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Scope Inquiry/Mounting Plates

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November 14, 2012

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

THROUGH: Melissa Skinner
Director, Office 8
Antidumping and Countervailing Duty Operations

FROM: Tajma Rahimic
Legal Intern, Office 8
Antidumping and Countervailing Duty Operations

RE: Antidumping and Countervailing Duty Orders on Aluminum
Extrusions from the People's Republic of China: Final Scope
Ruling on Signtex Lighting's Aluminum Mounting Plates

SUMMARY

On October 4, 2012, the Department of Commerce ("Department") received a scope ruling request from Signtex Lighting, Inc. ("Signtex"),¹ to determine whether its aluminum mounting plates ("mounting plates") are subject to the antidumping ("AD") and countervailing duty ("CVD") orders on aluminum extrusions from the People's Republic of China ("PRC").² On the basis of our analysis of the comments received, we have determined that the mounting plates are included in the scope of the *Orders* on aluminum extrusions from the PRC.

SCOPE OF THE ORDERS

The merchandise covered by the order{s} is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body

¹ See Signtex's scope ruling request entitled Aluminum Extrusions from the People's Republic of China (A-570-967), Aluminum Mounting Plates (dated September 27, 2012) ("Signtex's 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").



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 the order {s} 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.³

LEGAL FRAMEWORK

When a request for a scope ruling is filed, the Department examines the scope language of the order and the description of the product contained in the scope-ruling request.⁴ 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.⁵ 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.⁶

Conversely, where the descriptions of the merchandise are not dispositive, the Department will initiate a scope inquiry under 19 CFR 351.225(e) and analyze the 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 inquiry is made on a case-by-case basis after consideration of all evidence before the Department.

RELEVANT SCOPE DETERMINATIONS

Controllable Sunshades

In the Controllable Sunshades Ruling, the Department found that controllable sunshade kits, which contain a perforated sheet, hollow tube, vertical mullion, actuator, linkages, and motor, all of which, when assembled, act as a moving sunshade that rotate and tracks sunlight throughout the day, met the exclusion criteria for finished goods kits because the kits contain all of the parts necessary to assemble a final, finished product, namely a controllable sunshade.⁷

Geodesic Structure Kits

In the Geodesic Structures Ruling, the Department found that dome frame kits did not meet the exclusion criteria for finished goods kits.⁸ Even though the dome frame kits contained all the parts necessary for assembly, which satisfied the first criterion of the exclusion in the scope of the *Orders*, the Department found that the dome frame kits failed the second criterion, which stipulates that the finished good kit must contain non-extruded aluminum parts other than

³ See *Orders*.

⁴ *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁵ 19 CFR 351.225(k)(1).

⁶ 19 CFR 351.225(d).

⁷ See Final Scope Ruling on Solarmotion Controllable Sunshades (Aug. 17, 2012) ("Controllable Sunshades Ruling").

⁸ See Final Scope Ruling on J.A. Hancock Co., Inc.'s Geodesic Structures. (July 17, 2012) ("Geodesic Structures Ruling").

fasteners.⁹ Thus, the dome frame kits, which consisted only of aluminum extrusion pieces and fasteners, did not meet the requirements necessary to be considered an excluded finished goods kit as contemplated by the scope of the *Orders*.¹⁰

DESCRIPTION OF MERCHANDISE SUBJECT TO THIS INQUIRY

At issue are three models of mounting plates used to secure emergency lights and lighted exit signs to a wall or ceiling surface.¹¹ Particular part numbers are 140400 CRR Trimplate, 136500 CRS Canopy, and 140100 RPR Canopy.¹² Each part is made entirely of extruded aluminum. After importation, Sigtex packages these parts with additional materials, including fixtures, and sells the entirety as a kit with everything needed to install the fixtures.¹³

ARGUMENTS FROM INTERESTED PARTIES

Sigtex's Request

Sigtex asserts that the parts imported are the same as components included in unassembled kits and permanently assembled products imported from the PRC by others. Sigtex argues that, just as the parts in these kits imported by others are exempt from the *Orders* because they are either "part of a finished goods kit," or "parts that are fully and permanently assembled... at the time of entry", so should the Sigtex products be excluded from the scope of the *Orders*.¹⁴ Sigtex states that additional labor and parts are added to its imported parts in the United States in order to complete its finished product.¹⁵ Sigtex objects to the *Orders* because they unfairly apply only to companies which import parts from the PRC, and assemble them into finished products in the United States, but exempts products which are fully assembled in the PRC.¹⁶

DEPARTMENT'S POSITION

The Department has 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 find that the scope and prior rulings are dispositive as to whether the products at issue are subject merchandise. Accordingly, for this determination, the Department finds it unnecessary to consider additional factors specified in 19 CFR 351.225(k)(2).

To be considered a "finished goods kit" which is excluded from the *Orders*, a product must meet two criteria from the *Orders*, namely: 1) it must contain all the parts necessary for assembly (without further processing) of a completed product at the time of entry,¹⁷ and 2) it must contain

⁹ *Id.* at 7.

¹⁰ *Id.*

¹¹ See Sigtex's Request at 1.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See *Orders*; see also Controllable Sunshades Ruling at 11.

parts other than fasteners that are made of a material other than aluminum extrusions.¹⁸ Sigtex's products do not meet the first criteria because Sigtex itself admits that additional parts are added in the United States in order to complete the products (emergency light and emergency exit signs).¹⁹ Rather, the mounting plates are one component to a finished product. Further, even if Sigtex's products met the first criteria (that is, all parts were imported to complete the final products), the three parts are solely constructed of extruded aluminum, and so they are expressly covered by the *Orders*, and do not meet the finished goods or finished goods kit exclusions.²⁰

Concerning Sigtex's arguments disputing the exclusion of finished goods kits, while including parts of finished goods kits, as here, the Department notes that the scope of the *Orders* covers "aluminum extrusions which are shapes and forms, produced by an extrusion process" and so is intended to cover aluminum extrusions in various shapes with certain limited exceptions. Downstream processing or manufacturing, which takes place after the aluminum extrusions are imported, does not exclude aluminum extrusions that are otherwise covered by the scope of the *Orders*. Further, the purpose of a scope ruling is to determine whether a product is within the scope of an order, not to contest the existence of the order itself.²¹

RECOMMENDATION

For the reasons discussed above, and in accordance with 19 CFR 351.225(d) and 351.225(k)(1), we recommend finding that the mounting plates addressed by the instant request are subject to 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 351.303(d).

_____ Agree _____ Disagree

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

Date

¹⁸ See *Orders*; see also Geodesic Structures Ruling at 7.

¹⁹ See Sigtex's Request at 1, stating "Sigtex completes finished products by adding parts and labor in the USA."

²⁰ See Geodesic Structures Ruling at 7.

²¹ See 19 CFR 351.225.