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International Trade Administration
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Scope Ruling
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MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

THROUGH: Wendy J. Frankel
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RE: Antidumping and Countervailing Duty Orders on Aluminum
Extrusions from the People's Republic of China

SUBJECT: Final Scope Ruling: Shower Door Kits

Summary

On August 29, 2011, the Department of Commerce (“Department”) received a scope ruling request from Sapa Extrusions, Inc. (“Sapa”) regarding unassembled shower door kits containing aluminum extrusions (“shower door kits”) imported from the People’s Republic of China (“PRC”). Sapa requested that the Department determine that the shower door kits it imports are not subject to the antidumping and countervailing duty orders on aluminum extrusions from the PRC (“Orders”).¹ In accordance with 19 CFR 351.225(d) and 351.225(k)(1), we recommend

¹ See *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011); see also *Aluminum Extrusions From the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011).

that the Department determine that the shower door kits imported by Sapa that are the subject of this inquiry² do not meet the description of merchandise within the scope of the orders on aluminum extrusions from the PRC.

Background

The Scope of the Orders is as follows:

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

² See “Request for Scope Ruling re Exclusion of Certain Shower Door kits from the AD and CVD Orders in Aluminum Extrusions from the People’s Republic of China A-570-967 and C-570-968,” dated August 29, 2011 (“Sapa’s request”).

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 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 (“HTS”): 7604.21.0000, 7604.29.1000, 7604.29.3010, 7604.29.3050, 7604.29.5030, 7604.29.5060, 7608.20.0030, 7608.20.0090, 8513.90.20, 8302.50, 9403.90.8030, 9506.91.0010, 9506.91.0020, 9506.91.0030, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.19.10, 7616.99.10, and 7616.99.50. 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 HTS chapters. In addition, fin evaporator coils may be classifiable under HTS numbers: 8418.99.8050 and 8418.99.8060. While HTS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Legal Framework

The Department examines scope ruling requests in accordance with the Department’s scope regulations. *See* 19 CFR 351.225. On matters concerning the scope of an antidumping duty order, the Department first examines the language of the order(s) at issue and the description of the product contained in the scope request. If the language in the order(s) is not dispositive, the Department will then examine the description of the merchandise contained in the petition, the initial investigation, the determinations of the Secretary (including prior scope determinations) and the U.S. International Trade Commission (“ITC”). *See* 19 CFR 351.225(k)(1). This determination may take place with or without a formal inquiry. *See* 19 CFR 351.225(d)-(e). If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling as to whether or not the subject merchandise is covered by the order. *See* 19 CFR 351.225(d).

Conversely, where the descriptions of the merchandise are not dispositive, the Department will consider the five additional factors set forth at 19 CFR 351.225(k)(2). These criteria 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 inquiry is made on a case-by-case basis after consideration of all evidence before the Department.

The Department examined the language of the *Orders* and finds that the scope is dispositive as to whether Sapa's shower door kits are subject merchandise. Therefore, the Department finds it unnecessary to consider the additional factors in 19 CFR 351.225(k)(2).

Product Description

The products subject to this scope inquiry are 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. *See* Sapa's Request at 9.

Sapa states that all parts needed for the completion of a finished good are included in its shower door kit at the time of importation, and have the capability to be assembled "as is" into a finished product.

Interested Party Comments

Sapa explains that its shower door kits contain all of the parts necessary to assemble a finished product at the time of importation. To substantiate its argument, Sapa provides a diagram of the components contained in its shower door kits and explains how each component is used in the assembly of a finished product. Sapa notes that all of the parts contained in the kits are specifically designed to work with the glazed door panel and are attached in close proximity to the aluminum shower door frame. Sapa argues that each component of its shower door kit is necessary to the functionality of the finished product. Specifically, Sapa states that its snap-in filler and jambs are necessary for holding the glazed door panel upright. The pivot and strike jambs are necessary to attach the glazed door panel to other structures in a manner that enables the door panel to be opened and closed. The jambs, seals, fillers, rail and plugs bestow functionality on the glazed shower door panel by preventing shower water from escaping the shower enclosure and making it easy for a person to open and close the glazed door panel.

Sapa argues that its product is outside the scope of the orders based on the exclusion for "finished goods and finished goods kits."³ Sapa contends that its shower doors kits qualify for this exclusion, and that the parts imported with the shower door (*i.e.*, door handles, door jambs, drip rail, fillers, and hardware) which are necessary for the final assembly of the product are included at the time of import with the glazed panel (consisting of the glass panel and aluminum shower door frame) and thus are also part of the finished goods kit.

Sapa argues that its product is excluded from the scope of the *Orders* because all parts listed in Sapa's request are uniquely made for the final completion of a finished shower door.

Sapa notes that in the underlying investigation, the Shower Door, Tub, and Shower Enclosures Manufacturers Alliance ("SDMA") had argued that a kit containing a shower door or enclosure without glass could be a "knock-down" ("KD") finished good kit. Sapa explains that the

³ Aluminum Extrusions Fair Trade Committee August 29, 2011 (Request for Scope Ruling re Exclusion of Certain Shower door Kits from the ADD and CVD Orders in Aluminum Extrusions from the People's Republic of China A-570-967 and C-570-968)

Department disagreed with SDMA’s assessment of what constitutes a shower door finished good kit, and stated that the SDMA kit could not constitute a finished good kit because the SDMA kit did not include a glass panel, which is a major component in completing a shower door. Sapa notes that its kits do include the glass panel in the shower door.

Petitioners did not submit comments on Sapa’s scope ruling request.

Analysis

The scope of the order expressly excludes “finished goods kits ... 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 record evidence indicates that Sapa’s shower doors kits contain all of the parts necessary to assemble a final finished product – a shower door – at the time of importation. Thus, Sapa’s shower door kits meet the description of the exclusion for finished goods kits.

Recommendation

Based upon the above analysis, and pursuant to 19 CFR 351.225(d), we recommend the Department find that shower door kits described in Sapa’s Scope Ruling Request are not subject to the scope of the orders on Aluminum Extrusions from the PRC because they meet the criteria for finished goods kits (*i.e.*, they contain, at the time of importation, all of the necessary parts to fully assemble a final finished good and require no further finishing or fabrication for assembly) which are expressly excluded from the order.

Agree

Disagree

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

Date