant that only "kits" composed of both extruded aluminum and other non-extruded aluminum parts may be excluded from the scope of the *Orders* under this provision.⁸³ As Delphi's Assemblies are composed entirely of extruded aluminum, the "finished goods kit" exclusion also does not apply to its Assemblies.

⁸² See *Rubbermaid* at 14-15, n.2 ("there is no need to decide this question here. As Commerce acknowledges, each of the 13 Rubbermaid products at issue is made of both aluminum extrusions and other (non-extruded aluminum) materials.").

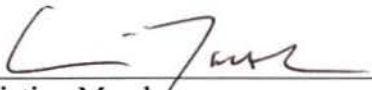
⁸³ See *Geodesic Domes Kits Scope Ruling* at 7.

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 Delphi's Assemblies at issue do not meet the exclusion criteria for finished merchandise or for "finished goods kits," and thus are subject to the scope of the *Orders*.

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

Agree Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

11/24/15

Date