



A-570-967  
C-570-968  
Scope Inquiry  
**PUBLIC DOCUMENT**  
Operations/Office 3: JSC

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

**THROUGH:** Melissa G. Skinner  
Director  
Office 3, Operations

**FROM:** John Conniff  
Senior Trade Analyst

Eric B. Greynolds  
Program Manager

**RE:** Antidumping (AD) and Countervailing Duty (CVD) Orders on  
Aluminum Extrusions from the People's Republic of China (PRC)

**SUBJECT:** Final Scope Ruling on Window Kits

### Summary

On October 26, 2011, IAP Enclosure Systems, LLC (IAP Enclosures) filed a scope inquiry in which it requested that the Department of Commerce (the Department) determine whether certain finished window kits it imports are encompassed within the scope of the Orders.<sup>1</sup> Based on our analysis of the comments received, we have determined that the finished window kits at issue are outside the scope of the Orders.

### Background

IAP Enclosures filed its scope inquiry request on October 26, 2011. Petitioners filed rebuttal comments on November 8, 2011.<sup>2</sup>

<sup>1</sup> See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order, 76 FR 30,650 (May 26, 2011) and Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order, 76 FR 30,653 (May 26, 2011) (the Orders).

<sup>2</sup> Petitioners are the Aluminum Extrusions Fair Trade Committee.



## **Scope of the Orders**

The merchandise covered by these 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.

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 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): 7604.21.0000, 7604.29.1000, 7604.29.3010, 7604.29.3050, 7604.29.5030, 7604.29.5060, 7608.20.0030, and 7608.20.0090. 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: 8418.99.80.50 and 8418.99.80.60. While HTS subheadings are provided for convenience and customs purposes, the written description of the scope of these Orders 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 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.

### **Description of the Merchandise**

IAP Enclosures explains that its request covers two types of finished window kits: punched window kits and ribbon window kits. It states that punched windows consist of a series of square or rectangular finished glass window panels, surrounded by window framing. IAP Enclosures states that punched windows are typically placed in building façades and are meant to fit a specific opening. IAP Enclosures states that the punched window kits consist of a variable number of finished glass window panels which are enclosed on all four sides within a structure of lengths of fabricated extruded aluminum channels called receptors. IAP Enclosures provides pictures, parts lists, and schematics of the punched windows at issue. See IAP Enclosures' October 26, 2011, submission at Exhibits 1 – 3. IAP Enclosures states that the punched window kits are shipped in one or more containers, but will be listed on one 7501 Entry Summary and will be part of one Customs entry. IAP Enclosures explains that ribbon windows consist of a series of window panels with glass, attached together by extruded aluminum receptors. IAP Enclosures provides pictures, parts lists, and schematics of the ribbon windows at issue. See IAP Enclosures' October 26, 2011, submission at Exhibits 4 – 7.

IAP Enclosures states the aluminum extrusions for punched window kits and ribbon window kits are imported under HTS category 7616.99.5090, while the glass panels windows are imported under

HTS category 7008.00.0000. IAP Enclosures explains that HTS 7616.99.5090 provides for “Other articles of aluminum” and other ... “laminated goods consisting of 2 or more flat-rolled sheets of aluminum held together with an adhesive or having a core of non-metallic material.” It further explains that HTS 7008.00.0000 provides for “multiple-walled insulating units of glass.”

## **Arguments of Interest Parties**

### IAP Enclosures’ October 26, 2011, Submission

IAP Enclosures argues that its finished window kits meet the exclusion criteria for “finished goods kits.” It argues that at the time of importation the kits contain all of the parts, including frame and glass, necessary to fully assemble a final, finished window.

### Petitioners’ November 8, 2011, Comments

Petitioners contend that IAP Enclosures has failed to provide sufficient information supporting its claim that the products at issue constitute “finished goods kits.” They argue that it is unclear from IAP Enclosures’ submission whether the glass is included with its kits for punched and ribbon kits. Petitioners assert that if the products at issue lack glass panels, then they do not meet the criteria for “finished goods kits” described in the scope of the Orders. Petitioners urge the Department to request clarification on this aspect of IAP Enclosures’ scope inquiry request.

### IAP Enclosure’s November 9, 2011, Submission

IAP Enclosures states that both the narrative description and source documents demonstrate that the products covered by its scope inquiry request include glass panels. Specifically, IAP Enclosures refers to the sections of its request in which it describes the punched window and ribbon window kits at issue as well as exhibits containing the parts listing for the two products. See IAP Enclosure’s October 26, 2011, submission at 2-3 and Exhibits 2 and 5. IAP Enclosures asserts these sections of its request clearly indicate that the products at issue contain glass. On this basis, IAP Enclosures maintains that no further clarification is necessary.

**Department’s Position:** We find that the scope of the Orders is dispositive concerning whether IAP Enclosures’ window kits are subject to the scope of the Orders. The scope of the Orders explicitly excludes finished goods kits, which are defined as “a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled ‘as is’ into a finished product.” The scope of the Orders also excludes finished merchandise containing aluminum extrusions, such as “finished windows with glass.” Window kits are excluded from the Orders provided that they contain at the time of importation all of the parts, including the glass panels, necessary to assemble a finished window or windows, as in this case. Based on the information contained in the request of IAP Enclosures (e.g., narrative descriptions, photographs, and schematics), we find that the product kits at issue contain all of the necessary parts, including glass panels, and, as such, they constitute “finished goods kits” that are excluded from the Orders. We find that it is unnecessary to obtain confirmation from IAP Enclosures because its request demonstrates that the glass panels are included at the time of importation.

**Department’s Recommendation**

For the reasons discussed above, we recommend finding that the finished window kits addressed by the instant scope request constitute “finished goods kits.” Accordingly, we recommend finding that the products at issue are not subject to the scope of the Orders based on the language of the scope of the Orders. We recommend finding that the scope request does not present a significant difficulty within the meaning of 19 CFR 351.225(f)(3) and, thus, we further recommend that this scope ruling constitutes a final ruling as provided under 19 CFR 351.225(f)(4).

If the recommendation in this memorandum is accepted, we will serve a copy of this memorandum to all interested parties on the scope service list via first class mail as directed by 19 CFR 351.303(f).

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

\_\_\_\_\_  
Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

\_\_\_\_\_  
Date