



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

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Scope Ruling
Exercise Equipment Bases
Public Document
E&C AD/CVD OIII: EBG

October 23, 2014

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

THROUGH: Melissa Skinner *EBG* for M.S.
Director, Office III
Antidumping and Countervailing Duty Operations

FROM: Eric B. Greynolds *EBG*
Program Manager, Office III
Antidumping and Countervailing Duty Operations

RE: Antidumping and Countervailing Duty Orders on Aluminum
Extrusions from the People's Republic of China

SUBJECT: Final Scope Ruling on Exercise Equipment Bases

SUMMARY

On July 25, 2014, the Department of Commerce (Department) received a scope ruling request from Core Industries LLC (dba as Star Trac, hereinafter referred to as Star Trac)¹ to determine whether the exercise equipment bases it imports are subject to the antidumping (AD) and countervailing duty (CVD) *Orders* referenced above.² On the basis of our analysis of the Scope Request, we determine that the exercise equipment bases at issue are not covered by the scope of the *Orders*.

BACKGROUND

On July 25, 2014, Star Trac, an importer of the exercise equipment bases at issue, filed the Scope Request. On August 25, 2014, the Department extended the deadline for the ruling until October

¹ See Star Trac's July 25, 2014, submission (Scope Request).

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



27, 2014.³ To date no other interested party has filed comments in response to the Scope Request.

SCOPE OF THE ORDERS

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

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

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including bright-dip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swaged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

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

³ See the Department's August 25, 2014, letter.

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 (HTS): 7610.10.00, 7610.90.00, 7615.10.30,

7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8516.90.50.00, 8516.90.80.50, 8708.80.65.90, 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, 9403.90.80.30, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 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.

While HTS subheadings are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.⁴

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.⁵ 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.⁶ 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.

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.

⁴ See *Orders*.

⁵ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁶ See 19 CFR 351.225(k)(1).

DESCRIPTION OF MERCHANDISE SUBJECT TO THIS SCOPE RULING

The products at issue in this Scope Request consist of kits for four types of exercise equipment bases, which we describe below.

The E-TRx treadmill base: The kit contains an aluminum frame, non-extruded aluminum plate stock, motor and steel motor housing, circuit boards for motor and fan operation, treadmill track and steel rollers, plastic motor shroud, left and right steel handrails, and the steel front neck assembly. The kit does not contain the electronic video console, which Star Trac states is customizable and generally (but not always) imported separately from the base kit. The attached installation instructions indicate that along with the LED Display, an iPod kit, MYE Entertainment (wireless) Kit, and/or Personal Viewing Screen kit can be installed into the console.⁷

The E-RB recumbent bike base: The kit contains an aluminum base beam, steel framing, a generator, electronics, pedals, the neck tube, the seat assembly, the handlebar assembly, and the display weldment (the frame where the console is inserted). Star Trac indicates that the kit does not contain the electronic, customizable video console. The attached assembly guide indicates that an LED Display, Embedded Display, or Personal Viewing System (PVS) can be used on this equipment.⁸

The E-UB upright bike base: The kit contains a frame composed of both aluminum and steel parts, a generator, electronics, pedals, the neck tube, the seat tube with seat and sleeve, and the display weldment. Star Trac indicates that the kit does not contain the electronic, customizable video console. The attached assembly guide indicates that an LED Display, Embedded Display, or Personal Viewing System (PVS) can be used on this equipment.⁹

The eSpinner bike universal base: The kit contains an aluminum handlebar post, seat post, and seat slider assembly. It also contains a steel frame, front and rear feet assemblies, pedals, and a "console post" (to which the missing electronic, customizable video console is attached).¹⁰ Although the eSpinner model has a console post, it is "fully functional as a group cycling machine without the console."¹¹

All four models are comprised of extruded aluminum as well as non-aluminum materials. All four models enter as kits that contain all of the parts necessary to assemble an exercise base. The bases require no further finishing or fabrication upon importation. After importation, once constructed, the electronic "customizable" console is attached separately.¹²

⁷ See Scope Request at 3-5 and Exhibit 1, which includes photographs and diagrams of the E-TRx Treadmill base in its original packaging as imported.

⁸ *Id.*, at 5-6 and Exhibit 2 at 4-6, which provides photographs and diagrams of the ER-B universal base components as imported.

⁹ *Id.*, at 7-8 and Exhibit 2 at 2-3, which provide photographs and diagrams of the EU-B upright bike base components as imported.

¹⁰ *Id.*, at 8-9 and Exhibit 3 at 3-5, photographs and diagrams of the ER-B universal base components as imported.

¹¹ *Id.*, at 18.

¹² *Id.*, at 3-9, 21, and Exhibits 1-3.

PRIOR SCOPE RULINGS CITED BY INTERESTED PARTIES OR OTHERWISE RELEVANT TO THIS PROCEEDING¹³

Geodesic Domes Scope Kits Ruling¹⁴

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

In the scope ruling, the Department explained that because the kits at issue contained all of the parts necessary at the time of importation “to fully assemble a final, finished good,” it met the “initial requirements for inclusion into the finished goods kit exclusion.”¹⁵ However, the Department noted that the scope of the *Orders* states that an “imported product will not be considered a ‘finished goods kit’ . . . merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.”¹⁶ The Department found that because the kits at issue consisted solely of extruded aluminum tubes 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.¹⁷

Side Mount Valve Controls Kits Scope Rulings¹⁸

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 a 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.”¹⁹

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

¹³ For information regarding the scope rulings referenced in this section, *see* the Memorandum to the File from Eric B. Greynolds, Program Manager, Office III, Operations, “Prior Scope Rulings Relevant to this Proceeding”, dated concurrently with this memorandum.

¹⁴ *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on J.A. Hancock, Inc.’s Geodesic Structures,” (July 17, 2012) (Geodesic Domes Kits Scope Ruling).

¹⁵ *Id.*, at 7.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *See* the Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Initiation and Preliminary Scope Ruling on Side Mount Valve Controls,” (September 24, 2012) (Preliminary SMVC Kits Scope Ruling), unchanged in Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Side Mount Valve Controls,” (October 26, 2012) (Final SMVC Kits Scope Ruling) (together, “SMVC Kits Scope Rulings”).

¹⁹ *Id.*, at 2.

a “finished good” or “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.²⁰

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 goods” or “finished goods kits” and that the “subassemblies” require no further “finishing” or “fabrication.” Therefore, the Department analyzed whether the SMVC kits at issue constituted a subassembly that enters the United States as a “finished goods kit.” In order for such a kit to be excluded from the scope of the *Orders*, the Department found that: 1) the SMVC kit contained all of the parts necessary to assemble a complete SMVC; 2) all of the components and hardware of the SMVC kit were fully fabricated and required no further finishing or fabrication prior to being assembled; 3) once assembled, the SMVC was ready for use in conjunction with the downstream product upon installation.²¹ Based on this information, the Department found that the SMVC kits at issue met the exclusion criteria for subassemblies that enter the United States as “finished goods kits.”²²

Meridian Products²³

At issue in this scope ruling were certain refrigerator/freezer trim kits designed to frame the space occupied by a refrigerator or freezer. In the underlying scope ruling, the Department found the product to be inside the scope of the *Orders* on the grounds that the product, which consisted solely of extruded aluminum, save for fasteners, failed to meet the Department’s first test for determining whether a good constitutes a finished good, as established in the Geodesic Domes Scope Ruling.²⁴

The Court of International Trade (the CIT) remanded to the Department to consider whether the trim kits at issue were designed to display customizable materials or work with removable or replaceable parts, and therefore potentially warrant exclusion from the *Orders*.²⁵ To date, the litigation in *Meridian Products* is still ongoing.

²⁰ *Id.*, at 7.

²¹ *Id.*

²² *Id.*, at 7-8.

²³ See *Meridian Products v. United States*, 971 F. Supp 2d 1259, 1265 (CIT 2014) (*Meridian Products*).

²⁴ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Refrigerator/Freezer Trim Kits,” (December 17, 2012) (Trim Kits Scope Ruling) at 10-11.

²⁵ See *Meridian Products*, 971 F. Supp 2d at 1261-1271.

Solar Panel Mounting Systems Kits Scope Ruling²⁶

At issue in this scope ruling were solar panel mounting systems kits, comprised of extruded aluminum rails as well as extruded and aluminum casted kedges, galvanized steel posts, and various steel bolts, clamps, and brackets.²⁷ In the scope 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 further found that the products could be assembled “as is” into finished products for mounting solar panels. The Department explained pursuant to this determination that like “picture frames, banner stands and backwall kits, the mounting systems are designed to work with removable/replaceable components . . . and need not include these non-essential parts to constitute a finished good (i.e., a complete solar panel mounting system).”²⁸ Thus, the Department concluded that the products at issue were excluded from the scope of the *Orders* as “finished good kits.”²⁹

Valeo Final Remand Redetermination³⁰

At issue in this scope ruling and subsequent remand 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.³¹ In the final remand redetermination, the Department, applying the subassemblies test from the SMVC Kits Scope Rulings, concluded that “at the time of importation, the products at issue contain all of the necessary components required for integration into a larger system,” and, thus, there was no meaningful distinction between the products at issue and those examined in the SMVC Kits 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

²⁶ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Clenergy (Xiamen) Technology’s Solar Panel Mounting Systems,” (October 31, 2012) (Solar Panel Mounting Systems Kits Scope Ruling).

²⁷ *Id.*, at 6-7.

²⁸ *Id.*, at 9 (citing the Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Banner Stands and Back Wall Kits,” (October 19, 2011), in which the Department determined the kits at issue were excluded from the scope of the *Orders*).

²⁹ *Id.*, at 9.

³⁰ 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 CIT. See *Valeo, Inc. et al v. United States*, CIT No. 12-00381, dkt. #23, dated June 20, 2013 (Court Order affirming Remand Redetermination).

³¹ See Valeo Final Remand Redetermination at 5.

³² *Id.*, at 10.

Shower Door Kits Scope Ruling³³

The products at issue in this scope ruling were shower door kits consisting of: a glazed shower door panel (glass surrounded by an aluminum frame), door handles, pivot and strike door jambs (with seals), a drip rail (with vinyl and end plugs), snap-in fillers, and the required screws, spacer, washers, and tape for assembly. The requestor argued that all parts needed for the completion of a finished good were included in its shower door kit at the time of importation, and had the capability to be assembled “as is” into a finished product.³⁴ In the Shower Door Kits Scope Ruling, the Department determined that the product at issue contained all the parts necessary to assemble a final finished good – a shower door – at the time of importation and, therefore, found that the product met the exclusion criteria for finished merchandise. As a result, the Department found the product to be excluded from the *Orders*.³⁵

Fan Blades Scope Ruling³⁶

At issue in this scope ruling were fan blade assemblies that are used in several models of cooling tower applications. The blade of the fan consisted of hollow aluminum alloy extrusion. The fan blade assemblies also consisted of injection molded impact resistant glass-filled polypropylene caps at both ends of the blade, a steel blade shank, steel balance weights, and additional stainless steel hardware.³⁷ In the ruling, the Department found, pursuant to its “subassembly finished goods” test developed in the SMVC Kits Scope Rulings, that the fan blade assemblies contained parts that were fully and permanently assembled and completed at the time of entry, required no further finishing or fabrication prior to being incorporated into the downstream product, the cooling tower, and, thus, met the exclusion criteria for subassemblies that enter the United States as “finished goods.”³⁸

Disappearing Door Screens Kits Scope Ruling³⁹

At issue in this scope ruling were disappearing door screens, which are devices that may be installed across a door opening as a screen, but may be retracted and concealed when not in use. The disappearing door screen kits consisted of the following parts that are primarily constructed of aluminum hollow profiles whose aluminum is designated as Aluminum 6063 (or AA 6063): housing, a top track, a bottom track, a track protector, and a side profile. Additionally, the disappearing door screen kits included a mesh screen, a rubber magnet, and an accessory kit.⁴⁰ The requestor argued that the disappearing screens may be assembled “as is” and that further

³³ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling: Shower Door Kits,” (November 7, 2011) (Shower Door Kits Scope Ruling).

³⁴ *Id.*, at 5.

³⁵ *Id.*, at 6.

³⁶ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Fan Blade Assemblies,” (July 23, 2014) (Fan Blades Scope Ruling).

³⁷ *Id.*, at 5.

³⁸ *Id.*, at 16.

³⁹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Law St. Enterprises, LLC’s Disappearing Door Screens,” (September 12, 2013) (Disappearing Door Screen Kits Scope Ruling).

⁴⁰ *Id.*, at 5.

fabrication and cutting are not necessarily required for installation.⁴¹ In the ruling, the Department analyzed whether the kits met two criteria in the scope that define finished goods kits: 1) 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 2) whether or not the kits required no further finishing or fabrication, such as cutting or punching, to be assembled “as is” into a finished product. The Department found that the disappearing door screen kits did not meet the first criterion because upon importation it was necessary for the imported products to be opened, re-arranged, and re-packaged, before being sold to the end user as a kit ready to be assembled into a finished good.⁴²

ARGUMENTS FROM INTERESTED PARTIES

Star Trac's Arguments

- The Court recognized two categories of merchandise within the “finished goods kits” exception to the scope of the *Orders*: (1) products that are designed to be used with removable or replaceable parts; and (2) subassemblies that are inherently part of a larger whole. The exercise equipment bases at issue fall within both categories of extruded goods.
- In *Meridian Products*, the Court found that the Department established two general criteria in order to for a product to be excluded from the *Orders*:
 1. It must “include all the necessary parts to fully assemble a final finished good with no further processing or fabrication, such as cutting or punching; and
 2. It must be capable of assembly “as is” into a finished product.⁴³
- The Court further held in *Meridian Products* that a finished good will be excluded from the *Orders* if it satisfies one of the following criteria:
 1. It is designed to display customizable materials; or
 2. It is designed to incorporate customizable materials; or
 3. It is designed to work with removable or replaceable parts.⁴⁴
- In *Meridian Products*, the Court concluded that the Department failed to examine whether the refrigerator/freezer trim kits at issue were designed to incorporate customizable materials or to work with removable or replaceable parts.⁴⁵
 - Similarly, in the Solar Panel Mounting Systems Kits Scope Ruling, the Department found that the kit was analogous to extruded aluminum picture frames with glass that are designed to work with removable/replaceable components and, thus, when assembled constituted finished goods kits.⁴⁶
 - In reaching its conclusion in the Solar Panel Mounting Systems Kits Scope Ruling, the Department found that the mounting systems were generally compatible with solar panels available in the market, imported and sold separately from the solar panels with which they were designed to be used, and designed to be used with removable and replaceable solar panels.⁴⁷

⁴¹ *Id.*

⁴² *Id.*, at 9.

⁴³ See *Meridian Products*, 971 F. Supp 2d at 1265.

⁴⁴ *Id.*, at 1265-1266.

⁴⁵ *Id.*, at 1267.

⁴⁶ See Solar Panel Mounting Systems Kits Scope Ruling at 9.

⁴⁷ *Id.*

- The exercise equipment bases at issue are akin to the products examined in *Meridian Products*. The exercise equipment bases, which are imported unassembled with all necessary components to assemble a finished good, are designed to “work with removable/replaceable components” (*i.e.*, customizable video consoles) and, thus, in accordance with *Meridian Products* are excluded from the scope of the *Orders*.
- The products at issue also satisfy the “subassemblies” test as established in the SMVC Kits Scope Rulings and the Valeo Final Remand Redetermination. Similar to SMVC Kits and the Valeo Final Remand Redetermination, the products at issue are part of a larger whole. Specifically, the bases when connected with a console form a completed piece of exercise equipment.
- Further, as with SMVC Kits, the products at issue are imported unassembled in kit form.
- The facts of the instant proceeding are distinct from other proceedings in which the Department found that the “subassemblies” test from the SMVC Kits Scope Rulings does not apply. For example, in the Disappearing Door Screen Kits Scope Ruling the Department found the door screens inside the scope of the *Orders* because, upon importation, they were re-opened, re-arranged, and re-packaged. In contrast, all components of each exercise equipment base at issue are packaged together in a single carton.
- Additionally, the exercise equipment bases at issue are analogous to the products examined in the Solar Panel Mounting Systems Kits Scope Ruling. Consistent with the Solar Panel Mounting Systems Kits Scope Ruling in which the panel frames were only used in conjunction with solar panels, the exercise equipment bases at issue are only used with console displays.
- Second, consistent with the products in the Solar Panel Mounting Systems Kits Scope Ruling in which the solar panels were imported separately, the exercise equipment bases are imported separately from the consoles.
- Third, the solar panels for which the solar panel frames were designed were removable and replaceable. Similarly, the consoles that work with the exercise equipment bases at issue can be removed and replaced as needed.
- Fourth, as with the panel frames examined in the Solar Panel Mounting Systems Kits Scope Ruling, the exercise equipment bases at issue are imported with all components necessary to assemble final finished universal bases.⁴⁸
- Additionally, the products at issue are outside the scope pursuant to 19 CFR 351.225(k)(2).⁴⁹

Department’s Position: The Department examined the language of the *Orders* and the description of the products contained in this Scope Request, as well as previous rulings made by the Department. We determine that the description of the products, the scope language, and prior rulings, are, together, dispositive as to whether the products at issue are subject merchandise, in accordance with 19 CFR 351.225(k)(1). Accordingly, for this determination, the Department finds it unnecessary to consider the additional factors specified in 19 CFR 351.225(k)(2). For the reasons set forth below, we find that the exercise equipment bases at issue meet the exclusion criteria for a “finished goods kit” or constitute subassemblies that enter the United States as

⁴⁸ *Id.*

⁴⁹ See Scope Request at 21-23.

excluded “finished goods kits,” per the test the Department applied in the SMVC Kits Scope Ruling.⁵⁰

According to the scope, “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, however, “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 information provided by Star Trac (*e.g.*, narrative statements, photographs, and product diagrams) indicates that the exercise equipment bases at issue include steel materials and other non-extruded aluminum parts, and, thus, the products do not consist entirely of extruded aluminum.⁵¹ Because the exercise equipment bases contain non-extruded aluminum parts other than fasteners, we find the products meet the Department’s first test for determining whether a good constitutes a finished good or a finished goods kit, as established in the Geodesic Domes Kit Scope Ruling.⁵²

Having met the Department’s first test, we next examined whether the products at issue meet the exclusion criteria for a finished goods kit. Information from Star Trac indicates that the eSpinner bike base kit contains, at the time of importation, all of the necessary parts to fully assemble a final finished good (*e.g.*, a fully functioning piece of exercise equipment that may be used as a group cycling machine) that upon assembly is ready for use, as is, and requires no further finishing or fabrication.⁵³ Therefore, based on this information, we find that the eSpinner bike universal base at issue constitutes a finished goods kit that is excluded from the scope of the *Orders*. Our finding in this regard is consistent with the Department’s analysis in prior scope determinations, such as the Shower Door Kits Scope Ruling.⁵⁴

Concerning the E-TRx treadmill base, E-RB recumbent bike base, and E-UB upright bike base, Star Trac did not indicate that these products are fully functional upon assembly. Therefore, we analyzed whether the products constitute finished subassembly goods kits pursuant to the analysis established in the SMVC Kits Scope Rulings.

As noted above, in the SMVC Kits Scope Rulings, the Department explained that 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*” (emphasis added) and that the scope excludes “finished goods containing aluminum

⁵⁰ See Preliminary SMVC Kits Scope Ruling at 6-7; unchanged in Final SMVC Kits Scope Ruling.

⁵¹ See Scope Request 3-9, 21, and Exhibits 1-3; see also *infra* p.5, where the Department summarized the various components of the products at issue.

⁵² See Geodesic Domes Kit 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.

⁵³ See Scope Request at 18 and Exhibit 3 at 3-5.

⁵⁴ See, *e.g.*, Shower Door Kits Scope Ruling at 6.

extrusions that are entered unassembled in a ‘finished goods kit.’”⁵⁵ The Department determined that the scope indicates that “subassemblies” (*i.e.*, “partially assembled merchandise”) may be excluded from the scope provided that they enter the United States as “finished goods” or “finished goods kits” and that the “subassemblies” require no further “finishing” or “fabrication.”⁵⁶ The Department accordingly determined that whether a product meets the exclusions for “finished goods” and “finished goods kits” cannot be determined simply by examining whether it is part of a larger structure or system. Specifically, the Department found such an analysis would fail to account for scope language that expressly allows for the exclusion of kits that contain “subassemblies,” *i.e.*, merchandise that is “partially assembled” and inherently part of an ultimate downstream product.⁵⁷

Thus, in the SMVC Kits Scope Rulings, the Department determined that, in order for a product, including a subassembly kit, to be excluded from the scope of the *Orders* as a finished good kit, among other criteria, it must consist of parts that are fully fabricated and require no further finishing or fabrication prior to being assembled. Further, upon assembly, it must be ready for incorporation in a downstream product with no further finishing or fabrication.⁵⁸

In the instant scope proceeding, we analyzed whether the E-TRx treadmill base, E-RB recumbent bike base, and E-UB upright bike base at issue constitute subassemblies that enter the United States as “finished goods kits.” We determine that, at the time of importation, the E-TRx treadmill base kit, E-RB recumbent bike base kit, and E-UB upright bike kit each contain all of the necessary parts to fully assemble a finished subassembly (*e.g.*, a finished exercise base) that upon assembly is ready to be attached to, as is, to other products (a console) which, together, form the ultimate downstream product (*e.g.*, exercise apparatuses with consoles). We further find that upon importation these exercise base kits require no further finished or fabrication prior to being attached into completed exercise equipment, the ultimate downstream product.⁵⁹ Based on this information, we find that the bases meet the exclusion criteria for subassemblies that enter the United States as a “finished goods kit”

Additionally, we find that the bases at issue are distinct from the products examined in the Disappearing Door Screen Kits Scope Ruling. In the Disappearing Door Screen Kits Scope Ruling, the Department found that the kits at issue did not meet the exclusion for finished goods kits because at the time of importation, “all sections necessary to assemble a final finished product” were not “packaged together” and “after importation,” the packages had to be “opened and the parts needed to be fully assemble” the product. . . “re-packaged” prior to the products’ sale in the United States.⁶⁰ Unlike the facts of the Disappearing Door Screen Kits Scope Ruling, as noted above, we find that the parts of the exercise equipment base kits at issue are packaged together at the time of importation and are not re-packaged or re-arranged subsequent to importation.⁶¹

⁵⁵ See Preliminary SMVC Kits Scope Ruling at 7; unchanged in Final SMVC Kits Scope Ruling.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ See Scope Request 3-9, 21, and Exhibits 1-3, which indicate that the products at issue are ready for assembly, as is, into completed exercise equipment (*e.g.*, a piece of exercise equipment that consists of a base and console).

⁶⁰ See Disappearing Door Screen Kits Ruling at 9.

⁶¹ See Scope Request 3-9, 21, and Exhibits 1-3.

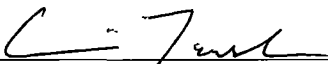
Because we find that the eSpinner bike universal base at issue constitutes a “finished goods kit” and that the E-TRx treadmill base, E-RB recumbent bike base, and E-UB upright bike base at issue constitute subassemblies that enter the United States as “finished goods kits” consistent with the Department’s analysis in the SMVC Kits Scope Ruling,⁶² we do not find it necessary to address Star Trac’s arguments concerning products that necessarily worked with “removable/replaceable” components, to which Star Trac cites *Meridian Products* and the Solar Panel Mounting Systems Kits Scope Ruling for support.⁶³

RECOMMENDATION

For the reasons discussed above, and in accordance with 19 CFR 351.225(d) and 19 CFR 351.225(k)(1), we recommend finding that the eSpinner bike universal base kit at issue constitutes a “finished goods kit” and that the E-TRx treadmill base, E-RB recumbent bike base, and E-UB upright bike base kits constitute subassemblies that enter the United States as “finished goods kits.” Accordingly, we recommend finding that all four exercise equipment base kits at issue are products that are outside 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

10/23/14

Date

⁶² See Preliminary SMVC Kits Scope Ruling at 6-7; unchanged in Final SMVC Kits Scope Ruling.

⁶³ See *Meridian Products*, 971 F. Supp 2d at 1259, 1261; see also *Solar Panel Mounting Systems Kits Scope Ruling* at 9.