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Scope Ruling: Silver Spring Networks Enclosure Kit

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AD/CVD Operations, OVI: SHoefke

January 5, 2016

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: Scott Hoefke *SAH*
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SUBJECT: Antidumping and Countervailing Duty Orders on Aluminum
Extrusions from the People's Republic of China: Final Scope
Ruling on Plexus Corporation's Silver Spring Networks Enclosure
Kit

SUMMARY

Based on the scope ruling request from Plexus Corporation (Plexus)¹ to determine whether its Silver Spring Networks Enclosure (SSN Enclosure) shipped either by itself, in a kit (SSNE Kit), or grouped together with other parts are subject to the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (PRC),² the Department of Commerce (Department) determines that the SSN Enclosure is included the scope of the *Orders*, except when it is shipped as the SSNE Kit.

¹ See Letter from Plexus to the Secretary of Commerce, "Section 351.225(c) Scope Ruling Request: SSNE; Aluminum Extrusion Antidumping Duty Order A-570-967 U.S. Tariff Classification 8517.70.0000," dated May 12, 2015; see also Letter from Plexus to the Secretary of Commerce, Section 351.225(c) Scope Ruling Request: SSNE; Aluminum Extrusion Countervailing Duty Order C-570-968 U.S. Tariff Classification 8517.70.0000," dated May 14, 2015 (collectively 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 12, 2015 and May 14, 2015, Plexus requested that the Department determine whether its: 1) SSN Enclosure; 2) SSNE Kit; and 3) combinations of spare parts, including enclosures and faceplates are outside the scope of the *Orders*. On June 17, 2015, the Department extended the deadline 45 days to August 12, 2015. On June 19, 2015, the Department requested that Plexus revise the certifications in its submissions and the 45 day deadline would start upon receipt of requested documents. On July 9, 2015, Plexus submitted the revised certifications as requested making the deadline August 23, 2015. On July 30, 2015, the Department extended the deadline 45 days to October 7, 2015. On October 2, 2015, Aluminum Extrusions Fair Trade Committee (Petitioner) requested a two-week extension of the deadline for the Department to issue a scope ruling. On October 6, 2015, the Department extended the deadline by 45 days to November 21, 2015. On November 12, 2015, the Department extended the deadline by an additional 45 days to January 5, 2016. No party submitted comments regarding Plexus'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, 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 this order are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 9031.90.90.95, 7616.10.90.90, 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 these *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.³ 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.⁴ 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.⁵

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

Plexus describes the SSN Enclosure as follows:

{The SSN Enclosure} is an enclosure, classifiable under HTS US 8517.70.0000. Plexus purchases the enclosure to be used when manufacturing product for its customer. The extruded aluminum bridge enclosure originates in China from Chinese material. The Aluminum Series number is 6063 containing 0.697% Magnesium by weight and 0.3286% Silicon by weight.⁶

Plexus also describes the SSNE Kits as follows:

The {SSNE Kit} consists of the following unassembled components: 1) one extruded aluminum bridge enclosure, 2) one front faceplate of rolled aluminum, 3) one back faceplate of rolled aluminum, and 4) eight screws to affix the three components to each other.

The components are made specifically for this purpose and, except for the screws, each component has no functionality with the others. The extruded aluminum bridge enclosure originates in China from Chinese material. The Aluminum Series number is 6063 containing 0.697% Magnesium by weight and 0.3286% Silicon by weight.

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

⁴ See 19 CFR 351.225(k)(1).

⁵ See 19 CFR 351.225(d).

⁶ See Scope Ruling Request at 2, *see also* Attachment 1. In Attachment 1, Figure A shows the SSN Enclosure (the solid blue piece) with circuit board (not included with SSNE Kit).

The unassembled {SSNE Kit} is a subassembly to the Plexus end product, and, after kit assembly, is used by Plexus as a port descriptive, port stabilizer, and protective enclosure for its printed circuit assembly, which is inserted into the bridge enclosure. The classification of the {SSNE Kit} is 8517.70.0000. Plexus then affixes the front faceplate and the back faceplate to the bridge enclosure (using the eight screws provided with the Kit) to ready it for further assembly into Plexus' end product.⁷

Plexus also describes the spare parts shipment as follows:

...a shipment, containing {SSN Enclosures} and faceplates... For, example, one box would contain individually wrapped {SSN Enclosures}, individual wrapped front faceplates, individually wrapped back faceplates, and other spare parts. If these parts were combined, the quantity would not come out to an even number of kits, there would be leftover pieces.⁸

RELEVANT SCOPE DETERMINATIONS⁹

Geodesic Domes Kits Scope Ruling¹⁰

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.¹¹ 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.”¹² As J.A. Hancock’s kits only consisted 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*.

⁷ *Id.*, at 3, *see also* Attachment 1.

⁸ *Id.*, at 6-7.

⁹ *See* the memorandum from Scott Hoefke to The File, “Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China: Prior Scope Rulings Relevant to this Proceeding,” dated concurrently with this memorandum (Relevant Scope Rulings Memorandum).

¹⁰ *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); *see also* (Relevant Scope Rulings Memorandum at Attachment 1.

¹¹ *See* Geodesic Domes Kits Scope Ruling at 7.

¹² *Id.*

Pool Poles, Skimmers, and Rakes¹³

The Department found that certain telescopic pool poles, detachable skimmer poles and leaf skimmers and rakes were comprised of both extruded aluminum components and non-extruded aluminum materials (*i.e.*, plastic handles, plastic frames, and nylon netting), that these non-extruded aluminum materials go beyond mere fasteners, and, thus, the products at issue met the initial Geodesic Dome Kits test for determining whether a good constitutes finished merchandise or a finished goods kit.¹⁴ Furthermore, because the information on record indicated that the requested products were fully and permanently assembled and completed merchandise at the time of entry, the Department found that certain poles, skimmers, and rakes met the exclusion criteria for finished merchandise and were, therefore, excluded from the scope of the *Orders*.¹⁵

Side Mount Valve Control Kits Scope Rulings¹⁶

At issue in the scope ruling were certain side-mount valve controls (SMVC) kits that are used in pumping apparatuses that attached to fire engines. The requestor argued that an SMVC kit, as imported, contains all the components necessary to complete the product and that all SMVC components and hardware are fully fabricated and require no further finishing or fabrication prior to being assembled. On this basis, the requestor argued that the product in question met the exclusion criteria for “finished goods kits.”¹⁷

In the scope ruling, the Department explained that, upon further reflection of the language in the scope of the *Orders*, it was revising the manner in which it determines whether a given product is “finished merchandise” or a “finished goods kit.” The Department explained that it identified a concern with its prior analysis, namely that it may lead to unreasonable results. The Department explained that an interpretation of “finished goods kit” which requires all parts to assemble the ultimate downstream product may lead to absurd results, particularly where the ultimate downstream product is, for example, a fire truck. The Department explained that such an interpretation may expand the scope of the *Orders*, which are intended to cover aluminum extrusions.¹⁸

The Department determined that the scope, taken as a whole, indicates that “subassemblies” (*i.e.*, “partially assembled merchandise”) may be excluded from the scope provided that they enter the United States as “finished merchandise” or a “finished goods kits” and that the “subassemblies” require no further “finishing” or “fabrication.” Therefore, the Department analyzed whether the

¹³ See the memorandum from Eric B. Greynolds to Christian Marsh, “Final Scope Ruling on Pool Poles, Skimmers, and Rakes,” dated November 24, 2014 (Pool Poles Scope Ruling); *see also* (Relevant Scope Rulings Memorandum at Attachment 2.

¹⁴ See Pool Poles Scope Ruling at 17.

¹⁵ *Id.*, at 17-19.

¹⁶ See Memorandum from John Conniff and Eric B. Greynolds to Christian Marsh entitled, “Initiation and Preliminary Scope Ruling on Side Mount Valve Controls,” dated September 24, 2012 (Preliminary SMVC Kits Scope Ruling), unchanged in the memorandum from John Conniff and Eric B. Greynolds to Christian Marsh entitled, “Final Scope Ruling on Side Mount Valve Control Kits,” dated October 26, 2012 (Final SMVC Scope Ruling) (together, SMVC Kits Scope Rulings); *see also* (Relevant Scope Rulings Memorandum at Attachment 3.

¹⁷ See Preliminary SMVC Kits Scope Ruling at 2.

¹⁸ *Id.*, at 7.

SMVC kits at issue constituted a subassembly that enters the United States as a “finished goods kit.” In order for the SMVC kit to be excluded from the scope of the *Orders*, the Department found that: (1) the SMVC kit must contain all of the parts necessary to assemble a complete SMVC; (2) all of the components and hardware of the SMVC kit must be fully fabricated and required no further finishing or fabrication prior to being assembled; and (3) once assembled, the SMVC must be ready for use in conjunction with the downstream product upon installation.¹⁹ Based on this analysis, the Department found that the SMVC kits at issue met the exclusion criteria for subassemblies that enter the United States as “finished goods kits.”²⁰

Delphi Core Heater Tubes²¹

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.²² 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.²³

TSS Wind Sign Frames Scope Ruling²⁴

At issue in this ruling were certain Wind Sign Frames that were designed to display or incorporate customizable materials such as graphics or retail advertisements.²⁵ The Wind Sign Frames consisted of extruded aluminum parts assembled with other non-extruded aluminum components, such as a plastic insert, galvanized steel corner supports, and flexible, heavy steel springs.²⁶ In this ruling, the Department determined that these non-extruded aluminum components go beyond mere fasteners.²⁷ Also, the Department found that the product at issue was fully and permanently assembled and completed at the time of entry. Lastly, the Department found that, similar to prior scope rulings, the Wing Sign Frames can be used after importation with interchangeable bases made of plastic or steel, chosen by the end user. For this reason, the Department found that it was unreasonable to require the TSS Wind Sign Frames to be imported with interchangeable bases in order to meet the provisions of the finished goods exclusion set

¹⁹ *Id.*

²⁰ *Id.*, at 7-8.

²¹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Delphi Core Heater Tubes,” dated October 14, 2014 (Delphi Core Heater Tubes Scope Ruling), *see also* Prior Scopes Memorandum at Attachment 4.

²² *Id.*, at 4 - 5.

²³ *Id.*, at 10 – 11.

²⁴ See Memorandum entitled, “Final Scope Ruling on TSS, Inc.’s Wind Sign Frames,” dated June 15, 2015. (“Wind Sign Frames Scope Ruling”), *see also* Prior Scopes Memorandum at Attachment 5.

²⁵ *Id.*, at 5.

²⁶ *Id.*, at 12.

²⁷ *Id.*, at 12-13.

forth in the scope description.²⁸ The Department concluded that TSS, Inc.’s Wind Sign Frames were “finished merchandise” and thus, excluded from the scope of the *Orders*.²⁹

ARGUMENTS FROM INTERESTED PARTIES

Plexus’ Comments

Plexus contends the SSN Enclosure is excluded from the *Orders* as “finished merchandise” because 1) there is no further finishing or fabrication done to the enclosure after it is imported; 2) the enclosure is imported ready for consumption in the manufacturing process, *i.e.*, insertion of a circuit board assembly, and attachment of the faceplates.

Plexus also contends when the SSN Enclosure is in the SSNE Kit, the SSNE Kit is excluded from the *Orders* because 1) it is comprised of a group of finished goods (components) that are imported to the U.S. unassembled in a shipment as a “finished goods kit” as described by the *Orders*; 2) it is a subassembly to the final Plexus downstream end product that is consistent with prior scope rulings.³⁰ Additionally, Plexus adds that the kits are purchased on a single purchase order, shipped together, billed on a single commercial invoice, and are received at the same time. There is no repackaging, Plexus states, which occurs post-importation to create the finished goods kit.³¹

Finally, Plexus contends that a shipment of the SSN Enclosure as parts with faceplates and screws in the same shipment as spare parts would also qualify as a kit and be excluded from the *Orders*.

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 Plexus’ 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).

According to Plexus, the SSN Enclosure can be imported either by itself, in the SSNE Kit, or grouped together as parts.³² We will first examine whether the SSN Enclosure, by itself, meets

²⁸ *Id.*, at 13.

²⁹ *Id.*

³⁰ See Scope Ruling Request at 6. Plexus references prior aluminum extrusion scope rulings of Louver Assemblies (Sept 9, 2013), Microchannel Heat Exchangers (Nov. 3, 2014), Side Mount Valve Controls (Oct. 26, 2012), Taco Holders Racks and Poles (Aug. 18, 2014), and Motorized Arm Sets (Nov. 4, 2014).

³¹ *Id.* Plexus references prior aluminum extrusion scope ruling on Screen Kits (Sept 12, 2013).

³² *Id.*, at 2, 3, and 6.

the “finished merchandise” exclusion requirements. We will then examine if the SSN Enclosure, when grouped with other spare parts used in SSNE Kits, but not complete kits, can be considered excluded from the *Orders* as a “finished goods kit.” Finally, we will examine the SSNE Kit to determine if it meets the requirements of a “finished goods kit” under the *Orders*.

For the reasons set forth below, we find that Plexus’ SSN Enclosure shipped either by itself or grouped together with other parts as spare parts does not meet the exclusion criteria for “finished merchandise” or a “finished goods kit.” However, we also find that when the SSN Enclosure is shipped with other products that make up the complete SSNE Kit, specifically faceplates made of rolled aluminum, the SSNE Kit is excluded from the *Orders* as a “finished goods kit.”

SSN Enclosure

As noted above, the scope of the *Orders* excludes “finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry.”³³ The Department frequently refers to this as the “finished merchandise” exclusion.

The SSN Enclosure is an aluminum extruded product originating from China and made from Chinese inputs.³⁴ Plexus argues that the SSN Enclosure should be classified as a “finished good” as no further finishing or fabrication, *e.g.*, cutting or punching, is done after importation and it is imported ready for consumption in the manufacturing process.

We disagree with Plexus. 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, the scope language describes excluded finished merchandise as “containing aluminum extrusions *as parts*....” As previously explained in the Wind Sign Frames Scope Ruling, this language means that the excluded “finished merchandise” must contain both aluminum extrusions “as parts” as well as an additional non-extruded aluminum component.³⁵ 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.³⁶

Indeed, Plexus’ interpretation of the scope of the *Orders* would allow the “finished merchandise” exception to swallow the rule embodied by the scope. If a single cohesive piece of extruded aluminum, or a collection or combination of such pieces which has been merely fabricated in the manner described in the scope of the orders³⁷ is rendered out of scope merely because it is

³³ See the *Orders*.

³⁴ See Scope Ruling Request at 2.

³⁵ See Wind Sign Frames Scope Ruling at 11 - 12.

³⁶ See Pole Handles Scope Ruling at 12. See also Delphi Core Heater Tubes Scope Ruling at 10 – 11.

³⁷ See the *Orders* and the “Scope of the Orders” section, above: “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.”

“finished” in the sense that such fabrication has been completed, or in some more general sense, then every further fabricated aluminum extrusion article is also excluded. We do not find that interpretation to be reasonable.

For similar reasons, in the Delphi Core Heater Tubes Scope Ruling, the Department found that products which consist only of aluminum extrusions are not “finished merchandise” under this exclusionary scope language.³⁸ The Department explained that products that consist of aluminum extrusions and fasteners are not considered a “finished good kit” as explained in the scope of the *Orders*.³⁹ The Department also explained that products identified by their end use consisting solely of aluminum extrusions do not meet the exclusion for finished goods because “the products consist entirely of aluminum extrusions.”⁴⁰ Thus, in the instant case, because the SSN Enclosure is only composed of aluminum extrusions, it therefore does not meet the requirements for the finished merchandise exclusion.

In addition, the description of the merchandise in the Petition, which is a factor identified in 19 CFR 351.225(k)(1), does not support Plexus’ reasoning. 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.⁴¹ 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 clearly include products such as the SSN Enclosure:

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	Aluminum extrusions designed for use in, <i>e.g.</i> , a door, window, or solar panel

³⁸ See Delphi Core Heater Tubes Scope Ruling at 9-14.

³⁹ *Id.*, at 10-11.

⁴⁰ *Id.*, at 11.

⁴¹ See Relevant Scope Rulings Memorandum at Attachment 2.

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 1	
Product Type	Product Examples
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
<ul style="list-style-type: none"> • 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). 	

With regard to this chart, Plexus’ merchandise would be considered “aluminum extrusions, not further fabricated,” and therefore would be considered subject merchandise under the examples provided in the Petition.

SSN Enclosure and Spare Parts Shipment

The scope of the *Orders* also contain a “finished goods kit” exclusion:

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.

Plexus argues that because it considers the SSN Enclosure to be a finished product, then a shipment containing SSN Enclosures along with “spare” faceplates to be used in SSNE Kits should be excluded as

a “finished goods kit.” However, the “finished goods kits” exclusion requires that “all of the necessary parts to fully assemble a final finished good” must be contained in the shipment “at the time of importation.” Because the SSN Enclosure is not “finished merchandise” under the finished merchandise exclusion for the reasons described above, and because the spare parts shipments do not have all of the necessary parts to fully assemble a final finished good at the time of importation, the merchandise in this type of shipment, *i.e.*, SSN Enclosures with Spare Parts shipments, is also covered by the scope of the *Orders*.

The SSNE Kit

Finally, Plexus argues that its SSNE Kit should be excluded from the *Orders* as a finished goods kit. For the reasons described below, we agree. The SSNE Kit consists of an aluminum extruded product, *i.e.*, the SSN Enclosure, as well as two rolled aluminum faceplates and eight screws.⁴² After importation, a circuit board must be inserted into the Enclosure, and the faceplates are attached to both the front and the back of the Enclosure to complete the ultimate product.⁴³ The list of components in the Scope Ruling Request demonstrates that, in addition to extruded aluminum components and fasteners, the SSNE Kit includes non-extruded aluminum, *i.e.*, rolled aluminum.⁴⁴ Therefore, we find that the SSNE Kit meets our first test for determining whether a good constitutes a “finished goods kit,” as established in the Geodesic Domes Kits Scope Ruling.⁴⁵

In addition, as in the Side Mount Valve Control Kits Scope Rulings, we determine that Plexus’ SSNE Kit, once completed, is a finished subassembly.⁴⁶ As explained above, “subassemblies” are partially assembled merchandise that require no further finishing or fabrication. We note that the circuit board is not imported with the other merchandise which makes up the final product. Therefore we analyzed: 1) whether or not Plexus’ SSNE Kit contains all of the parts necessary to assemble the electronic component under review, exclusive of the circuit board; 2) if the components and hardware of the SSNE Kit were fully fabricated and required no further finishing or fabrication prior to being assembled; and 3) if once assembled upon importation, the SSNE Kit could be ready for use in conjunction with the downstream product upon installation.⁴⁷

Information in Plexus’ Scope Ruling Request (*e.g.*, narrative statements and product instructions) indicates that its SSNE Kit contains all of the parts necessary to assemble the electronic component under review, the parts in the SSNE Kit are fully fabricated and require no further finishing or fabrication prior to being assembled, and once assembled upon importation, the merchandise is ready for use in conjunction with the downstream product upon installation.⁴⁸ Accordingly, we have determined that Plexus’ SSNE Kit is a “finished goods kit” which is excluded from the scope of the *Orders*.

⁴² See Scope Ruling Request at 3-5.

⁴³ *Id.*

⁴⁴ *Id.*, at 3.

⁴⁵ See Geodesic Domes Kits Scope Ruling at 7, where the Department found that, since the products at issue consisted solely of extruded aluminum and fasteners, the exception to the exclusion provision applied. Accordingly, the Department found that the products at issue did not meet the exclusion criteria for a finished goods kit.

⁴⁶ See Side Mount Valve Control Kits Scope Rulings.

⁴⁷ See Preliminary SMVC Kits Scope Ruling at 7.

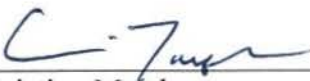
⁴⁸ See Scope Ruling Request at 3-6.

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 Plexus' SSN Enclosure and shipments of the SSN Enclosure with spare parts are included within the scope of the *Orders*, while the SSNE Kit is excluded from 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, as directed by 19 CFR 351.225(d).

Agree Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

1/5/16

Date

Attachment 1

Figure A:



Figure B:

