



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

A-570-967
C-570-968

Scope Ruling: Seagate Head Stack Assemblies

Public Document
E&C VI: EM

December 23, 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: Emily Maloof
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 Seagate Technology LLC’s Head Stack Assemblies

SUMMARY

On September 19, 2016, the Department of Commerce (the Department) received a scope ruling request from Seagate Technology LLC (Seagate),¹ requesting that the Department find that Seagate’s “Head Stack Assemblies” (HSAs) are outside the scope of the antidumping duty and countervailing duty orders on aluminum extrusions from the People’s Republic of China (the PRC).² On the basis of our analysis, we recommending finding that Seagate’s HSAs are excluded from the scope of the *Orders*.

¹ See Letter from Seagate to the Department, “Re: Antidumping Duty and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China: Scope Request for Head Stack Assemblies,” dated September 19, 2016 (Scope 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 26, 2011, the Department published the *Orders* on aluminum extrusions from the PRC.³ On September 19, 2016, Seagate submitted its request for a scope ruling finding that its HSAs are outside the scope of the *Orders*.⁴ On November 2, 2016, the Department issued to Seagate a questionnaire addressing certain deficiencies identified in its Scope Request. On November 11, 2016, Seagate submitted a response to this questionnaire.⁵ No parties commented on Seagate's request. The current deadline for issuing this scope ruling is December 27, 2016.⁶

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 brightdip anodized), liquid painted, or powder coated. Aluminum extrusions may also be

³ See the *Orders*.

⁴ See Scope Request.

⁵ See Letter from Seagate to the Department, "Re: Supplemental Questionnaire Response in Seagate's Scope Inquiry for Head Stack Assemblies," dated November 11, 2016 (SQR).

⁶ This date reflects the next business day after the 45-day deadline of December 26, 2016. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swaged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

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

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

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

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

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

Also excluded from the scope of the *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): 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 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 the *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.⁷ Pursuant to the Department's regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from the investigations, and prior scope determinations made for the same product.⁸ If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling as to whether the merchandise is covered by an order.⁹

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

DESCRIPTION OF MERCHANDISE SUBJECT TO THIS SCOPE REQUEST

In its Scope Request, Seagate stated that its HSAs are classifiable under HTSUS number 8473.30.5100 and described its HSA as follows:¹⁰

The imported merchandise consists of complete and finished HSAs, also known as the read/write arm. Seagate describes that HSAs are components of the hard disk drive (HDD), and are signified by product numbers including 719010800, 100771181, and 718251700. However, new HDDs and HSAs are routinely being developed, and, therefore, this product number list is not all-inclusive. The function of fully assembled HSAs is to move the read/write heads mounted on the Head Gimbal Assembly (HGA) over the surface of the spinning discs so that data can be written or retrieved from magnetic storage discs. Seagate contends that it only imports finished HSAs, in fully assembled finished form, exclusively for development purposes.

The HSAs consist of the following subcomponents: (1) an extensively machined aluminum extrusion, (2) coil assembly (wound copper), (3) coil bonding adhesive, (4) pins, (5) arm dampers, (6) pivot actuator, (7) head gimbal assembly, (8) rubber gasket, (9) plastic flex clamp, and (10) a printed circuit component assembly (PCCA).

When imported, the HSAs contain all of the necessary components, permanently assembled, completed, and ready for use within an HDD. As described by Seagate, the HSA is fully and permanently assembled and completed at the time of entry into the United States. There is

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

⁸ See 19 CFR 351.225(k)(1).

⁹ See 19 CFR 351.225(d).

¹⁰ See Scope Request at 1-3.

no further finishing or fabrication of the HSA installed into the HDD. In addition, Seagate and other purchasers have no expectations of the aluminum extrusion item other than as a raw material to support production of the HSAs and ultimately the HDDs.

Furthermore, in its SQR, Seagate stated that the only extruded aluminum component of the HSA is the extruded item referenced above. Seagate also submitted an extensive list of additional HSA product codes.¹¹

RELEVANT SCOPE DETERMINATIONS¹²

1. Foreline Hose Assembly Scope Ruling¹³

At issue was Agilent Technologies, Inc.’s (Agilent) Foreline Hose Assembly (FHA) that is to be used with Agilent’s Gas Chromatography Mass Spectrometer. The FHA consists of extruded aluminum parts assembled with other non-extruded aluminum components, such as flexible PVC foreline hose tubing.¹⁴ Also, at the time of importation, the FHA could be imported as an assembled article, or as a complete, unassembled kit.¹⁵ Agilent argued that the hose assemblies contained all the necessary components such that, once assembled, the product would be ready for installation and used with the Gas Chromatography Mass Spectrometer. Since the product could be imported into the United States as an assembled article or a complete, unassembled kit, the Department made determinations for both of these forms in which the product could be imported. Regarding the assembled article, the Department found that the FHA is excluded from the scope of the *Orders* as “finished merchandise,” since it is imported as a finished product that contains finished parts, including those comprised of extruded and non-extruded aluminum components, beyond mere fasteners, that are fully and permanently assembled at the time of importation.¹⁶ With respect to the product being imported as a complete, unassembled kit, the Department also found that the FHA is excluded from the scope of the *Orders* as a “finished goods kit,” since the parts contained in the kit are ready to be fully assembled into a final finished product in an “as is” state upon importation.¹⁷ The Department also found that the FHA is consistent with the “subassemblies test,” as described in the *Valeo Final Remand Redetermination*.¹⁸

¹¹ See SQR at Exhibit 1.

¹² See Memorandum from Emily Maloof, “Re: Prior Scope Rulings Relevant to this Proceeding,” dated concurrently with this memorandum (Prior Scopes Memorandum).

¹³ See Memorandum from Davina Friedmann to Christian Marsh, “Re: Final Scope Ruling on Agilent Technologies, Inc.’s Foreline Hose Assembly,” dated August 27, 2015 (Foreline Hose Assembly Final Scope Ruling).

¹⁴ *Id.*, at 5-6.

¹⁵ *Id.*

¹⁶ *Id.*, at 12-13.

¹⁷ *Id.*, at 13.

¹⁸ *Id.*, at 13-14 (citing 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*)).

2. Valeo Final Remand Redetermination¹⁹

This remand redetermination pertained to certain automotive heating and cooling system components which the Department originally determined were encompassed within the scope of the *Orders*. The products at issue were two distinct types of automotive heating and cooling parts/components, T-Series and M-Series.²⁰ In the final remand redetermination, the Department, applying the subassemblies test from the SMVC Kits Scope Rulings,²¹ 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 constituted excluded finished merchandise as described in the *Orders*, and were not covered by the scope.

3. Geodesic Domes Kits Scope Ruling²²

At issue in the 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 ruling, the Department explained that the product at issue met the “initial requirements for inclusion into the finished goods kit exclusion.”²³ 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.”²⁴ Accordingly, the Department found that because the products at issue consisted solely of extruded aluminum and fasteners, they did not meet the exclusion criteria for a finished goods kit.²⁵

¹⁹ See *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. The *Valeo Final Remand Redetermination* was affirmed by the Court of International Trade on June 20, 2013. See *Valeo Inc. v. United States*, Ct. No. 12-00381, dkt. #23, dated June 20, 2013 (Court Order affirming Remand Redetermination).

²⁰ See *Valeo Final Remand Redetermination* at 5.

²¹ 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 final (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) (together, SMVC Kits Scope Rulings); see also Prior Scopes Memorandum at Attachment 3.

²² See Memorandum from Brooke Kennedy to Christian Marsh, “Re: Final Scope Ruling on J.A. Hancock, Inc.’s Geodesic Structures,” dated July 17, 2012 (Geodesic Domes Kits Scope Ruling); see also Prior Scopes Memorandum at Attachment 4.

²³ See Geodesic Domes Kits Scope Ruling, at 7.

²⁴ Id.

²⁵ Id.

4. Side Mount Valve Control Kits Scope Rulings²⁶

At issue in the scope ruling were side mount valve control (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.”²⁷

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.²⁸

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 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 at the time of importation; (2) all of the components and hardware of the SMVC kit must be fully fabricated and require 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.²⁹ 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.”³⁰

INTERESTED PARTY COMMENTS

Seagate’s Comments

Seagate argues that the HSAs it imports are finished merchandise and, therefore, are outside the scope of the *Orders*.³¹ As the Department found in the Foreline Hose Assembly Scope Ruling, foreline hose assemblies were to be excluded from the scope of the *Orders* as “finished

²⁶ See SMVC Kits Scope Rulings; *see also* Prior Scopes Memorandum at Attachment 3.

²⁷ See Preliminary SMVC Kits Scope Ruling at 2.

²⁸ *Id.*, at 7.

²⁹ *Id.*

³⁰ *Id.*, at 7-8.

³¹ See Scope Request at 5.

merchandise,” since they were imported as finished products that contained finished parts, and included extruded and non-extruded aluminum components, beyond mere fasteners, that were fully and permanently assembled at the time of import.³² Additionally, in the Aluminum Anodes Scope Ruling, the Department found the aluminum anodes for water heaters were excluded from the scope of the *Orders* as they were composed of aluminum extrusions and non-extruded components, permanently assembled, and, therefore, were finished merchandise.³³ Similar to the Aluminum Anodes Scope Ruling and the Foreline Hose Assembly Scope Ruling, the HSAs are permanently assembled products, composed of aluminum extrusions and non-extruded components, and are ready for insertion in the HDD.³⁴ Therefore, the HSAs are merchandise or, arguably finished merchandise, outside the scope of the *Orders*.³⁵

Seagate argues further that it is a specific machining process, the computer numerical control (CNC) machining process, which imparts the essential characteristics of the actuator subcomponent of the HSAs, not the extrusion process.³⁶ According to Seagate, the Court of International Trade (CIT) has held that “it is not reasonable to interpret the scope language to place within the *Orders*...any assembled good containing an aluminum extrusion.”³⁷ The CIT states that “the *Orders* apply to ‘extrusions,’ which is a term broadly defined by the *Orders* to include goods that have been processed in a variety of ways following an extrusion process.”³⁸ Seagate further contends that the CIT has held that “the term ‘extrusion’ is not defined in the general scope language so as to include a good simply because an extruded aluminum component is present within a good consisting of an assembly.”³⁹ Seagate argues that because the actuator subcomponent of the HSA is further processed following the extrusion process, the subcomponent in question cannot be defined the general scope language as an “extrusion” simply because an extruded aluminum component is present within the assembled good.⁴⁰

Moreover, Seagate argues that the cost of the extruded item is approximately 0.03 percent of the total cost of the HSA, a small portion of the overall cost to manufacture the assembled product. Additionally, the extruded subcomponent is of no functional use to Seagate or other HDD manufacturers, “in and of itself.” Seagate continues by explaining that the HSAs do not undergo “any additional fabrication or assembly process,” and, as such, are finished merchandise not included in the scope of the *Orders*.⁴¹

Finally, Seagate contends that if the Department determines that it must consider additional factors pursuant to 19 CFR 351.225(k)(2), it should again conclude that the HSAs are excluded. The physical characteristics of the HSA differ significantly from the shape or form produced by an extrusion process; as discussed above, the actuator subcomponents of the HSAs obtain their

³² See Scope Request at 8 (citing to Foreline Hose Assembly Final Scope Ruling, at 12-13).

³³ See Scope Request at 8 (citing to Memorandum from Eve Wang to Christian Marsh entitled, “Final Scope Ruling on Aluminum Anodes for Water Heaters,” dated October 17, 2012 (Aluminum Anodes Scope Ruling)).

³⁴ See SQR at 2; see also Scope Request at 10.

³⁵ See Scope Request at 4.

³⁶ *Id.*, at 9.

³⁷ See Scope Request at 9 (citing to *Whirlpool Corp. v. United States*, 144 F. Supp. 3d 1296, 1302 (CIT 2016)).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

essential shape from the CNC machining process, instead of the extrusion process. After the machining process, the HSA is assembled into a fully finished product by adding numerous other non-aluminum and non-extruded components. Additionally, there are no expectations by the ultimate purchasers (Seagate and other purchasers) for the aluminum extrusion item other than as a raw material to support production of the HSAs, and ultimately the HDDs. Seagate does not import the extruded subcomponent itself, nor does it import the HSAs to support mass production of HDDs, but instead in low volumes to support new product development only. Seagate explains that the finished HSAs are manufactured and sold by a mere three suppliers that comprise the HDD industry. These HSAs are not advertised, displayed, or sold, as they are all consumed internally as part of the HDD development and manufacturing activity.⁴²

As stated above, no other party filed comments on Seagate's Scope Request.

DEPARTMENT'S POSITION

The Department examined the language of the *Orders* and the description of the products contained in Seagate's Scope Request, as well as previous rulings made by the Department. We find 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 merchandise at issue, HSAs, meet the exclusion criteria for "finished merchandise."⁴³

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." In order to avoid "absurd" results stemming from a rigid definition of finished goods kits and finished merchandise, the Department revised its analysis of the finished goods and finished goods kits exclusion (see SMVC Kits Scope Rulings and further supported in the *Valeo Final Remand Redetermination*) to include subassemblies of ultimate downstream products or systems provided that they enter the United States as fully and permanently assembled and completed at the time of entry and ready for installation in the downstream product with no further finishing or fabrication.⁴⁴

The description of the HSAs in question indicates that they are composed of one aluminum extruded product and non-extruded and non-aluminum components.⁴⁵ In determining if the finished merchandise exclusion applies in this case, the first test the Department conducts, in

⁴² *Id.*, at 9-10.

⁴³ Additionally, Seagate argues that the extruded aluminum product is given its essential characteristics through the CNC machining process, rather than the extrusion process. Regardless, the Department has previously determined that the CNC machine process does "not yield products that are distinct from subject aluminum extrusions." See further discussion in Memorandum from Moses Song to Christian Marsh, "Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on Adams Thermal Systems' Certain Fittings and Related Products for Engine Cooling Systems," dated July 11, 2016.

⁴⁴ See, e.g., *Valeo Final Remand Redetermination* at 9-10,

⁴⁵ For further discussion, see the "Description of Merchandise Subject to this Scope Request" section of this ruling, above.

accordance with the Geodesic Domes Scope Ruling, is whether the product at issue contains, upon importation, non-aluminum extrusion components beyond mere fasteners. The list of components in Seagate’s Scope Request and SQR demonstrate that, in addition to one extruded aluminum component, the HSAs contain non-aluminum parts that go beyond mere fasteners, including a coil assembly (wound copper), coil bonding adhesive, pins, arm dampers, pivot actuator, head gimbal assembly, rubber gasket, plastic flex clamp, and PCCA.⁴⁶

In addition, narrative statements and photographs provided by Seagate show that the HSAs are fully assembled at the time of importation.⁴⁷ The HSAs require no re-sorting or re-packaging of components upon importation, and they do not require further finishing or fabrication prior to use.⁴⁸ In the Foreline Hose Assembly Scope Ruling, the Department determined that the product was excluded from the scope of the orders as “finished merchandise” as the foreline hose assembly was imported as a finished product that contains finished parts, including those comprised of extruded and non-extruded aluminum components, beyond mere fasteners, that are fully and permanently assembled at the time of importation.⁴⁹ In the instant scope ruling, Seagate’s HSAs are similar to the foreline hose assemblies, as both products are “finished” because they contain all components of the final product, which are permanently assembled, and determined to be covered by the “finished goods” exclusion from the scope of the *Orders*.⁵⁰ Therefore, we find that the HSAs meet our first test for determining whether a good constitutes a finished good or finished goods kit, as established in the Geodesic Domes Scope Ruling.⁵¹

Furthermore, as discussed above, the HSAs enter as fully-assembled finished merchandise that are permanently assembled and completed at the time of entry, and are ready to be installed into a downstream product, namely the HDD, with no further finishing or fabrication subsequent to importation.⁵² As such, Seagate’s HSAs are fully assembled subassemblies ready for immediate installation and use in a larger system, consistent with the Department’s analysis of the merchandise considered in the prior SMVC Kits Scope Rulings, *Valeo Final Remand Redetermination*, and Foreline Hose Assembly Scope Ruling. Accordingly, Seagate’s HSAs are finished merchandise and should be excluded from the *Orders*.⁵³

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 Seagate’s HSAs meet the criteria for “finished merchandise,” and, therefore, are not subject to the scope of the *Orders*.

⁴⁶ See Scope Request at 1-4 and Attachments 1-3.

⁴⁷ *Id.*, at 1-2 and Exhibit 1.

⁴⁸ *Id.*; see also SQR at 2.

⁴⁹ See Scope Request at 8 (citing Foreline Hose Assembly Final Scope Ruling).

⁵⁰ *Id.* (citing Aluminum Anodes).

⁵¹ See Geodesic Domes 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.

⁵² See SQR at 2.

⁵³ See Preliminary SMVCs Ruling at 6-8; *Valeo Final Remand Redetermination* at 9-10; and Foreline Hose Assembly Scope Ruling at 13-14.

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

12/23/2016

 X

Signed by: CHRISTIAN MARSH