



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
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Scope Inquiry

Kitchen Appliance Door Handles With Plastic End Caps

Kitchen Appliance Door Handles Without Plastic End Caps

Public Document

E&C AD/CVD OIII: EBG

August 4, 2014

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

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

FROM: Eric B. Greynolds *EBG*
Program Manager, Office III
Antidumping and Countervailing Duty Operations

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

SUBJECT: Final Scope Ruling on Kitchen Appliance Door Handles With
Plastic End Caps and Kitchen Appliance Door Handles Without
Plastic End Caps

SUMMARY

Whirlpool Corporation (Whirlpool) filed two scope requests on kitchen door handles with and without plastic end caps with the Department of Commerce (the Department) on December 20, 2013, and January 8, 2014, respectively,¹ in which Whirlpool requests that the Department determine whether the handles it imports are subject to the antidumping (AD) and countervailing duty (CVD) *Orders*.² On March 5, 2014, the Department issued deficiency letters regarding the two requests, to which Whirlpool responded on March 19, 2014.³ On the basis of our analysis of

¹ See Whirlpool's December 20, 2013, submission concerning kitchen appliance door handles with plastic end caps (Handles With End Caps Scope Request); see also Whirlpool's January 8, 2014, submission concerning kitchen appliance door handles without plastic end caps (Handles Without End Caps Scope Request), (collectively, Handles Scope Requests).

² 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*).

³ See Whirlpool's March 19, 2014, submission concerning kitchen appliance door handles with plastic end caps (Handles With End Caps Supplemental Filing); see also Whirlpool's March 19, 2014, submission concerning



the information on the record, we determine that both of the handles at issue are inside the scope of the *Orders*.

BACKGROUND

On December 20, 2013, and January 8, 2014, Whirlpool filed the Handles Scope Requests. Concerning the request on handles with plastic end caps, the following subsequent events transpired. On January 29, 2014, the Department extended the deadline for a ruling until April 4, 2014.⁴ On March 5, 2014, the Department issued a deficiency letter⁵ to Whirlpool, to which Whirlpool responded on March 19, 2014.⁶ On March 29, 2014, the Department extended the deadline for a ruling until June 3, 2014.⁷ On May 29, 2014, the Department extended the deadline for a ruling until August 4, 2014.⁸

Concerning the request on handles without plastic end caps, the following subsequent events transpired. On February 7, 2014, the Department extended the deadline for a ruling until April 23, 2014.⁹ On March 5, 2014, the Department issued a deficiency letter¹⁰ to Whirlpool, to which Whirlpool responded on March 19, 2014.¹¹ On April 11, 2014, the Department extended the deadline for a ruling until June 23, 2014.¹² On June 9, 2014, the Department extended the deadline for a ruling until August 4, 2014.¹³

On July 21, 2014, the Aluminum Extrusions Fair Trade Committee (hereinafter referred to as Petitioners) submitted comments regarding the Handles With End Caps Scope Request.¹⁴ Petitioners did not submit comments concerning the Handles Without End Caps Scope Request.

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

kitchen appliance door handles without plastic end caps (Handles Without End Caps Supplemental Filing).

⁴ See the Department's January 29, 2014, letter.

⁵ See the Department's March 5, 2014, deficiency letter.

⁶ See Handles With End Caps Supplemental Filing.

⁷ See the Department's March 29, 2014, letter.

⁸ See the Department's May 29, 2014, letter.

⁹ See the Department's February 7, 2014, letter.

¹⁰ See the Department's March 5, 2014, deficiency letter.

¹¹ See Handles Without End Caps Supplemental Filing.

¹² See the Department's April 11, 2014, letter.

¹³ See the Department's June 9, 2014, letter.

¹⁴ See Petitioners' July 21, 2014, submission (Petitioners' Filing).

materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (“drawn aluminum”) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including bright-dip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

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.¹⁵

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.¹⁶ 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.¹⁷ 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.

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

Kitchen Door Handles With Plastic End Caps

The handles at issue consist of alloy 6 series aluminum extrusions. The non-aluminum components consist of plastic end caps that are attached by metal screws to the handle and the surface of the kitchen appliance door. The handles are ready for attachment to the refrigerator door upon importation.¹⁸

¹⁵ See *Orders*.

¹⁶ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

¹⁷ See 19 CFR 351.225(k)(1).

¹⁸ See *Handles With End Caps* Scope Request at 1-2, 6-7, and Exhibits 1 and 2.

Kitchen Door Handles Without Plastic End Caps

The handles at issue consist of alloy 6 series aluminum extrusions. The handles are ready for attachment to the refrigerator door upon importation.¹⁹

PRIOR SCOPE RULINGS RELEVANT TO THIS PROCEEDING²⁰

Geodesic Domes²¹

At issue in the ruling were certain geodesic dome frame kits consisting solely of extruded aluminum parts along with nuts, bolts, and washers. The requestor argued that the products at issue constituted finished goods kits because the kits contained all the components necessary to assemble a final finished good. 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 Geodesic Domes Scope Ruling, the Department explained that the product at issue met the “initial requirements for inclusion into the finished goods kit exclusion.”²² 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.”²³ 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.²⁴

Cutting & Edging Scope Ruling²⁵

At issue were certain finished cutting and marking straight edges. The requestor argued that the products at issue constituted finished goods and, therefore, met the exclusion criteria in the scope of the *Orders*.²⁶

The Department found that the physical characteristics of the products at issue (*e.g.*, aluminum extrusion of a rectangular shape) match the physical description of subject merchandise, which includes aluminum extrusions in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. The Department also

¹⁹ See Kitchen Door Handles Without Plastic End Caps Scope Request at 3-4 and Exhibits 1 and 2.

²⁰ 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.

²¹ 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).

²² *Id.* at 7.

²³ *Id.*

²⁴ *Id.*

²⁵ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Cutting and Marking Straight Edges,” (November 13, 2012) (Cutting & Edging Scope Ruling).

²⁶ *Id.* at 1-2.

disagreed that the product at issue constituted a “finished good.” The Department explained that like the door thresholds or carpet trim, both of which are provided as examples of subject extrusions, the products at issue were merely aluminum extrusions that met the physical description of subject merchandise, referred to by their end use: as cutting and marking edges. Accordingly, the Department found that the products at issue did not meet the exclusion criteria for finished merchandise.²⁷

Side Mount Valve Controls Scope Rulings²⁸

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.”²⁹

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 had 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.³⁰

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 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.³¹

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

²⁷ *Id.* at 9-10.

²⁸ 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).

²⁹ *Id.* at 2.

³⁰ *Id.* at 7.

³¹ *Id.* at 7.

issue met the exclusion criteria for subassemblies that enter the United States as “finished goods kits.”³²

Kitchen Appliance Door Handles I Scope Ruling³³

At issue in the ruling were Meridian’s kitchen appliance door handles for ovens, refrigerators or freezers. The Department examined three types of handles. The Type A handles consisted entirely of extruded aluminum. Type B handles consisted of extruded aluminum and two plastic injection molded end caps at each end, which are used to fasten the handle to the door. Type C handles consisted of aluminum extrusions and included an allen wrench and installation instructions.³⁴ The Department concluded that because the Type A, B, and C handles consisted entirely of extruded aluminum, the Department’s findings from the Geodesic Domes Scope Ruling applies and, thus, found the handles inside the scope of the *Orders*.³⁵ Concerning the Type B handles, the Department treated the plastic end caps as fasteners and, thus, found that the inclusion of such non-extruded aluminum fasteners did not, in and of itself, result in the product being excluded from the scope of the *Orders*.³⁶

Anodes Scope Ruling³⁷

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.³⁸ 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.

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.³⁹

³² *Id.* at 7-8.

³³ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Meridian Kitchen Appliance Door Handles,” dated June 21, 2013, (Kitchen Appliance Door Handles I Scope Ruling).

³⁴ *Id.* at 2.

³⁵ *Id.* at 12-13.

³⁶ *Id.* at 12.

³⁷ 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).

³⁸ *Id.* at 1, 6.

³⁹ *Id.* at 6.

Shower Door Kits Scope Ruling⁴⁰

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.⁴¹ 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, and thus qualified for the finished goods kit exclusion⁴²

Ladders and Brackets Scope Ruling⁴³

At issue in the ruling were a finished aluminum boat ladder, a boat ladder kit, three dock ladder kits, and strip door mounting brackets. The boat ladder kit (Model ESG2) contained aluminum extrusion handrails, with steps made of plastic. The finished aluminum boat ladder consisted of aluminum extrusion handrails with attached steps made of plastic. The three aluminum dock ladder kits contained extruded aluminum handrails and extruded aluminum steps, and fasteners to assemble the product and to attach it to a dock. The strip door mounting brackets consisted of an aluminum profile to which aluminum bullets are attached at regular intervals.⁴⁴ In the ruling, the Department concluded that the boat ladder and certain ladder kit models constituted finished goods and finished goods kits, respectively, because they consisted of (or, in the case of kits contained all of the parts necessary to assemble) permanently and fully assembled plastic steps and aluminum extrusion handrails.⁴⁵ The Department further determined that the strip door mounting brackets as well as certain boat ladder kits were inside the scope because they consisted entirely of extruded aluminum products.⁴⁶

Solar Panel Scope Ruling⁴⁷

At issue in the ruling were unassembled mounting systems predominantly consisting of extruded aluminum rails, but also including extruded and cast aluminum kedges, galvanized steel posts, and various stainless steel bolts, clamps, brackets, and fasteners.⁴⁸ In the ruling, the Department concluded that at the time of importation, the products at issue contained all of the parts

⁴⁰ 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).

⁴¹ *Id.* at 5.

⁴² *Id.* at 6.

⁴³ See Memorandum to Christian Marsh, Deputy Assistant Secretary for AD and CVD Operations, “Final Scope Ruling on Asia Sourcing Corporation’s Boat and Dock Ladders and Strip Door Mounting Brackets,” (March 20, 2013) (Ladders and Brackets Scope Ruling).

⁴⁴ *Id.* at 5.

⁴⁵ *Id.* at 8.

⁴⁶ *Id.* at 8.

⁴⁷ See Memorandum to Christian Marsh, Deputy Assistant Secretary for AD and CVD Operations, “Final Scope Ruling on Clenergy (Xiamen) Technology’s Solar Panel Mounting Systems,” (October 31, 2012) (Solar Panel Scope Ruling).

⁴⁸ *Id.* at 6-7.

necessary to fully assemble a finished good without further fabrication. The Department further concluded that at the time of importation the products could be assembled “as is” into finished products for mounting the solar panels, and were designed to work with removable/replaceable components. Thus, the Department ruled that the products were akin to excluded picture frames as well as banner stands and backwall kits that the Department found outside the scope in prior scope rulings.⁴⁹

Louver Assemblies Scope Ruling⁵⁰

At issue in the ruling were adjustable vents that directed airflow for more concentrated or more dispersed airflow in portable cooling units. The products at issue consisted of several parts permanently assembled together in one assembly. All of the product models at issue were comprised of extruded aluminum (*e.g.*, extruded aluminum in the form of rivets, connection bars, louvers, and frames) as well as non-aluminum parts such as wire mesh.⁵¹ In the Ruling, the Department concluded that the products at issue were akin to the products examined in the Anodes Scope Ruling. Specifically, the Department found that the louver assemblies, as imported, each contained all of the components of a louver (including non-aluminum extrusion parts; such as wire mesh) permanently assembled, completed, and ready for use as a louver to direct airflow for Port-A-Cool’s “Cyclone” portable cooling unit. Like the previously examined water heater anode, the Department found that the products at issue were finished merchandise and were not an integral component of the cooling unit because the Cyclone models can cool air with or without the louver. Rather, the Department found the products at issue were a finished product that worked in conjunction with the Cyclone model to direct airflow as a complementary function, which is not essential to the air cooling system. On this basis, the Department found the products outside the scope of the Orders.⁵²

ARGUMENTS FROM INTERESTED PARTIES

Whirlpool’s Arguments in the Handles With End Caps Scope Request

The scope of the *Orders* does not define “finished merchandise.” However, a variety of dictionaries and various sources make it clear that the term refers to merchandise as to which the manufacturing process has been fully completed such that the merchandise is ready for sale and use by the purchaser without the purchaser having to further process or complete the merchandise. This definition of “finished merchandise” applies to the handles at issue.⁵³

Further, the handles at issue satisfy the express requirements for “finished merchandise” set forth in the exclusion language. The handles at issue include “aluminum extrusions” as parts. They include not only the extruded aluminum handle but also non-aluminum plastic end caps that are permanently assembled at the end of the handles. As such, the products at issue include the

⁴⁹ *Id.* at 8-9.

⁵⁰ See Memorandum to Christian Marsh, Deputy Assistant Secretary for AD and CVD Operations, “Final Scope Ruling on Port-A-Cool Louver Assemblies,” (September 9, 2013) (Louver Assemblies Scope Ruling).

⁵¹ *Id.* at 5, 8.

⁵² *Id.* at 7-8.

⁵³ See *Handles With End Caps Scope Request* at 9 and Attachment 2.

aluminum extrusions as “parts,” along with end caps, of the assemblies.⁵⁴ Additionally, the handles at issue are “permanently assembled and completed at the time of entry,” as specified in the scope. Further, upon importation they are ready, as is, for attachment to a refrigerator door with no further processing or finishing of the handle assembly.

The handles at issue are comparable to the illustrative examples included in the scope for “finished merchandise.” The scope indicates that such products as “finished windows with glass” and “doors with glass or vinyl” constitute “finished merchandise” that are excluded from the scope. Similar to these products, the handles at issue consist of extruded aluminum with other non-aluminum parts. Further, as with the excluded products included in the scope, the handles at issue are imported for use in assembly with a larger unit. As with windows with glass and doors with glass or vinyl, the handles at issue, the products are useful only as they serve to help complete the larger unit.⁵⁵

The handles at issue are also consistent with the exclusion for finished goods kits. The scope states that “an imported product will not be considered a finished goods kit and therefore excluded from the scope merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusion product.” Importantly, this limitation only applies to the finished goods kit exclusion, not the finished merchandise exclusion. In any event, the plastic end caps included with the handles do not meet the definition of a fastener, which is defined as “a device (such as a button, hook, eye, zipper, or snap) that joins together separate parts or closes an opening” or a “device for holding shut or preventing opening.” Further the verb fasten is defined as “to attach firmly to something else, as by pinning or nailing” as well as “to attach, especially by pinning, tying, or nailing.”⁵⁶

The plastic end caps included with the handles at issue do not operate to “join together separate parts” of the handle or to “close an opening” in the handle and are not comparable to the reference to buttons, snaps, or zippers. Rather, the plastic end caps are themselves fully and completely assembled to the extruded component of the handle by a screw, that is a fastener, and are thus the “separate parts” that are themselves joined together by fasteners to form the appliance handle.⁵⁷

The Department’s prior scope rulings support Whirlpool’s arguments in this regard. Prior decisions have treated fasteners as bolts and screws that operate to “join together separate parts.”⁵⁸ For example, in the Geodesic Domes Scope Ruling the Department found that the kits at issue consisted only of extruded aluminum tubes, which were accompanied by “nuts, bolts, and washers (*i.e.*, fasteners)” and, thus, found that the mere inclusion of such “fasteners” did not move the geodesic domes outside of the scope.⁵⁹ The end caps included with the handles at issue are not akin to the “fasteners” described in the Geodesic Domes Scope Ruling. As a result, the Department cannot in the instant proceeding find that the plastic end caps constitute fasteners

⁵⁴ *Id.*

⁵⁵ *Id.* at 13-14.

⁵⁶ *Id.* at 16, citing to dictionary definitions.

⁵⁷ *Id.* at 16-17.

⁵⁸ *Id.* at 17.

⁵⁹ *Id.* (citing to the Geodesic Domes Scope Ruling at 5 and 7).

and, thus, the Department cannot use the reasoning from the Geodesic Domes Scope Ruling to find the handles at issue inside the scope of the *Orders*.

The facts of the Kitchen Appliance Door Handles I Scope Ruling are distinct from those of the instant proceeding. In the Kitchen Appliance Door Handles I Scope Ruling, the Department found that “the record is undisputed” that the handles at issue are “not fully and permanently assembled with non-aluminum extrusion parts at the time of entry.”⁶⁰ In contrast, by virtue of the plastic end caps, the handles at issue are fully and permanently assembled with non-aluminum extrusion parts at the time of entry. Therefore, the Department’s findings in the Kitchen Appliance Door Handles I Scope Ruling cannot apply here.

The handles at issue are akin to the boat ladder kit model the Department excluded in the Ladders and Brackets Scope Ruling. In that ruling, the Department found that the boat ladder kit model, which was comprised of an extruded aluminum handrail and plastic steps, met the finished goods kit exclusion.⁶¹ The handles at issue are analogous to the excluded boat ladder kit model in that they consist of extruded aluminum handles and non-aluminum plastic end caps and, thus, meet the exclusion criteria for finished merchandise.

The handles at issue are also akin to the products examined in the SMVC Scope Rulings.⁶² As with SMVCs, the handles at issue are upon importation ready for installation and require no further finishing or fabrication prior to being used and contain all the parts necessary to constitute a complete appliance handle. Further, as with SMVCs, the handles at issue are mounted after importation to the larger downstream product where they are ready for use upon installation.

The Department’s conclusion in the Anodes Scope Ruling should also lead it to exclude the handles at issue from the scope of the *Orders*. In the ruling, the Department found that the anodes at issue were “finished merchandise because at the time of entry, the components of a water heater anode . . . are permanently assembled, completed, and ready for use as an aluminum anode.”⁶³ The handles at issue are no different. The handles are permanently assembled, completed, and ready for use at the time of import. Further, as with the anodes examined by the Department, the handles at issue are a component of a larger system. In the Anodes Scope Ruling, the Department rejected the notion that this fact rendered the anodes ineligible for exclusion. Instead, the Department concluded that:

a water heater anode is not an integral component of a water heater because a water heater can heat water with or without a water heater anode. Rather, a water heater anode is a finished product that works in conjunction with another finished product . . . in the same fashion as a window with glass . . . works in conjunction with a house. . . .⁶⁴

⁶⁰ *Id.* at 18 (citing Kitchen Appliance Door Handles I Scope Ruling at 13).

⁶¹ *Id.* at 19-20 (citing Ladders and Brackets Scope Ruling at 5).

⁶² *Id.* at 20-23 (citing Preliminary SMVC Scope Ruling at 6-7).

⁶³ *Id.* at 24 (quoting Anodes Scope Ruling at 6).

⁶⁴ *Id.* at 25 (quoting Anodes Scope Ruling at 6).

The handles at issue are no different in this regard. The handles are finished products that work in conjunction with refrigerators and contain all the necessary components to be used as handles.⁶⁵ Similarly, the handles at issue are akin to windows with glass that are specifically excluded from the scope of the *Orders* in that the handles constitute finished merchandise. The fact that the handles at issue are finished merchandise also distinguishes them from the fin evaporators and mop frames, products that the Department found were not finished goods and thus inside the scope of the *Orders*.⁶⁶

Additionally, the Department's prior determinations in the Shower Door Kits, Solar Panels, and Louver Assemblies Scope Rulings supports finding the handles at issue are outside the scope of the *Orders*. Just as a shower door facilitates the use of a shower, the handles at issue facilitate the use of refrigerators.⁶⁷ Concerning solar panel mounting systems, the Department rejected Petitioners' argument that the products are inside the scope because they are merely part of a larger system. Instead, in the Solar Panel Scope Ruling, the Department concluded that the panels constituted "finished goods in their own right."⁶⁸ The handles at issue are no different. Though the handles are designed to be attached to a downstream product, a refrigerator, they are finished goods in their own right.

In the Louver Assemblies Scope Ruling, the Department found the products at issue contained extruded aluminum and non-aluminum parts that were permanently assembled, completed, and ready for use at the time of importation. Thus, the Department concluded that the louver assemblies were finished products that worked in conjunction with a downstream product, the Cyclone cooling unit and, therefore, found the products outside the scope of the *Orders*.⁶⁹ The handles at issue are analogous to the louver assemblies. The handles contain all the components required to attach the handle to the refrigerator, they are ready for use upon importation, require no additional processing, and they are finished products that work in conjunction with refrigerators.

The Court's holding in *Legacy Furniture* also supports finding the handles at issue outside the scope of the *Orders*.⁷⁰ In *Legacy Furniture*, the Court held that specific exclusion language in an AD or CVD order "trumps" more general language in the scope.⁷¹ Applying the Court's holding in *Legacy Furniture* to the handles at issue means that the Department cannot use the general language in the scope of the *Orders* to find the handles inside the scope when specific exclusion language carves "finished merchandise," which the handles at issue most certainly are, out of the *Order*.

⁶⁵ *Id.* at 26-28.

⁶⁶ *Id.* (citing Anodes Scope Ruling at 6-7 and referencing the Memorandum to Christian Marsh, Deputy Assistant Secretary for AD and CVD Operations, "Final Scope Ruling on Electrolux's Fin Evaporator Systems," (July 13, 2012) (Fin Evaporator Scope Ruling) and Memorandum to Christian Marsh, Deputy Assistant Secretary for AD and CVD Operations, "Final Scope Ruling on Certain Cleaning System Components," (October 25, 2011) (Cleaning System Scope Ruling)).

⁶⁷ *Id.* at 28-29 (citing Shower Door Kits Scope Ruling at 6).

⁶⁸ *Id.* at 29-30 (citing Solar Panels Scope Ruling at 9).

⁶⁹ *Id.* at 31-33 (citing Louver Assemblies Scope Ruling at 8).

⁷⁰ *Id.* at 33-35 (citing *Legacy Classic Furniture, Inc. v. United States*, 867 F. Supp. 2d 1321 (CIT 2012) (*Legacy Furniture*)).

⁷¹ *Id.* at 34 (quoting *Legacy Furniture*, 867 F. Supp. 2d at 133).

Whirlpool's Arguments in the Handles Without End Caps Scope Request

The scope excludes finished merchandise, which is defined to include merchandise that is “fully and permanently assembled and completed at the time of entry.” This exclusion language applies to the handles at issue because they are fully fabricated, completed, and finished at the time of entry.⁷²

The exclusion language regarding finished goods kits also supports finding the handles outside of the scope of the *Orders*. The exclusion for finished goods kits refers to packaged parts that “contain, at the time of importation, all of the necessary parts to fully assemble a final finished good and require no further finishing or fabrication, such as cutting or punching, and is assembled ‘as is’ into a finished product.” This language matches the handles at issue, which are fully assembled upon importation and require no further processing prior to being installed to the refrigerator door.⁷³

In such proceedings as the SMVC Scope Rulings, the Department found that finished components of a larger apparatus are not subject to the scope of the *Orders* since these components constitute either finished merchandise or finished goods kits.⁷⁴ Like the SMVCs examined by the Department, the handles are finished merchandise that are ready for incorporation into a larger functional unit, a kitchen appliance, in their imported state. Further, the handles at issue are a complete and finished subassembly upon importation. Thus, based on the reasoning in the SMVC Scope Rulings, the Department should find the handles outside the scope of the *Orders*. Similarly, as argued in the Handles With End Caps Scope Request, the handles are analogous to the products examined in the Anodes, Solar Panel, and Louver Assemblies Scope Rulings.⁷⁵

Petitioners' Filing Concerning the Handles with End Caps Scope Request

The handles at issue are nothing more than fabricated extrusions that fall under the language of the scope concerning “aluminum extrusions” of various “shapes and forms.” The handles cannot be considered “finished merchandise,” as the handles are merely part of a final finished good (e.g., a refrigerator).⁷⁶

In the Kitchen Door Handles I Scope Ruling, the Department treated as fasteners the plastic end caps that were included with the handles under examination. Accordingly, and consistent with the Department’s findings in the Geodesic Scope Ruling, the Department found the handles inside the scope of the *Orders*.⁷⁷ The handles at issue are analogous to the handles examined in the Kitchen Door Handles I Scope Ruling. Therefore, this proceeding should stop with the analysis the Department has applied in such prior rulings as Geodesic Domes and Kitchen Door

⁷² See Handles Without End Caps Scope Request at 5.

⁷³ *Id.* at 5-6.

⁷⁴ *Id.* at 6 (citing SMVC Preliminary Scope Ruling at 8).

⁷⁵ *Id.* at 7.

⁷⁶ See Petitioners’ Filing at 6.

⁷⁷ *Id.* at 8 (citing Kitchen Door Handles I Scope Ruling at 2 and 12).

Handles I Scope Ruling, which will result in the Department finding that the handles at issue are inside the scope of the *Orders*.

If the Department departs from its previous analysis and considers the plastic end caps to be more than just fasteners, it should, nonetheless, find the handle at issue inside the scope of the *Orders* because the end caps are not the dominant feature in defining the functionality of the door handle. Such a conclusion is supported the Court of International Trade's (CIT or the Court) holding in *Yuanda*, that "what is significant is whether the product itself . . . is a stand-alone completed and finished product."⁷⁸ The Court's holding also provides guidance to the Department for interpreting the phrase "final finished product," which appears in the finished goods kit exception:

An individual curtain wall unit on its own has no consumptive or practical use because multiple units are required to form the wall of a building. Therefore, a curtain wall unit's sole function is to serve as a part for a much larger, more comprehensive system: a curtain wall. All of this being the case, it is clear that curtain wall units are not finished merchandise but, rather parts for curtain walls.⁷⁹

Thus, in *Yuanda* the Court held that a final finished good must have practical or consumptive use on its own. The handles at issue have no consumptive use on their own because they require the appliance in order have a practical use. Such an interpretation is consistent with the language of the scope, which refers to "finished merchandise" as "permanently assembled and complete."⁸⁰ In other words, the language of the scope supports an interpretation that the product at issue must function outside of the aluminum extrusion that it contains. If the extruded aluminum components are dominant in defining the functionality of the product, which is certainly the case with the handles at issue, then the product should be included in the scope. Indeed, the scope states that "parts that otherwise meet the definition of aluminum extrusions are included in the scope."

The mere fact that a part or subassembly contains more components than solely aluminum extrusions does not eliminate the practical consumptive use requirements for final finished goods, as evidenced by the Court's holding in *Yuanda*, which made no such distinction.⁸¹ Further, simply because curtain walls are expressly covered by the scope does not mean the Department can discount the fact that aluminum extrusions with non-extruded parts are covered by the scope. The Department's focus should not be on the functional role of the non-extruded parts, but rather, on the dominant function of the aluminum extrusion.⁸² In any event, here, Whirlpool's handles are covered by the scope either by examining the functionality of the aluminum extrusion, or the non-functionality of the non-extruded part.

⁷⁸ *Id.* at 11 (citing *Shenyang Yuanda Aluminum Industry Engineering Co. v. United States*, 961 F. Supp. 2d 1291, 1298 (CIT 2014) (*Yuanda*)).

⁷⁹ *Id.* (citing *Yuanda*, 961 F. Supp. 2d at 1298-99).

⁸⁰ *Id.* at 12-13.

⁸¹ *Id.* at 14 (citing *Yuanda*, 961 F. Supp. 2d at 1298-99).

⁸² *Id.* at 16-17.

The scope and the Department's prior scope rulings confirm that because Whirlpool's handles consist primarily of extruded aluminum and plastic end caps, clips, and screws to connect the door handles to the kitchen appliance, the handles do not meet the finished goods kit exclusion.⁸³ In addition, because Whirlpool's handles do not enter as complete stand-alone or finished products (as they are missing the accompanying kitchen appliance), which the Court required in *Yuanda*, they do not qualify for the finished goods kit exclusion.⁸⁴

The Department should reject Whirlpool's arguments that various dictionary definitions indicate that the term "finished" as used in the scope language refers simply to merchandise in which the manufacturing process has been fully completed and ready to be used by the end-customer.⁸⁵ The Department rejected this argument in the Kitchen Door Handles I Scope Ruling and should do so here for the same reasons.⁸⁶ Whirlpool has not provided any new information or argument that should cause the Department to reconsider its prior finding in this regard.

Information from Whirlpool indicates that the handles at issue do not enter the United States as finished goods. Whirlpool admits that the handles are "imported with multiple handles packaged in the same box."⁸⁷ Further, once the handles are imported, Whirlpool transfers them to inventory where it repackages them.⁸⁸ Pursuant to the finding in the Flag Pole Sets Scope Ruling, the Department should find that the handles at issue do not constitute finished goods.⁸⁹

Lastly, as provided in prior scope rulings, the Department should adopt Petitioners' decision matrix which has been developed for purposes of the aluminum extrusions scope proceedings.⁹⁰

DEPARTMENT'S POSITION

The Department examined the language of the *Orders* and the description of the products contained in the Handles Scope Requests, as well as previous rulings made by the Department. We find that the description of the products, the scope language, and prior rulings, are, together, dispositive as to whether the products at issue are subject merchandise, in accordance with 19 CFR 351.225(k)(1). Accordingly, for this determination, the Department finds it unnecessary to consider the additional factors specified in 19 CFR 351.225(k)(2). For the reasons set forth

⁸³ *Id.* at 18-20.

⁸⁴ *Id.* at 21-22 (citing *Yuanda*, 961 F. Supp. 2d at 1298).

⁸⁵ *Id.* at 22-23.

⁸⁶ *Id.* at 23 (citing Kitchen Door Handles I Scope Ruling at 14-15, in which the Department explained that the dictionary definitions cited by the requestor do not define "finished" in the context of the scope and also explained that referring to a product by its end use will not exclude a product from the scope).

⁸⁷ *Id.* at 25 (citing Handles With End Caps Supplemental Filing at 2).

⁸⁸ *Id.* (citing Handles With End Caps Supplemental Filing at 4).

⁸⁹ *Id.* at 26 (citing 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) at 9, in which the Department found that the products at issue 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).

⁹⁰ *Id.* at Exhibit 2.

below, we find that both of the handles at issue do not meet the exclusion criteria for “finished merchandise” and, therefore, are inside the scope of the *Orders*.

Kitchen Door Handles With Plastic End Caps

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).⁹¹

The scope of the *Orders* explicitly 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,” and “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 also provides that “{a}n 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.”

Based on the information provided by Whirlpool (*e.g.*, narrative statements, photographs, and product specifications), we find that the handles at issue are comprised entirely of extruded aluminum and fasteners (*i.e.*, plastic end caps).⁹² Therefore, we find the handles do not meet the Department’s first test for determining whether a good constitutes a finished good or finished goods kit, as established in the Geodesic Domes Scope Ruling.⁹³ Whirlpool contends that the end caps constitute a non-extruded aluminum part that does not meet the definition of a “fastener” and, thus, the Department should conclude that the handles at issue pass the test established in the Geodesic Domes Scope Ruling. We disagree.

The Merriam Webster dictionary defines a washer as a “flat thin ring or a perforated plate used in joints or assemblies to ensure tightness, prevent leakage, or relieve friction.”⁹⁴ We find that the end caps, as described in the Handles With End Caps Scope Request, are involved in attaching the handle to the refrigerator door in a manner that allows the handle to fit tightly to the refrigerator door and relieves friction between the door and the handle.⁹⁵ On this basis, we find that the plastic end caps are analogous to a washer. As discussed below, in a prior scope ruling,

⁹¹ See, *e.g.*, *CVD Order*, 76 FR at 30653.

⁹² See *Handles With End Caps Scope Request* at 1-2, 6-7, and Exhibits 1 and 2; see also *Kitchen Door Handles Without Plastic End Caps Scope Request* at 3-4 and Exhibits 1 and 2.

⁹³ 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.

⁹⁴ See <http://www.merriam-webster.com/dictionary/washer>. A screenshot of this webpage is provided in the Memorandum at Attachment I.

⁹⁵ See *Scope Request* at Exhibit 2, which contains a drawing of the handle. From the drawing it is apparent that the end caps is designed to sit flush against the door of the refrigerator/appliance.

the Department considered washers to fall within the scope language's reference to fasteners.

The Department has frequently considered whether products that consist solely of aluminum extrusions, save for certain nuts, bolts, and fasteners, meet the exclusions for finished merchandise or finished goods kits. For example, in the Geodesic Domes Scope Ruling, the Department analyzed a children's jungle gym that was comprised of extruded aluminum poles that were accompanied by "*nuts, bolts, and washers (i.e., fasteners)*."⁹⁶ In the Geodesic Domes Scope Ruling, the Department found that the non-extruded aluminum parts, which included washers, fell under the category of "fasteners" as mentioned in the scope of the *Orders*. In the ruling, the Department explained that the product at issue met the "initial requirements for inclusion into the finished goods kit exclusion."⁹⁷ However, in the ruling the Department further 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."⁹⁸ Thus, the Department found that since the products at issue consisted solely of extruded aluminum and fasteners (such as nuts, bolts, and washers), the exception to the exclusion provision applied. Accordingly, in the Geodesic Domes Scope Ruling the Department found that the products at issue did not meet the exclusion criteria for a finished goods kit.⁹⁹

Similarly, in the Cutting & Marking Edges Scope Ruling, the Department considered products which, although identified by their end use, consist only of aluminum extrusions. The Department found that they did not meet the exclusion for finished merchandise because "the products consist entirely of aluminum extrusions."¹⁰⁰

Consistent with the Department's approach in such prior rulings as the Geodesic Domes Scope Ruling, we find the end caps are analogous to washers, and, therefore, we further determine that the end caps constitute "fasteners" as referenced in the scope of the *Orders*. Accordingly, the mere inclusion of fasteners, in this case the plastic end caps, does not result in the extruded aluminum handles falling outside the scope of the *Orders* as extruded finished merchandise. As a result, and consistent with the approach applied in the Geodesic Domes Scope Ruling, we find that the handles at issue fall inside the language of the scope that includes "aluminum extrusions which are shapes and forms, produced by an extrusion process."¹⁰¹

We further note that our decision to find the handles with plastic end caps inside the scope of the *Orders* is consistent with the Department's findings in the Kitchen Appliance Door Handles I Scope Ruling. In that ruling, the Department examined handles that consisted of extruded aluminum and two plastic injection molded end caps, one at each end. As in the instant case, the end caps were used to fasten the handle to a door.¹⁰² In the ruling, the Department treated the plastic end caps as fasteners and, thus, found that the inclusion of such non-extruded aluminum fasteners did not, in and of itself, result in the product being excluded from the scope of the

⁹⁶ See Geodesic Domes Scope Ruling at 5 and 7 (emphasis added).

⁹⁷ *Id.* at 7.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ See Cutting & Marking Edges Scope Ruling at 11.

¹⁰¹ See Geodesic Domes Scope Ruling at 7.

¹⁰² See Kitchen Appliance Door Handles I Scope Ruling at 2.

Orders.¹⁰³ Accordingly, having found that the handles were comprised entirely of extruded aluminum, save for fasteners, the Department concluded that the approach from the Geodesic Domes Scope Ruling applied and, thus, found the handles inside the scope of the *Orders*.¹⁰⁴

Whirlpool attempts to distinguish the instant proceeding from the Kitchen Appliance Door Handles I Scope Ruling by arguing that the handles at issue enter the United States fully assembled, whereas the Department found that the handles in Kitchen Appliance Door Handles I Scope Ruling were not permanently assembled upon entry.¹⁰⁵ Whirlpool's arguments in this regard overlook and fail to address the central premise upon which the Department conducted its analysis in the Kitchen Appliance Door Handles I Scope Ruling, which was whether the test developed in the Geodesic Domes Scope Ruling applied:

Meridian's kitchen appliance door handles are analogous to geodesic domes, cutting and marking edges, and refrigerator/freezer trim kits because they consist entirely of aluminum extrusions. Thus, consistent with these scope rulings, the Department finds that Meridian's products do not meet the exclusion for finished goods kits.¹⁰⁶

Whirlpool further argues that the products at issue are analogous to windows frames with glass, which are specifically excluded from the scope, as well as products excluded from the scope of the *Orders* following examination in such prior proceedings as the Ladders and Brackets, SMVC, Anodes, Shower Door Kits, Solar Panels, and Louver Assemblies scope rulings. Whirlpool's products are not analogous to windows with glass because they consist only of aluminum extrusions and fasteners. Thus, they are akin to window frames without glass, which are expressly covered by the scope. Concerning the scope rulings cited by Whirlpool, importantly, in each of those proceedings, the products at issue consisted of finished merchandise or finished goods kits with components which were made of material other than aluminum extrusions, material that the Department found constituted more than mere fasteners such as nuts, bolts, and screws.¹⁰⁷ As explained above, we find that the handles at issue, with the exception of fasteners, consist entirely of aluminum extrusions, and thus do not meet the exclusion criteria for finished merchandise.

Whirlpool argues that, under the test articulated in SMVC Scope Rulings, the handles at issue are finished goods kits because, even though the door handles are part of a larger structure or system, they nevertheless constitute a finished product which is ready for installation, and requires no further finishing or fabrication.¹⁰⁸ However, unlike the products at issue here, the kits in the SMVC Scope Rulings consisted of numerous components other than aluminum extrusions, and so, the reasoning in that proceeding does not apply to the handles at issue here.¹⁰⁹

Whirlpool further argues that the "fasteners" language in the scope only applies in the context of the finished goods kit exclusion. We disagree. The difference between "finished goods" and

¹⁰³ *Id.* at 12.

¹⁰⁴ *Id.* at 12-13.

¹⁰⁵ See Kitchen Appliance Door Handles I Scope Ruling at 13.

¹⁰⁶ *Id.* at 13-14.

¹⁰⁷ See, e.g., Ladders and Brackets Scope Ruling at 5.

¹⁰⁸ See Preliminary SMVC Scope Ruling at 7.

¹⁰⁹ *Id.* at 2.

“finished goods kits,” as described in the scope is that the former is assembled upon entry while the latter is already unassembled upon 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* . . .¹¹⁰

Therefore, we find unconvincing the notion that an unassembled product in kit-form that consists solely of extruded aluminum, save for fasteners, would, per the analysis from the Geodesic Domes Scope Ruling, fall inside the scope while the identical product, entering the United States as an assembled good, would fall outside the scope of the *Orders*. Additionally, determining that a product which consists only of aluminum extrusions and fasteners satisfies the finished good exclusion would permit this exclusion to the *Orders* to swallow the scope, because any aluminum extrusion product, as long as it can be identified by end use, could be considered a finished product. This is contrary to the scope itself, which covers aluminum extrusions.

Additionally, we disagree that the Court’s holding in *Legacy Furniture* applies here. For the reasons discussed above, we find that the scope language covers the handles at issue, and we do not agree that the handles meet the specific exclusion language regarding finished goods or finished goods kits. For this reason we find that the handles are inside the scope of the *Orders*.

Concerning the comments in Petitioners’ Filing, as indicated above, we have applied the analysis established in the Geodesic Domes Scope Ruling. Further, we find that the facts of the instant proceeding are not distinct from the facts examined in the Kitchen Door Handles I Scope Ruling. Thus, consistent with our analysis and determinations in these rulings, we find the handles at issue are inside the scope of the *Orders*. Therefore, we agree with Petitioners’ initial argument that this proceeding should stop with the analysis established in the Geodesic Domes Scope Ruling.

We disagree with Petitioners that the Court’s holding in *Yuanda* is controlling here. First, unlike the handles at issue, the curtain walls addressed in *Yuanda* are expressly included within the scope of the *Orders*. Secondly, 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. We also disagree with Petitioners that *Yuanda* requires that in order to qualify as a finished goods kit, a product must contain all parts of the further downstream product. The Department continues to apply the subassembly finished good analysis developed in the SMVC Scope Rulings, as appropriate.

Additionally, because we find that the handles at issue do not meet the initial test established in the Geodesic Domes Scope Ruling, we find it is not necessary to make a finding as to whether the handles are opened, repackaged, and sold from inventory subsequent to importation such that they are disqualified from being considered “finished merchandise” excluded from the scope of the *Orders* in a manner similar to the products found inside the scope in the Flag Pole Sets Scope

¹¹⁰ See *CVD Order*, 76 FR at 30654, emphasis added.

Ruling.¹¹¹ For the same reason, we do not find it necessary to address the applicability of the decision matrix included in Petitioners' Filing.

Kitchen Door Handles Without Plastic End Caps

"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)."¹¹² Subject extrusions may be identified with reference to their end use, and, if they otherwise meet the scope definition, are included within the *Orders* regardless of whether they are ready for use at the time of importation.¹¹³

The handles at issue consist entirely of extruded aluminum described by their end use,¹¹⁴ and meet the description of subject merchandise. As in our ruling regarding Cutting & Marking Edges, products identified by their end use do not meet the exclusion for finished merchandise where such products consist entirely of aluminum extrusions.¹¹⁵ Accordingly, we find that the handles at issue do not meet the exclusion criteria for finished merchandise and, as a result, fall inside the scope of the *Orders*.

Lastly, we disagree with Whirlpool's claim that the handles at issue are analogous to the products the Department found outside the scope of the *Orders* in the SMVC, Anodes, Solar Panel, and Louver Assemblies Scope Rulings. All of the aforementioned proceedings involved products that contained non-aluminum components that went beyond mere screws, bolts, or fasteners. For example, the valves examined in the SMVC scope proceeding consisted of extruded aluminum as well as such non-aluminum components as a chrome-plated die cast zinc T-handle and a bronze split brushings.¹¹⁶ Similarly, the product at issue in the Anodes Scope Ruling consisted of a rod made of aluminum alloy formed around a stainless steel or carbon steel core with a carbon steel cap.¹¹⁷ As discussed above, because we find the handles at issue consist entirely of aluminum extrusions, they do not meet the exclusion for finished goods.

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 both of the handles at issue do not meet the exclusion criteria for finished goods kits or finished merchandise and, thus, are inside the scope of the *Orders*.

¹¹¹ See Flag Pole Sets Scope Ruling at 9.

¹¹² See, e.g., *CVD Order*, 76 FR at 30653.

¹¹³ See, e.g., *CVD Order*, 76 FR at 30654..

¹¹⁴ See Handles Without End Caps Scope Request at 1 and Exhibit 1.

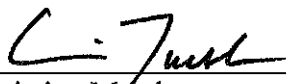
¹¹⁵ See Cutting & Edging Scope Ruling at 9-10.

¹¹⁶ See Preliminary SMVC Scope Ruling at 2.

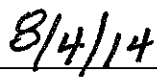
¹¹⁷ *Id.* at 1, 6.

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



Date

ATTACHMENT I

See <http://www.merriam-webster.com/dictionary/washer>

wash·er

noun \ˈwɑː-shər, ˈwä-\

: a thin, flat ring that is made of metal, plastic, or rubber and that is used to make something (such as a bolt) fit tightly or to prevent rubbing

Full Definition of WASHER

1

: a flat thin ring or a perforated plate used in joints or assemblies to ensure tightness, prevent leakage, or relieve friction

2

: one that washes; *especially* : WASHING MACHINE

See washer defined for English-language learners »

See washer defined for kids »