



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

A-570-967; C-570-968

Scope Inquiry


SPX Cooling Technologies, Inc./Fan Blade

Public Document

E&C AD/CVD OIII: CH

2.5  
July 23, 2014

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

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

**FROM:** Christopher Hargett  
Senior International Trade Compliance Analyst, 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 Fan Blade Assemblies

## SUMMARY

On November 21, 2013, the Department of Commerce (Department) received a scope ruling request from SPX Cooling Technologies, Inc. (SPX)<sup>1</sup> to determine whether complete fan blade assemblies are subject to the antidumping (AD) and countervailing duty (CVD) *Orders* referenced above.<sup>2</sup> On the basis of our analysis of the Scope Request and comments received, we determine that complete fan blade assemblies are excluded from the scope of the *Orders*.

## BACKGROUND

On November 21, 2013, SPX, an importer of complete fan blade assemblies, filed the Scope Request. On December 23, 2013, the Department extended the deadline for the ruling until March 6, 2014.<sup>3</sup> On February 19, 2014, the Department extended the deadline to May 5, 2014.<sup>4</sup>

<sup>1</sup> See SPX's November 21, 2013, submission (Scope Request).

<sup>2</sup> 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*").

<sup>3</sup> See the Department's December 23, 2014, letter.

<sup>4</sup> See the Department's February 19, 2014, letter.



On February 28, 2014, the Department requested additional information concerning the Scope Request,<sup>5</sup> to which SPX responded on March 14, 2014.<sup>6</sup> On March 25, 2014, the Aluminum Extrusions Fair Trade Committee (Petitioners) submitted comments to the Department regarding the Scope Request.<sup>7</sup> On April 30, 2014, the Department extended the deadline to July 7, 2014.<sup>8</sup> On May 19, 2014, SPX submitted comments regarding Petitioners' comments.<sup>9</sup>

## 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.

---

<sup>5</sup> See the Department's February 28, 2014, letter (Deficiency Letter).

<sup>6</sup> See SPX's March 14, 2014, submission (SPX Supplemental Filing).

<sup>7</sup> See Petitioner's March 25, 2014, letter (Petitioners' Filing).

<sup>8</sup> See the Department's April 30, 2014, letter.

<sup>9</sup> See SPX's May 19, 2014, letter (SPX Rebuttal Comments).

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 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.

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 of these *Orders* is dispositive.<sup>10</sup>

## 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.<sup>11</sup> 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.<sup>12</sup> If the Department determines that

<sup>10</sup> See *Orders*.

<sup>11</sup> See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

<sup>12</sup> See 19 CFR 351.225(k)(1).

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.

## **DESCRIPTION OF MERCHANDISE SUBJECT TO THIS SCOPE RULING**

The product at issue in this Scope Request consists of fan blade assemblies that are used in several models of cooling tower applications. The fan blades are available in lengths from 30 inches to 81 inches. While the blade of the fan consists of hollow aluminum alloy extrusion, the assemblies also include:

- injection molded impact resistant glass-filled polypropylene caps at both ends of the blade,
- galvanized carbon steel blade shank to connect the blade to the hub,
- galvanized carbon steel balance weights, and;
- series 300 stainless steel blade hardware.
- finishing fabrication and machining.<sup>13</sup>

At the time of importation, the fan blade assemblies are ready for installation into a cooling tower application, which consists of attaching the individual blades to the hub with two stainless steel U-bolts. There are multiple configurations of cooling towers and, thus, a different number of blades are required per cooling tower application.<sup>14</sup>

## **PRIOR SCOPE RULINGS RELEVANT TO THIS PROCEEDING<sup>15</sup>**

### **Geodesic Domes Scope Ruling<sup>16</sup>**

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

---

<sup>13</sup> See Scope Request at 2-3 and Exhibits 1-2 for photographs of the product at issue and a step-by-step description of the production process to fully manufacture the fan blade assemblies.

<sup>14</sup> *Id.* at 3.

<sup>15</sup> 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.

<sup>16</sup> 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 Scope Ruling).

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.”<sup>17</sup> 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.”<sup>18</sup> 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.<sup>19</sup>

### **Side Mount Valve Controls Scope Rulings<sup>20</sup>**

At issue in the ruling were certain side-mount valve controls (SMVCs) that are used in pumping apparatuses that attached to fire engines. The requestor argued that an SMVC, 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.”<sup>21</sup>

In the 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 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.<sup>22</sup>

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 at issue constituted a subassembly that enters the United States as a “finished goods kit.” In

---

<sup>17</sup> *Id.* at 7.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> 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 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 Scope Ruling) (together, “SMVC Scope Rulings”).

<sup>21</sup> *Id.* at 2.

<sup>22</sup> *Id.* at 7.

order for such a kit to be excluded from the scope of the *Orders*, the Department found that the SMVC had to be ready for installation and require no further finishing or fabrication.<sup>23</sup>

The Department concluded that the product at issue contained all of the parts necessary to assemble a complete SMVC and that all the components and hardware of the SMVC were fully fabricated, required no further finishing or fabrication prior to being assembled, and was ready for use upon installation. Based on this information, the Department found that the SMVCs at issue met the exclusion criteria for subassemblies that enter the United States as “finished goods kits.”<sup>24</sup>

### **Valeo Final Remand Redetermination**<sup>25</sup>

At issue 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.<sup>26</sup> In the final remand determination, the Department, applying the subassemblies test from the SMVC 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 is no meaningful distinction between the products at issue and those examined in the SMVC 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.<sup>27</sup>

### **Assembled Motor Cases and Certain Assembled Motor Cases in Stators Scope Ruling**<sup>28</sup>

At issue in the ruling were certain assembled motor cases and certain assembled motor cases in stators. The assembled motor cases consisted of two extruded aluminum cylinders in which an inner motor case is inserted into an outer motor case. The stator, one of two major components of an electric motor (the other being the rotor), consisted of an extruded aluminum frame around which copper wire is wound using an automatic winding machine. The stator was then pressed into the inner motor case, which was in turn surrounded by the outer motor case.<sup>29</sup> In the ruling, the Department found that the assembled motor cases consisted entirely of extruded aluminum materials and, thus, per the Department’s findings in the Geodesic Scope Ruling, found the

---

<sup>23</sup> *Id.* at 7.

<sup>24</sup> *Id.* at 7-8.

<sup>25</sup> 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 Court of International Trade. See *Valeo, Inc. et al v. United States*, CIT No. 12-00381.

<sup>26</sup> See Valeo Final Remand Redetermination at 5.

<sup>27</sup> *Id.* at 10.

<sup>28</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Motor Cases, Assembled and Housing Stators,” (November 19, 2012) (Assembled Motor Cases and Certain Assembled Motor Cases in Stators Scope Ruling).

<sup>29</sup> *Id.* at 3.

motors cases to be inside the scope of the *Orders*.<sup>30</sup> Regarding the assembled motor cases in stators, the Department found that because the product contained materials other than extruded aluminum the finding in the Geodesic Domes Scope Ruling did not apply. The Department further found that the assembled motor cases in stators constituted subassembly finished goods and thus, as in the SMVC Scope Rulings, were outside the scope of the *Orders*.<sup>31</sup>

### **Disappearing Door Screens Scope Ruling<sup>32</sup>**

At issue in this 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 screens 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 screens included a mesh screen, a rubber magnet, and an accessory kit.<sup>33</sup> The requestor argued that the disappearing screens may be assembled “as is” and that further fabrication and cutting are not necessarily required for installation.<sup>34</sup> In the ruling, the Department analyzed whether the disappearing screens 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) requires no further finishing or fabrication, such as cutting or punching, and is assembled “as is” into a finished product. The Department found that the disappearing screens did not meet the first criterion because upon importation it was necessary for the kits 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.<sup>35</sup>

### **Event Décor Scope Ruling<sup>36</sup>**

At issue were decor parts and kits used to construct display booths and backdrops for wedding receptions, conventions and other events. The parts and kits were comprised primarily of “Gorilla Pipes,” aluminum extrusion upright and crossbar tubes of varying lengths and fabrications. The requestor offered three models of Gorilla Pipes, which are sold in three different ways: (1) individual Gorilla Pipes, which can be ordered in any quantity and combination and with additional parts, such as steel bases and decorative materials; (2) Pipe Kits, which contain a minimum of two upright Gorilla Pipes, one crossbar Gorilla Pipe, and two weighted steel bases, in order to form a minimum of one complete display structure; and (3) Pipe and Drape Kits, which are Pipe Kits with additional decorative materials of the customer's choosing, such as drapes, garlands and lighting. All Gorilla Pipe models utilized the same

---

<sup>30</sup> *Id.* at 12.

<sup>31</sup> *Id.* at 13-14.

<sup>32</sup> 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 Screens Scope Ruling).

<sup>33</sup> *Id.* at 5.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 9.

<sup>36</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for AD and CVD Operations, “Aluminum Extrusions from the People’s Republic of China: Final Scope Ruling on Traffic Brick Network, LLC’s Event Décor Parts and Kits,” (December 2, 2013) (Event Décor Scope Ruling).



universal telescoping crossbars, which are fitted with two cast aluminum hook ends, and a chrome-coated steel button lock.<sup>37</sup>

In the ruling, the Department found the individually-sold Gorilla Pipes, when sold without the requisite weighted-steel bases, did not contain all parts necessary to fully assemble a complete display structure.<sup>38</sup> In this regard, the Department found the individually-sold Gorilla Pipes to be akin to subject shower door frames and enclosures that do not contain the glass panels at the time of importation.<sup>39</sup> The Department further determined the Pipe Kits and Pipe and Drape Kits to be excluded from the scope of the *Orders* because they were finished goods kits that contain at the time of importation all parts necessary to fully assemble a complete display structure.<sup>40</sup>

### **Flag Pole Sets Scope Ruling<sup>41</sup>**

At issue in the ruling were flag pole sets designed to hold banners. Both sets came with one of three different top sections, each of which includes a dimple that allows the sections to interlock and a plastic end cap. The sets were sold without hammers. The requestor explained that similarly-sized sections of both models of flag pole sets were bundled together for importation and entered as separately bundled packages. Each shipment contained a set number of packages of unassembled sections designed and intended to create a predetermined number of three- and/or four-section assembled flag poles sets after the packages enter U.S. customs territory. The packages are entered together on the same Customs Entry Summary (form 7501).<sup>42</sup> In the ruling, the Department found that the flag pole kits did not meet the criteria for an excluded finished goods kit because, at the time of importation, similarly-sized unassembled flag pole sections were bundled together for shipment, meaning that all of the sections necessary to assemble a final finished product were not packaged together as a complete section in one package but, instead, it was necessary for the packages to be opened, and repackaged before being sold to the end user.<sup>43</sup>

### **Anodes Scope Ruling<sup>44</sup>**

At issue in the ruling were aluminum anodes for water heaters. The water heater anodes at issue consisted of a rod made of aluminum alloy formed around a stainless steel or carbon steel core with a carbon steel cap. The requestor argued that a water heater anode is a finished downstream product that functions separately from a water heater and, thus, the product satisfied the exclusion criteria for finished merchandise.

---

<sup>37</sup> *Id.* at 6.

<sup>38</sup> *Id.* at 10.

<sup>39</sup> *Id.* at 10.

<sup>40</sup> *Id.*

<sup>41</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for AD and CVD Operations, "Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on 5 Diamond Promotions Inc.'s Aluminum Flag Pole Sets," (April 19, 2013) (Flag Pole Sets Scope Ruling).

<sup>42</sup> *Id.* at 5.

<sup>43</sup> *Id.* at 9.

<sup>44</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Final Scope Ruling on Aluminum Anodes for Water Heaters," dated October 17, 2012 (Anodes Scope Ruling).

In the ruling, the Department found that the water heater anode at issue was finished merchandise and thus is excluded from the scope of the *Orders*. In reaching its decision, the Department concluded that the water heater anode is a finished product because it contains all the components of a water heater anode (*i.e.*, the aluminum, the steel/carbon steel rod, and the carbon steel cap) which are permanently assembled, completed and ready to use as an aluminum anode which works to prevent corrosion in a water heater.

### **Shower Door Kits Scope Ruling<sup>45</sup>**

The products at issue 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.<sup>46</sup> 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.<sup>47</sup>

### **Window Kits Scope Ruling<sup>48</sup>**

At issue in this ruling were two types of finished window kits: punched window kits and ribbon window kits. The ruling states that punched windows consist of a series of square or rectangular finished glass window panels, surrounded by window framing while ribbon windows consist of a series of window panels with glass, attached together by extruded aluminum receptors. The kits consisted 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.<sup>49</sup> In the ruling, the Department explained that the scope of the *Orders* excludes finished merchandise containing aluminum extrusions, such as “finished windows with glass.” The Department further determined that the window kits were excluded from the *Orders* as finished goods kits 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.<sup>50</sup> Therefore, even where the window kit parts at issue may have entered the United States in multiple shipping containers or cartons, so long as each such container necessary for the assembly of the finished window or windows is listed on a single CBP 7501 entry form, such window kits remain eligible for exclusion from the *Orders*.<sup>51</sup>

---

<sup>45</sup> 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).

<sup>46</sup> *Id.* at 5.

<sup>47</sup> *Id.* at 6.

<sup>48</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Window Kits,” (December 6, 2011) (Window Kits Scope Ruling).

<sup>49</sup> *Id.* at 4.

<sup>50</sup> *Id.* at 5.

<sup>51</sup> *Id.* at 11.

## **Curtain Wall Scope Ruling<sup>52</sup>**

At issue in this scope ruling were parts of curtain walls, which are aluminum extrusion framed non-weight bearing exterior walls, secured to and supported by the structural frame of a building, and curtain wall systems, which are parts that fall short of the final finished curtain wall that envelopes an entire building structure. Parts of curtain wall systems are manufactured to be assembled into modules that are designed to be interlocked with other parts of curtain wall systems, like pieces of a puzzle.<sup>53</sup>

In the ruling, the Department noted that in the underlying investigation it found that “curtain walls assembled after importation are within the scope.”<sup>54</sup> In the Ruling, the Department also determined that while the scope of the *Orders* specifically excludes windows with glass, it also specifically includes curtain walls and window frames. The Department further found that the scope does not specifically exclude curtain walls with glass. Therefore, the Department found that because both the scope of the *Orders* and the description of the merchandise in the underlying investigation explicitly state that curtain walls are included within the scope of the *Orders*, the Department found that the products at issue were inside the scope.<sup>55</sup>

## **ARGUMENTS FROM INTERESTED PARTIES**

### **SPX’s Scope Request**

The scope of the *Orders* excludes finished goods kits, which, at the time of importation include all the parts necessary to assemble the finished good. The fan blade assemblies at issue meet the exclusion criteria for finished goods kits as they are imported as a packaged and self-contained combination of parts that may be attached, as is, to a cooling tower.<sup>56</sup>

The Department set out a standard in SMVC Scope Rulings that expressly allows for the exclusions of “subassemblies” from the *Orders*. The fan blade assemblies in question are analogous to previously examined products, such as assembled motor case housing stators that the Department found to be outside the scope of the *Orders*. Like assembled motor case housing stators, the fan blade assemblies at issue include other materials besides extruded aluminum, including carbon and stainless steel items, and glass-filled polypropylene.<sup>57</sup> Further, the fan blade assemblies are imported together in one package that contains the finished manufactured fan blades that are ready, “as is,” for installation in to a finished product and require no further finishing or fabrication.<sup>58</sup> In this regard, the fan blade assemblies are unlike the products

---

<sup>52</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Curtain Wall Units and Other Parts of a Curtain Wall System,” at (November 30, 2012) (Curtain Wall Scope Ruling).

<sup>53</sup> *Id.* at 3.

<sup>54</sup> *Id.* at 9 (citing Preliminary Scope Memorandum at Comment 6).

<sup>55</sup> See Curtain Wall Scope Ruling at 9.

<sup>56</sup> See Scope Request at 3 and 4.

<sup>57</sup> *Id.* at 7 (citing Assembled Motor Cases and Certain Assembled Motor Cases in Stators Scope Ruling at 13); SPX Supplemental Filing at 1 and Exhibit 2.

<sup>58</sup> See Scope Request at 8; SPX Supplemental Filing at 2 and 3.

examined in the Flag Pole Sets Scope Ruling, which were found to be included in the scope of the *Orders*.<sup>59</sup>

### **Petitioners' Filing**

The fan blades assemblies at issue are nothing more than fabricated aluminum extrusions that meet the physical description of subject merchandise, and do not fall under the exclusions for a final finished good or finished goods kit, the two narrow exceptions under the scope of the *Orders*.<sup>60</sup> In particular, the fan blade assemblies constitute parts for final finished merchandise, which are expressly covered by the scope, as opposed to final finished goods.<sup>61</sup> In addition, the fan blades do not enter with all of the components necessary to assemble a final finished product, *i.e.*, a finished goods kit.<sup>62</sup> Furthermore, the non-aluminum components of the fan blade are not dominant in defining the functionality of the fan blade.<sup>63</sup>

Aluminum extrusions that are components of subassemblies are included within the scope. In *Yuanda* the Court of International Trade (CIT or the court) held that curtain wall units are not finished goods, but are parts of curtain walls.<sup>64</sup> Under the finished goods kit exception, the parts or subassemblies must be assembled to form a final finished good that must have practical or consumptive use on its own.<sup>65</sup> Goods used as replacement parts do not satisfy the practical or consumptive use requirement laid out in *Yuanda*.<sup>66</sup> This requirement is further supported by the scope language, which indicates that the final finished product must be something more than a subassembly or component that can be installed in a larger product.<sup>67</sup> The scope language also clearly recognizes that extrusions that are parts or subassemblies remain subject to the orders, which indicates that subassemblies are not final finished goods.<sup>68</sup> For the Department to equate subassemblies with multiple non-extruded parts to a final finished good by applying its “subassemblies test” that does not consider the functionality of the product is incongruous with the scope language requiring the parts to assemble a final finished good and the CIT’s holding in *Yuanda*.<sup>69</sup>

The scope contemplates that products containing extruded and non-extruded aluminum are covered within the scope, and therefore, the mere existence of non-extruded aluminum parts does not satisfy the exclusions for final finished goods or finished goods kits.<sup>70</sup> The CIT’s holding in *Yuanda* supports this principle.<sup>71</sup> In addition, in the Event Décor Scope Ruling the Department found that individually-sold “Gorilla pipes” were inside the scope of the *Orders* despite the fact

---

<sup>59</sup> See Scope Request at 7-8 (citing Flag Pole Sets Scope Ruling at 9).

<sup>60</sup> See Petitioners’ Filing at 10-23.

<sup>61</sup> *Id.* at 11.

<sup>62</sup> *Id.* at 12-18.

<sup>63</sup> *Id.* at 11.

<sup>64</sup> *Id.* at 5 (citing *Shenyang Yuanda Aluminum Industry Engineering Co. v. United States*, No. 12-00420, Slip Op. 14-10 (CIT Jan. 30, 2014) (*Yuanda*) at 10).

<sup>65</sup> *Id.* at 6.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 7.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 8-9.

<sup>70</sup> *Id.* at 12-13.

<sup>71</sup> *Id.* at 13 (citing *Yuanda* at 9).

that the products contained aluminum extruded and non-aluminum extruded materials.<sup>72</sup> The Department made a similar finding in the Kitchen Door Handles Scope Ruling and Final Results of Meridian Redetermination, that aluminum extruded products containing non-aluminum components such as plastic injections molded end caps will not remove the product from the scope.<sup>73</sup> This principle is also reflected in the scope of the *Orders*: “The scope does not include the non-aluminum extrusion components of subassemblies or subject kits....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.”<sup>74</sup> Thus, CIT precedent, prior scope rulings as well as the scope itself demonstrate that the inclusion of non-extruded parts along with an extruded aluminum product does not remove a product from the scope where the extruded aluminum provides the dominant function of the product.<sup>75</sup>

To qualify as a finished goods kit, the kit must contain all of the necessary parts to fully assemble a final finished good.<sup>76</sup> Pursuant to the findings in the Event Décor Scope Ruling, the Department should find that the fan blade assemblies do not constitute a final finished goods kit because they do not contain all of the parts necessary to fully assemble a final finished good, *i.e.*, the cooling fan tower.<sup>77</sup> While the fan blade assemblies may be sold individually as replacement parts, their primary function is to be utilized with larger system, the cooling fan tower.<sup>78</sup> Without the cooling fan tower, the blades are simply fabricated aluminum extrusions.<sup>79</sup> Furthermore, SPX has not fully described all the components that would make up the final finished good, *i.e.*, the cooling tower assembly.<sup>80</sup> Therefore, the fan blades, in and of themselves, do not meet the narrow definition for a finished goods kit contained in the scope of the *Orders*.

SPX has not demonstrated that that its fan blades enter the U.S. as final finished goods or final finished goods kits. SPX reported that their fan blades are imported for inventory at the Kansas cooling tower manufacturing facility and to replenish its distribution facility.<sup>81</sup> Once SPX places the fan blades into inventory, they must be repackaged.<sup>82</sup> SPX has only one import of fan blades, which was not sold to an unaffiliated customer, thus it is not possible to determine whether SPX

---

<sup>72</sup> *Id.* at 13-14 (citing Event Décor Scope Ruling at 10).

<sup>73</sup> *Id.* at 14-15 (citing Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Meridian Kitchen Appliance Door Handles,” (June 21, 2013) (Kitchen Door Handles Scope Ruling), and Final Results of Redetermination Pursuant to Court Remand, *Meridian Products, LLC v. United States*, No. 13-0018, Slip Op. 13-75 at 19 (CIT, August 14, 2013) (Final Results of Meridian Redetermination), which addressed the Department’s scope ruling in the Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Refrigerator/Freezer Trim Kits,” (December 17, 2012) (Refrigerator Trim Kits Scope Ruling)).

<sup>74</sup> *Id.* at 12-15 (quoting the scope of the *Orders*).

<sup>75</sup> *Id.* at 15.

<sup>76</sup> *Id.* at 16.

<sup>77</sup> *Id.* at 16-17.

<sup>78</sup> *Id.* at 17-18.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.* at 18-20.

<sup>82</sup> *Id.* at 20.

sells the fan blades directly to its customers.<sup>83</sup> Further, the information provided by SPX demonstrates that once SPX places the fan blade assemblies into inventory, they must be repackaged for “business-to-business transactions” since they are not imported or “packaged for consumer sales.”<sup>84</sup> Thus, as in the Flag Pole Sets and Disappearing Door Screens Scope Rulings, the Department should find that the fan blade assemblies at issue are not imported with all of the components necessary to assemble a final finished good and, thus, are inside the scope of the *Orders*.<sup>85</sup>

Lastly, the Department should adopt the Petitioners’ decision matrix which summarizes issues concerning a particular product’s coverage pursuant to the scope of the *Orders*. Applying this matrix, the Department should find that SPX’s fan blade assemblies are included within the scope.<sup>86</sup>

### **SPX Rebuttal Comments**

*Yuanda* is not applicable here, as the *Orders* specifically include curtain wall parts and units.<sup>87</sup> Further, in *Yuanda*, the Court made no ruling or finding on the subassembly test as developed in the SMVC Scope Rulings.<sup>88</sup>

The scope rulings cited by Petitioners are factually distinct from the fan blade assemblies at issue, as the fan blades constitute final finished products.<sup>89</sup> The fan blades at issue fall outside the scope of the *Orders* under the “subassembly test.”<sup>90</sup> The Department has found other products similar to the fan blades at issue to be out of the scope of the *Orders*, and the CIT affirmed this.<sup>91</sup>

The fan blades are imported as finished goods and do not have to be unpacked and repackaged to ship to its customer.<sup>92</sup> Further, there is no requirement under the statute or regulations that an importer has sales to an unaffiliated party in order qualify for a scope ruling.<sup>93</sup> The Department should disregard Petitioners’ proposed reasoning for determining whether specific products are in or out of the scope of the *Orders*.<sup>94</sup>

### **DEPARTMENT’S POSITION**

The Department examined the language of the *Orders* and the description of the product contained in this Scope Request, as well as previous rulings made by the Department. We find

---

<sup>83</sup> *Id.* at 20-21.

<sup>84</sup> *Id.* at 20 (quoting SPX Supplemental Filing at 6).

<sup>85</sup> *Id.* at 20 (citing Flag Pole Sets Scope Ruling at 9 and Disappearing Door Screens Scope Ruling at 9).

<sup>86</sup> *Id.* at 23-26 and Exhibit 3.

<sup>87</sup> *Id.* SPX Comments at 2 and 3.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.* at 3 – 5.

<sup>90</sup> *Id.* at 6 – 8.

<sup>91</sup> *Id.* at 7 – 11 (citing Valeo Final Remand Redetermination and prior rulings such as the Anodes Scope Ruling).

<sup>92</sup> *Id.* at 11.

<sup>93</sup> *Id.* at 12-13.

<sup>94</sup> *Id.* at 14.

that the description of the product, 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 complete fan blade assemblies at issue meet the exclusion criteria for “finished goods.”

Taken by itself, the aluminum blade or foil that is included in the fan blade at issue would fall within the scope. However, as noted above, the scope excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry. “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 information provided by SPX (*e.g.*, narrative statements, photographs, and product specifications) indicates that the fan blade assemblies at issue include carbon and stainless steel and glass-filled polypropylene materials and, thus, the fan blades do not consist entirely of extruded aluminum.<sup>95</sup> Because the fan blades contain non-extruded aluminum material parts other than fasteners, we find the fan blades meet the Department’s first test for determining whether a good constitutes a finished good, as established in the Geodesic Domes Scope Ruling.<sup>96</sup>

Based on our findings in the SMVC Scope Rulings, we disagree with Petitioners’ arguments that the fan blade assemblies constitute parts for final finished merchandise, which are expressly covered by the scope, as opposed to final finished goods. For the same reasons, we also disagree with Petitioners that the scope language clearly recognizes that extrusions that are parts or subassemblies are not finished goods and remain subject to the *Orders*.

In the SMVC 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). We further explained that the scope excludes “finished goods containing aluminum extrusions that are entered unassembled in a ‘finished goods kit.’” The Department also noted that the scope defines a “finished goods kit” as a “packaged combination of parts that contains, at the time of importation, all of the necessary parts and *requires no further finishing or*

---

<sup>95</sup> See Scope Request at 2, 3, 7 and Exhibits 1-2.

<sup>96</sup> See Geodesic 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.

*fabrication, such as cutting or punching, and is assembled 'as is' into a finished product'* (emphasis added).<sup>97</sup>

Thus, in the SMVC Scope Rulings, the Department found that, taken together, these passages from the scope indicate 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.”<sup>98</sup> Therefore in the rulings, the Department found that determining whether a product meets the exclusions for “finished goods” and “finished goods kits” simply by examining whether it is part of a larger structure or system fails 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 a larger whole.<sup>99</sup>

In the instant scope proceeding, we continued to apply the analysis from the SMVC Scope Rulings, which was also applied in the Valeo Final Remand Redetermination with respect to a finished good subassembly. Therefore, we analyzed whether the fan blade assemblies at issue constitute a subassembly that enters the United States as a “finished goods.” In order for such a product to be excluded from the scope of the *Orders*, among other criteria, it must consist of parts that are fully and permanently assembled and completed at the time of entry, and be ready for installation in the downstream product with no further finishing or fabrication. This is consistent with scope language that excludes merchandise like windows with glass or doors with glass or vinyl, each of which, include all of the parts necessary to assemble a complete window or door, but are necessarily installed into a larger structure, such as a house.

We find that the product at issue contains parts that are fully and permanently assembled and completed at the time of entry.<sup>100</sup> All the components and hardware of the fan blades are fully fabricated and require no further finishing or fabrication prior to being incorporated into the cooling tower.<sup>101</sup> Based on this information, we find that the fan blades meet the exclusion criteria for subassemblies that enter the United States as “finished goods.”

We disagree with Petitioners’ argument that the fan blade assemblies are not “final finished goods” because they are a component of cooling towers and because they are imported as “parts” of such larger systems.<sup>102</sup> As explained above, based on our examination of the language of the scope and our determination in the SMVC Scope Rulings, we find that the product in question is a “subassembly” that meets the criteria for a “finished good” and is therefore excluded from the scope of the *Orders*.

We disagree with Petitioners that the Court’s holding in *Yuanda* is controlling here. First, unlike the fan blades at issue, the curtain walls addressed in *Yuanda* are expressly included within the scope of the *Orders*. Second, the Court in *Yuanda* did not address the Department’s

---

<sup>97</sup> See Preliminary SMVC Scope Ruling at 7; unchanged in Final SMVC Scope Ruling.

<sup>98</sup> See, e.g., Preliminary SMVC Scope Ruling at 7; unchanged in the Final SMVC Scope Ruling.

<sup>99</sup> *Id.*

<sup>100</sup> See Scope Request at 2 – 3, and Exhibits 1 and 2, which indicate that the products at issue are ready for assembly, as is, into a cooling tower.

<sup>101</sup> *Id.* at 4.

<sup>102</sup> See SPX Supplemental Filing at Exhibit 1.



subassembly finished good analysis, as developed in the SMVC Scope Rulings. Therefore, the Department will continue for purposes of this scope ruling to apply the subassembly finished good analysis developed in the SMVC Scope Rulings.

Furthermore, Petitioners are wrong to extrapolate from the Court's holding in *Yuanda* that a final finished good must have a consumptive use on its own in order to be excluded from the scope of the *Orders*. Additionally, as explained above, we find that the Court's holding in *Yuanda* is not controlling here. Furthermore, the Department has not required that the non-extruded aluminum parts of a good define the functionality of the product at issue in order for the product to qualify as an excluded finished good.

Petitioners argue that the scope contemplates that products containing extruded and non-extruded aluminum are covered within the scope, and therefore, the mere existence of non-extruded aluminum parts does not satisfy the exclusions for final finished goods or finished goods kits. As explained above, we first analyzed the products at issue using the approach established in the Geodesic Domes Scope Ruling, *i.e.*, whether the fan blades at issue contain non-extraneous parts that are comprised of non-extruded aluminum materials. In this scope proceeding, we find that the fan blades at issue, by virtue of the inclusion of carbon and stainless steel and glass-filled polypropylene materials do not consist entirely of extruded aluminum and, therefore, pass the test established in the Geodesic Domes Scope Ruling.<sup>103</sup>

We agree that the mere inclusion of non-extruded aluminum parts along with extruded aluminum parts does not necessarily render merchandise outside of the scope of the *Orders*. As noted above, the scope includes additional criteria in the finished goods and finished goods kit exclusion that must be satisfied for merchandise to fall outside the scope. Furthermore, pursuant to the language in the scope and the Department's analysis in the Geodesic Domes Scope Ruling, merchandise that consists solely of extruded aluminum and fasteners is not excluded from the scope.<sup>104</sup> Further, Petitioners' argument fails to take into account that the scope excludes finished goods and finished goods kits, which could conceivably include non-extraneous, non-aluminum materials. Further, Petitioners' argument fails to note that, per the SMVC Scope Rulings, the Department found the scope provides for the exclusion of subassemblies that are comprised of extruded aluminum and non-extraneous, non-aluminum materials provided that they are finished goods or finished goods kits.<sup>105</sup> As explained above, we find here that, per the subassemblies test established in the SMVC Scope Rulings, the fan blades at issue are finished goods.

Similarly, we disagree with Petitioners that the Department confirmed in the Event Décor Scope Ruling that the scope expressly recognizes that products containing more than just aluminum are necessarily covered as subject merchandise. In the Event Décor Scope Ruling, the Department found that one of three products at issue, individually-sold Gorilla Pipes, were inside the scope of the *Orders*. In finding the individually-sold Gorilla Pipes inside the scope, the Department explained that, when sold without the requisite weighted-steel bases, the pipes did not contain all parts necessary to fully assemble a complete display structure and, therefore, were akin to subject

---

<sup>103</sup> See Scope Request at 2, 3, 7 and Exhibits 1-2.

<sup>104</sup> See Geodesic Domes Scope Ruling at 7.

<sup>105</sup> See Preliminary SMVC Scope Ruling at 7-8; unchanged in Final SMVC Scope Ruling.

shower door frames and enclosures that do not contain the glass panels at the time of importation.<sup>106</sup> Thus, contrary to Petitioners' characterization, the Department found the individually-sold Gorilla pipes to be inside the scope because they did not constitute finished goods kits and, therefore, the Department did not, as Petitioners' suggest, base its finding on the ratio of extruded aluminum to non-extruded aluminum products. Furthermore, in the Event Décor Scope Ruling, the Department found the two other products at issue, which were comprised of extruded aluminum and non-aluminum parts, to be finished goods kits that were outside the scope of the *Orders*.<sup>107</sup>

We also find that Petitioners' references to the Kitchen Appliance Door Handles Scope Ruling and the Final Results of the Meridian Redetermination are misplaced.<sup>108</sup> In the Kitchen Appliance Door Handles Scope Ruling, the Department found that the product at issue, an extruded aluminum handle with two plastic end caps was, save for fasteners, are comprised entirely of extruded aluminum and, thus, per the reasoning set forth in the Geodesic Domes Scope Ruling, fell within the scope of the *Orders* covering extruded aluminum of various shapes and forms.<sup>109</sup> The products at issue in the Final Results of the Meridian Redetermination were extruded aluminum appliance trimming that was sold with a customer installation kit, hexagonal tool, fasteners, and a plastic hinge cover, which was not assembled into the trim.<sup>110</sup> In the Final Results of the Meridian Redetermination, the Department found that these additional non-aluminum parts were extraneous and, therefore, did not render the product outside the scope of the *Orders*. As noted above, we find that the fan blade assemblies at issue here are not comprised entirely of extruded aluminum and, moreover, we find these additional parts (*e.g.*, the carbon steel blade shank and carbon steel counter weights) do not constitute extraneous materials that are akin to screws, nuts, and fasteners. As such, the fan blade assemblies are distinguishable from the products the Department considered in the Kitchen Door Handles Scope Ruling and the Final Results of the Meridian Redetermination. Therefore, the Department's findings in the Kitchen Door Handles Scope Ruling and the Final Results of the Meridian Redetermination do not apply here.

Additionally, we disagree with Petitioners that the Department's findings in the Flag Pole Sets Scope and Disappearing Door Screen Scope Rulings are applicable here. In those rulings, the Department found that the products at issue did not meet the exclusion for finished goods 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.<sup>111</sup> Different from the items at issue in those rulings, as noted above, we find that the fan blades at issue contain parts that are fully and permanently assembled and completed at the time of entry.<sup>112</sup> Additionally, all the components and hardware of the fan blades are fully

---

<sup>106</sup> See Event Décor Scope Ruling at 10.

<sup>107</sup> *Id.*

<sup>108</sup> See Kitchen Door Handles Scope Ruling; see also Final Results of Meridian Redetermination, which addressed the Department's scope ruling in the Refrigerator Trim Kits Scope Ruling.

<sup>109</sup> See Kitchen Door Handles Scope Ruling at 10, referencing the Geodesic Domes Scope Ruling.

<sup>110</sup> See Final Results of Meridian Redetermination at 5 and 20

<sup>111</sup> See Flag Pole Sets Scope Ruling at 9; see also Disappearing Door Screens Ruling at 9, where the Department reached a similar conclusion.

<sup>112</sup> See Scope Request at 2 – 3, and Exhibits 1 and 2.

fabricated and require no further finishing or fabrication prior to being incorporated into the cooling tower.<sup>113</sup> The fan blade assemblies are mounted, as is, in a cooling tower application, at which point the cool tower application is ready for use.<sup>114</sup> Therefore, unlike the kits examined in the Flag Pole Sets Scope Ruling, each fan blade assembly is, upon importation, a finished good that is ready for installation into a cooling tower without the need for any subsequent fabrication or repackaging.

We also disagree with Petitioners that the number of fan blade assemblies imported at a given time is relevant. We find that upon importation each fan blade assembly constitutes a finished good, regardless of whether it enters the United States singly, packaged with other fan blades, or is placed in inventory by SPX for later re-sale.

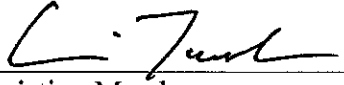
Further, we disagree with the notion that SPX, the importer, must demonstrate that the fan blade assemblies at issue are sold to an unaffiliated party in order to qualify for a scope ruling. Such a requirement simply does not exist in the Department's regulations. In fact, the Department allows for importers to file scope inquiries provided that the product in question is in production; the product need not necessarily have been imported into the United States.<sup>115</sup> SPX provided information that the fan blade assemblies are in production.<sup>116</sup> Therefore, we find that SPX satisfied this aspect of the Department's regulations.

## 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 complete fan blade assemblies at issue are finished goods and, thus, not 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 351.225(d).

Agree  Disagree

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

7/25/14  
\_\_\_\_\_  
Date

<sup>113</sup> *Id.* at 4.

<sup>114</sup> *Id.*

<sup>115</sup> See, e.g., *Antidumping and Countervailing Duty Proceedings: Documents, Submission Procedures; APO Procedures: Final Rule*, 73 FR 3634, 3639 (January 22, 2008).

<sup>116</sup> See, e.g., SPX Supplemental Filing at Exhibit 1.