



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

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Scope Inquiry
Grabbers
Public Document
E&C AD/CVD OIII: EBG

November 4, 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 Aluminum Grabbers

SUMMARY

On August 22, 2014, the Department of Commerce (Department) received a scope ruling request from Unger Enterprises, Inc. (Unger)¹ to determine whether the aluminum grabbers it imports are subject to the antidumping (AD) and countervailing duty (CVD) *Orders* referenced above.² On the basis of our analysis of the Scope Request, we determine that the grabbers at issue are not covered by the scope of the *Orders*.

BACKGROUND

On August 22, 2014, Unger, an importer of grabbers, filed the Scope Request. On October 1, 2014, the Department extended the deadline for the ruling until November 20, 2014.³

To date, no interested party has filed comments on the Scope Request.

¹ See Unger's August 22, 2014, submission (Scope Request).

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 the Department's October 1, 2014, memorandum to the file.



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.

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.⁴

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.⁵ 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.⁶ 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.

⁴ See *Orders*.

⁵ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁶ See 19 CFR 351.225(k)(1).

DESCRIPTION OF MERCHANDISE SUBJECT TO THIS SCOPE RULING

At issue are eight models of grabbers, which according to Unger, enter under subheading 820.59.8000 of the Harmonized Tariff Schedule of the United States. Each model is described below.

Model MN40R: This model measures 18 inches in length and features magnetic tips on the grasping fingers. The grabber features a plastic pistol-grip with a trigger running down the length of the grip, a hollow aluminum extrusion through which steel wires connect to the handle, a rotating head with plastic gripping fingers, and grasping fingers at the opposite end. This model is shipped to the United States in boxes of five and sent to retailers, as imported, with no further assembly required.⁷

Models NT060, NT080, and NT090: These models measure 24, 32, and 36 inches in length, respectively. Each model features magnetic tips on the grasping fingers, a plastic pistol grip with a trigger running down the length of the grip, a hollow aluminum extrusion through which run steel wires connecting the trigger and the grasping fingers at the opposite end. The grasping fingers on these models can be rotated. All three models are shipped to the United States in boxes of five and sent to retailers, as imported, with no further assembly required.⁸

Model 960490: This model measures 32 inches in length and features a plastic pistol grip with a trigger running down the length of the grip, a hollow aluminum extrusion through which run steel wires connecting the trigger, and grasping fingers at the opposite end. The grasping head cannot be rotated, and is fixed in a vertical position relative to the pistol grip. The lower grasping finger moves in a vertical motion to make contact with the non-moving gripping finger above it. Model 960490 is shipped to the United States in boxes of 10 and sent to retailers, as imported, with no further assembly required.⁹

Models 92134, 92134H, and 960430: These models measure 36, 36, and 48 inches in length, respectively. Each model features a horizontal grip with a lever to activate the grasping fingers, a hollow aluminum extrusion through which steel wires connect the trigger and the head with the grasping fingers at the opposite end. The grasping fingers cannot be rotated, and remains in a horizontal position relative to the user. Model 92134 is shipped to the United States in boxes of 10. Model 92134H (which is identical to model 92134) is shipped to the United States in boxes of 20. Model 960430 is shipped to the United States in boxes of five. All models are sent to retailers, as imported, with no further assembly required.¹⁰

⁷ See Scope Request at 6 and Exhibit 1, which contains photographs of the model.

⁸ See Scope Request at 6 and Exhibits 2 and 5, which contain photographs, schematics, shipment packaging, and design of the models.

⁹ See Scope Request at 7 and Exhibit 3, which contains photographs, shipment packaging, and schematics of the model.

¹⁰ See Scope Request at 7-8 and Exhibits 4 and 5, which contain photographs, shipment packaging, and schematics of the model.

PRIOR SCOPE RULINGS RELEVANT TO THIS PROCEEDING¹¹

Geodesic Domes Scope Ruling¹²

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 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.”¹³ 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.”¹⁴ 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.¹⁵

Flag Pole Sets Scope Ruling¹⁶

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).¹⁷ 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

¹¹ 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.

¹² *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).

¹³ *Id.* at 7.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *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).

¹⁷ *Id.* at 5.

package but, instead, it was necessary for the packages to be opened, and repackaged before being sold to the end user.¹⁸

Boat Poles and Rod Holders Scope Ruling¹⁹

At issue in this scope ruling were boat cover poles, rod holders, and rod racks. The poles were composed of two telescoping tubes of anodized extruded aluminum, an injection molded nylon locking device with a stainless steel pin, nylon injection molded end caps, and a snap button made of nylon injection and stainless steel. The poles were designed to support a boat cover and prevent it from collecting water which could stain and damage the cover. The poles were fully assembled and individually packaged. The rod holders and rod racks were devices designed to store or hold a fishing rod and reel. They were made from extruded aluminum and also came with a soft flexible PVC injection molded liner to protect the fishing rod.²⁰ Concerning the boat cover poles, specifically, the Department found that because the poles met the Department's first test, as established in the Geodesic Domes Scope Ruling (*e.g.*, the poles contained non-extruded aluminum materials that went beyond fasteners), and because they entered the United States as a pole that was immediately ready, with no further assembly or completion, to stand alone and be used to prop up a tarp that covers the deck of a boat, the poles constituted excluded "finished goods" under the scope of the *Orders*.²¹

ARGUMENTS FROM INTERESTED PARTIES

Unger's Scope Request

- The grabbers at issue meet the exclusion criteria for finished merchandise because they are finished products that are ready for use, as is, and require no further finishing or fabrication after importation.
- The grabbers are a mix of plastic and steel parts with only one aluminum extrusion component.
- Unger does not repack the merchandise when it is shipped to Unger's customers.
- If, however, the Department finds it necessary to examine Unger's Scope Request pursuant to the criteria set forth under 19 CFR 351.225(k)(2), then the grabbers at issue would still fall outside the order.²²

DEPARTMENT'S POSITION

The Department examined the language of the *Orders* and the description of the products contained in this Scope Request, as well as previous rulings made by the Department. We find that the description of the products, the scope language, and prior rulings, are, together,

¹⁸ *Id.* at 9.

¹⁹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Final Scope Ruling on Telescoping Boat Cover Poles, Fishing Rod Holders, and Fishing Rod Racks," (August 18, 2014) (Boat Poles and Rod Holders Scope Ruling).

²⁰ *Id.* at 5.

²¹ *Id.* at 12.

²² For Unger's arguments concerning how the grabbers meet the exclusion under 19 CFR 351.225(k)(2), see the Scope Request 10-11.

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 grabbers at issue meet the exclusion criteria for “finished goods.”

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 information provided by Unger (*e.g.*, narrative statements, photographs, and product specifications) indicates that all models of the grabbers at issue include extruded aluminum tubes as well as such non-extruded aluminum parts as steel wire, plastic hand grips, and metal graspers.²³ Thus, the grabbers at issue do not consist entirely of extruded aluminum.²⁴ Because the grabbers contain non-extruded aluminum material parts other than fasteners, we find the grabbers meet the Department’s first test for determining whether a good constitutes a finished good, as established in the Geodesic Domes Scope Ruling.²⁵

Because the grabbers at issue meet the Department’s first test, as established in the Geodesic Domes Scope Ruling, and because they enter the United States as grabbers that are fully and permanently assembled and completed at the time of entry, and are ready for use, as imported, we find that the grabbers constitute “finished merchandise” under the scope of the *Orders*.²⁶ Our finding in this regard is consistent with prior scope rulings involving “finished merchandise.”²⁷

Furthermore, we find that none of the components of the grabbers at issue are unpacked, rearranged, and repackaged upon importation and prior to sale in the United States.²⁸ Thus, unlike the products examined in the Flag Pole Sets Scope Ruling, which were being analyzed to determine whether the products satisfied the finished goods kit exclusion from the scope, each grabber is, upon importation, a finished good that is ready for use, as imported, without the need for any subsequent repackaging of components of the grabbers.²⁹

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 grabbers at issue meet the exclusion criteria for finished merchandise and, thus, are not subject to the scope of the *Orders*.

²³ See Scope Request at 3-9 and Exhibits 1-5.

²⁴ *Id.*, at 2, 3, 7 and Exhibits 1-2.

²⁵ 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.

²⁶ See Scope Request at 10 and Exhibits 1-6, which contain photographs and schematics of the products indicating that the products are completed, finished products at the time of importation.

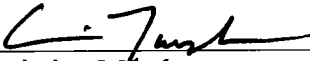
²⁷ See, *e.g.*, Boat Poles and Rod Holders Scope Ruling at 12, in which the Department found the boat pole at issue constituted “finished merchandise” that was excluded from the scope of the *Orders*.

²⁸ See Scope Request at 5.

²⁹ See Flag Pole Sets Scope Ruling at 9, in which 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 and, thus it was necessary for the packages to be opened, and repackaged before being sold to the end user.

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

11/4/14

Date