

**FINAL RESULTS OF REDETERMINATION
PURSUANT TO COURT REMAND
MERIDIAN PRODUCTS, LLC V. UNITED STATES
Court No. 13-00018, Slip Op. 13-75**

Summary

The U.S. Department of Commerce (“Department”) has prepared these final results of redetermination pursuant to the remand order of the U.S. Court of International Trade (“the Court”) in *Meridian Products, LLC v. United States*, Court No. 13-00018, Slip Op. 13-75 (Ct. Int’l Trade June 17, 2013) (“*Meridian*”). This final remand redetermination addresses the issue of whether refrigerator/freezer trim kits (“trim kits”) are within the scope of the *Orders*.¹

In the Trim Kits Scope Ruling, the Department determined that the trim kits imported by Meridian are within the scope of the *Orders*.² On June 17, 2013, the Court granted Meridian’s motion for remand,³ directing the Department to reconsider the scope exclusion for finished goods kits with regard to Meridian’s trim kits, and to reopen the record and permit Meridian to submit arguments no later than 15 days after the date of the order as to why trim kits satisfy the

¹ See *Aluminum Extrusions from the People’s Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011) and *Aluminum Extrusions from the People’s Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (the *Orders*).

² See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Refrigerator/Freezer Trim Kits” (December 17, 2012) (“Trim Kits Scope Ruling”).

³ Meridian filed a motion for remand in lieu of a motion for judgment upon the agency record, which the United States opposed.

finished goods exclusion under three prior scope rulings.⁴ On June 21, 2013, the Department reopened the record to allow Meridian to submit arguments pursuant to the Court's order in *Meridian*.⁵ On July 1, 2013, Meridian submitted its arguments.⁶

On July 19, 2013, the Department issued its Draft Remand in which it re-examined its initial determination and determined that the trim kits are within the scope of the *Orders*.⁷ On July 26, 2013, Meridian commented on the Department's Draft Remand.⁸ For the reasons discussed below, the Department continues to find that the trim kits are within the scope of the *Orders*. Pursuant to comments made by Meridian on the Draft Remand, we have revised our analysis concerning the basis for finding that the trim kits are within the scope of the *Orders*.

Background

On May 26, 2011, the Department published the *Orders* in the *Federal Register*. The scope of the *Orders* reads as follows:

The merchandise covered by {these Orders} is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association

⁴ See *Meridian*, at 4. The scope rulings are: 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) ("Side Mount Valve Controls Scope Ruling"); Final Results of Redetermination Pursuant to Court Remand, *Rowley Company v. United States* (February 27, 2013) ("Draperly Rail Kits Remand"); *Valeo, Inc. v. United States*, Court No. 00381 (Ct. Int'l Trade February 13, 2013) (order granting motion for remand) and Final Results of Redetermination Pursuant to Court Remand Aluminum Extrusions from the People's Republic of China, *Valeo, Inc., Valeo Engine Cooling Inc., and Valeo Climate Control Corp. v. United States* (May 14, 2013) (together, "Auto Parts Remand").

⁵ See Memorandum to The File, "Reopening of Record Pursuant to Court of International Trade (CIT) Remand" (June 21, 2013).

⁶ See "Aluminum Extrusions from the People's Republic of China: Comment Following Remand Regarding Refrigerator/Freezer Trim Kits" (July 1, 2013) ("Meridian's Submission").

⁷ See Draft Results of Redetermination Pursuant to Court Remand, *Meridian Products LLC v. United States*, Court No. 13-00018, Slip Op. 13-75 (July 19, 2013) ("Draft Remand").

⁸ See Aluminum Extrusions from the People's Republic of China: Comment Following Draft Results of Redetermination Pursuant to Remand Regarding Refrigerator/Freezer Trim Kits" (July 26, 2013).

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, 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 (HTSUS): 7604.21.0000, 7604.29.1000, 7604.29.3010, 7604.29.3050, 7604.29.5030, 7604.29.5060, 7608.20.0030, and 7608.20.0090. The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60.

Additional subject products may be classifiable under the following HTSUS categories: 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7616.99.10, 7616.99.50, 8302.10.3000, 8302.10.6030, 8302.10.6060, 8302.10.6090, 8302.30.3010, 8302.30.3060, 8302.41.3000, 8302.41.6015, 8302.41.6045, 8302.41.6050, 8302.41.6080, 8302.42.3010, 8302.42.3015, 8302.42.3065, 8302.49.6035, 8302.49.6045, 8302.49.6055, 8302.49.6085, 8302.50.0000, 8302.60.9000, 8306.30.0000, 8419.90.1000, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 9403.90.1040, 9403.90.1050, 9403.90.1085, 9403.90.2540, 9403.90.2580, 9403.90.4005, 9403.90.4010, 9403.90.4060,

9403.90.5005, 9403.90.5010, 9403.90.5080, 9403.90.6005, 9403.90.6010, 9403.90.6080, 9403.90.7005, 9403.90.7010, 9403.90.7080, 9403.90.8010, 9403.90.8015, 9403.90.8020, 9403.90.8030, 9403.90.8041, 9403.90.8051, 9403.90.8061, 9506.11.4080, 9506.51.4000, 9506.51.6000, 9506.59.4040, 9506.70.2090, 9506.91.0010, 9506.91.0020, 9506.91.0030, 9506.99.0510, 9506.99.0520, 9506.99.0530, 9506.99.1500, 9506.99.2000, 9506.99.2580, 9506.99.2800, 9506.99.6080, 9507.30.2000, 9507.30.4000, 9507.30.6000, and 9507.90.6000.⁹

On November 13, 2012, Meridian submitted its request for a scope ruling.¹⁰ Meridian described its products as “three different styles of complete aluminum trim kit packages which are utilized as an aesthetic frame around the perimeter of (though not attached to) a major home kitchen appliance.”¹¹ The products consist of aluminum extrusions and a “customer installation kit” which includes a “hexagonal wrench and fasteners used in the assembly of the trim kit” and a set of instructions.¹² Meridian argued that the trim kits are excluded from the scope of the *Orders* as “finished goods kits” because they are a packaged combination of parts that contains, at the time of importation, all of the necessary components to assemble a complete frame and are ready for installation.¹³ Meridian argued that prior scope rulings confirm that its trim kits should be excluded as finished goods kits.¹⁴

On December 7, 2012, Petitioner submitted comments on the Scope Request.¹⁵ Petitioner argued that the trim kits are not finished goods kits because they are nothing more than fabricated aluminum extrusions, identified by reference to their end use.¹⁶ Petitioner argued that

⁹ See *Orders*, 76 FR at 30650-51 and 30654.

¹⁰ See “Aluminum Extrusions from the People’s Republic of China: Request for Scope Ruling for Refrigerator/Freezer Trim Kits” (November 13, 2012) (“Scope Request”).

¹¹ See *id.*, at 1.

¹² See *id.*, at 2.

¹³ See *id.*, at 3.

¹⁴ See *id.*, at 5-6.

¹⁵ See “Aluminum Extrusions from the People’s Republic of China: Comments on Meridian’s Scope Ruling Request Regarding Refrigerator/Freezer Trim Kits” (December 7, 2012).

¹⁶ See *id.*, at 3-6.

the trim kits are akin to products which are expressly included in the scope of the *Orders*, such as window frames without glass.¹⁷

In the Trim Kits Scope Ruling, the Department examined the description of Meridian's products in the Scope Request, the language of the scope, and the Department's previous scope rulings, pursuant to 19 CFR § 351.225(k)(1), and determined that the trim kits are within the scope of the *Orders*. First, the Department considered that the scope of the *Orders* includes "aluminum extrusions which are shapes and forms," made of 6000 series aluminum alloy.¹⁸ Meridian's trim kits consist of aluminum extrusions, in shapes and forms, made of 6000 series aluminum alloy.¹⁹ Thus, the trim kits meet the physical description of subject merchandise.

Concerning Meridian's argument that its products are "ready for importation" and thus "finished goods kits," the Department found that the scope expressly includes aluminum extrusions which are identified by reference to their end use. Quoting the scope of the *Orders*, which provides that products which are identified by reference to their end use "are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation," the Department found that Meridian's products are merely aluminum extrusions identified by reference to their end use: as frames for major appliances.²⁰

The Department also considered its prior scope rulings, including the Geodesic Dome Scope Ruling, in which it found that that geodesic dome frame kits, which contain all the parts necessary to assemble a complete geodesic dome and thus, meet the initial requirements for the "finished goods kit" exclusion, are nevertheless within the scope of the *Orders* because the

¹⁷ See *id.*, at 4-6.

¹⁸ See Trim Kits Scope Ruling, at 10.

¹⁹ See *id.*

²⁰ See *id.*, at 10, quoting the scope of the *Orders*.

geodesic domes consist entirely of aluminum extrusions.²¹ Concerning the non-aluminum extrusion components such as fasteners included with the geodesic dome frame kits, the Department noted that the scope expressly considers fasteners, stating that the “finished goods kit” exclusion shall not be met by virtue of the mere inclusion of “fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.”²²

The Department determined that Meridian’s trim kits consist entirely of aluminum extrusions which meet the physical description of subject merchandise. The Department found that the trim kits are simply subject merchandise identified by reference to their end use. Finally, the Department found that “the fasteners included with the product at issue at the time of importation meet the definition of extraneous fasteners and packaging materials described in the scope {and} that the assembly tool and instruction booklet do not render the products at issue into finished goods because they are not assembled into or part of the assembled trim kit.”²³

Analysis

Comment 1: The Finished Goods Kit Exclusion

In its July 1, 2013, submission, Meridian argued that the trim kits are excluded finished goods according to the revised methodology adopted by the Department in the Side Mount Valve Controls Scope Ruling, and as applied in the Drapery Rail Kits Remand and Auto Parts Remand.²⁴ Meridian argued that, under the “new test” in the Side Mount Valve Controls Scope Ruling, the Department found that, in order for a product to be excluded from the scope, it must be ready for installation and require no further finishing or fabrication.²⁵ Similarly, the

²¹ *See id.*, at 10-11, citing 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 Dome Scope Ruling”).

²² *See id.*, at 11, quoting the scope of the *Orders*.

²³ *See id.*

²⁴ *See Meridian’s Submission*, at 1-2.

²⁵ *See id.*, at 3, quoting Side Mount Valve Controls Scope Ruling, at 7.

Department found that auto parts are excluded from the scope under this test because the auto parts “contain all of the necessary components required for integration into a larger system.”²⁶

According to Meridian, the new test “does not ask whether a good’s ultimate use is as a standalone product or as part of a larger system.” Instead, the focus is “on the extent that value has been added to the product through processing to prepare it for its intended use.”²⁷

Citing the Auto Parts Remand, Meridian argued that the trim kits have been transformed by a complex and sophisticated process, which adds significant value to the aluminum extrusions. Thus, the aluminum extrusion components have “undergone a substantial transformation through post-extrusion fabricating and machining such that they are no longer ‘aluminum extrusions’ and are not covered by the scope of the orders.”²⁸ Thus, because the trim kits do not require further finishing or fabrication before installation and before serving their ultimate purpose and because of the value added through the processing of the aluminum extrusions, they are excluded as finished goods.

Meridian argues that, in the Draft Remand, the Department did not apply the revised finished goods test as required by *Meridian*.²⁹ Meridian argued that the finished goods test requires the Department to consider whether the product is “ready for installation and require{s} no further finishing or fabrication.”³⁰ Quoting from the Solar Panel Mounting Systems Scope Ruling, Meridian argues that the Department also considers whether the kit contains all necessary parts to fully assembly a finished good with no further fabrication and can be

²⁶ See *id.*, at 3-4, quoting Auto Parts Remand, at 10.

²⁷ See *id.*, at 4.

²⁸ See *id.*, at 4-5. Meridian also cites to Attachment A, which outlines the production process for one of the trim kits at issue.

²⁹ See Meridian’s Comments on the Draft, at 2.

³⁰ See *id.*, at 2-3, citing Side Mount Valve Controls Scope Ruling, at 8.

assembled as-is into a finished product.³¹ Meridian argues that the Draft Remand did not identify these criteria or provide an analysis of those criteria.³²

Meridian argues that its trim kits satisfy the finished goods criteria because they contain all the parts necessary to assemble a complete trim kit; the trim kits can be assembled “as is” into a finished good; and they are not subcomponents of appliances but “enhance” the use of an appliance, just as a solar panel mounting system enhances the solar panel or the banner stand enhances the use of the material it displays. Trim kits are designed to work with removable or interchangeable components, and are sold separately from the appliance, thus demonstrating that they are “finished goods in their own right.”³³

Meridian argues that the Department has failed to explain why the “customizable” nature of the products at issue in the Drapery Rail Kits Scope Ruling is crucial to their exclusion as finished goods but the customizable nature of trim kits is not likewise instructive.³⁴

Meridian argues that the Department did not exclude trim kits because they serve no function and found that the trim kits are merely affixed to the appliance.³⁵ Meridian argues that this analysis was incorrect because the trim kits serve a purpose: “the aesthetic enhancement of stainless steel refrigerators and freezers,” and are in fact affixed to the cabinetry surrounding the appliance. Meridian thus argues that the Department’s Draft Remand is based on a mistaken characterization of the trim kits.³⁶

³¹ See *id.*, at 3, citing Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Clenergy (Xiamen) Technology’s Solar Panel Mounting Systems” (October 31, 2012) (“Solar Panel Mounting Systems Scope Ruling”), at 8.

³² See *id.*

³³ See *id.*, at 4.

³⁴ See *id.*, at 6.

³⁵ See *id.*, at 8, citing Draft Remand, at 14.

³⁶ See *id.*, at 8.

Department's Position:

The scope of the *Orders* covers aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to certain alloy series designations. Subject merchandise “may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks.”³⁷

The scope lists certain limited exclusions. These include “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 which enter unassembled in a “finished goods kit.” This 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.” The scope provides that an imported product will not be excluded as a finished goods kit “merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.”³⁸

In the Side Mount Valve Controls Scope Ruling, the Department revised its interpretation of “finished goods kits” as applied to subassemblies where the analysis might lead to an “absurd” result.³⁹ A side mount valve control is an apparatus used to manually control the water or foam pressure/flow from fire hoses, which is assembled on to a fire truck. The Department considered whether the importer’s kit, which contains all of the parts necessary to assemble a complete side mount valve control, is fully fabricated, and requires no further finishing or fabrication prior to

³⁷ See scope of the *Orders*.

³⁸ See *id.*

³⁹ See Side Mount Valve Controls Scope Ruling, at 7.

being assembled, satisfies the exclusion for a finished goods kit.⁴⁰ Acknowledging its prior scope rulings, the Department stated that, after further considering the language of the *Orders*, the Department “is revising the manner in which it determines whether a given product is a ‘finished good’ or ‘finished goods kit.’”⁴¹ Specifically:

The Department has identified a concern with this analysis, namely that it may lead to unreasonable results. 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. This interpretation may expand the scope of the *Orders*, which are intended to cover aluminum extrusions.⁴²

The Department also considered the plain language of the scope of the *Orders*, which provides that the scope includes the aluminum extrusion components that form subassemblies “unless imported as part of the finished goods kit.”⁴³ The Department determined that, this language, along with the language describing finished goods kits, indicates that subassemblies 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.

The Department applied this reasoning to the auto parts for heating/cooling systems, which were the subject of the Auto Parts Remand. The components are assembled into finished automotive heating and cooling systems.⁴⁴ The Department found that they are “‘finished goods’ that are inherently part of a larger whole.” They are ready for installation with no additional fabrication or finishing and are ready for assembly without any additional hardware or

⁴⁰ See *id.*, at 7-8.

⁴¹ See *id.*, at 6-7.

⁴² See *id.*, at 7, citing scope of the *Orders*.

⁴³ See *id.*

⁴⁴ See Auto Parts Remand, at 10.

parts. Thus, the Department determined that the auto parts for heating/cooling systems are subassemblies that constitute excluded finished goods.⁴⁵

In the Drapery Rail Kits Remand, the Department considered whether a kit, intended to display drapes, and which consists of an extruded aluminum rail, decorative bracket, threaded round bracket, and decorative finials is excluded as a finished goods kit.⁴⁶ The Department did not find that the drapery rail kit is a subassembly of a larger system. The Department found that, like the products at issue in the Banner Stands Scope Ruling, the drapery rail kit is intended to display customizable, interchangeable materials.⁴⁷ The Department concluded that, just as with a photograph inserted into a completed picture frame, or material containing a graphical image that is inserted into a display unit, “the drapes that are attached to the assembled drapery railing kits at issue constitute readily interchangeable materials that can change with users’ needs.”⁴⁸ Thus, it would be unreasonable to require that the drapery rail kits be accompanied at the time of importation with decorative drapes that are intended to be customizable.⁴⁹

In the Solar Panel Mounting Systems Scope Ruling, the Department considered whether mounting systems which enable solar panels to be mounted on roofs or on the ground in the creation of solar panel systems constitute finished goods kits.⁵⁰ The unassembled mounting systems consist predominantly of extruded aluminum rails, and also include cast aluminum kedges, galvanized steel posts and non-aluminum extrusion fasteners.⁵¹ The Department did not find that the solar panel mounting systems are subassemblies; rather, it concluded that the systems contain all of the parts necessary to fully assemble a finished good without further

⁴⁵ *See id.*

⁴⁶ *See* Drapery Rail Kits Remand, at 4.

⁴⁷ *See id.*, at 8; *see also* Banner Stands Scope Ruling, at 10.

⁴⁸ *See* Drapery Rail Kits Remand, at 8-9.

⁴⁹ *See id.*, at 9.

⁵⁰ *See* Solar Panel Mounting Systems Scope Ruling, at 6.

⁵¹ *See id.*

fabrication and can be assembled “as is” into finished products for mounting solar panels. The Department found that, although the solar panel was not imported with the mounting system, “like picture frames, banner stands, and backwall kits, the mounting systems are designed to work with removable/replaceable components” and “need not include these non-essential parts to constitute a finished good.”⁵²

Meridian’s comments evince a fundamental misunderstanding of the language of the scope of the *Orders* as well as the Department’s analysis in the scope rulings discussed above because Meridian argues that if a kit includes all necessary parts to fully assemble a final finished good with no further fabrication and can be assembled “as is” into a finished product, it is an excluded finished goods kit. The scope of the *Orders* expressly provides that subject aluminum extrusions identified with reference to their end use, such as carpet trim, are within the scope of the *Orders* regardless of whether they are ready for use at the time of importation.⁵³ Thus, it is not sufficient that a product can be assembled “as is” at the time of importation and/or require no further finishing or fabrication. A kit which contains carpet trim and screws or nails includes all necessary parts to fully assemble carpet trim with no further fabrication and can be assembled “as is” into carpet trim, requiring only to be affixed to a floor. More is required of the product; otherwise, carpet trim (and end use products like it) would satisfy the exclusion, and the exclusion would swallow the rule.

Meridian ignores the fundamental aspects of the analyses established in the scope rulings discussed above. The Side Mount Valve Controls Scope Ruling and the Auto Parts Remand demonstrate that a subassembly will be excluded if it contains, at the time of importation, all of the parts necessary to assemble a final finished good. The Drapery Rail Kits Remand and the

⁵² See *id.*, at 9.

⁵³ See scope of the *Orders*.

Solar Panel Mounting Systems Scope Ruling demonstrate that a finished goods kit which is designed to display or incorporate customizable materials or work with removable/replaceable components will be excluded if it contains, at the time of importation, all of the parts necessary to assemble a final finished good for such purposes. Although the trim kits may be assembled “as is” and require no further finishing or fabrication, they are not in accord with the scope exclusions established by the rulings cited by Meridian.

Meridian acknowledges that the trim kits are not subcomponents of appliances,⁵⁴ and so the reasoning of the Side Mount Valve Controls Scope Ruling and the Auto Parts Remand cannot apply to the trim kits. Meridian argues that, in the Side Mount Valve Controls Scope Ruling and the Auto Parts Remand, the Department “does not ask whether a good’s ultimate use is as a standalone product or as part of a larger system,”⁵⁵ but this is precisely what the Department considered in those rulings.⁵⁶ Further, in the Side Mount Valve Controls Scope Ruling, the Department considered that adopting a requirement that the ultimate downstream product be imported, in order for the product to be excluded as a finished goods kit, would lead to absurd or unreasonable results.⁵⁷ This reasoning does not, and cannot, apply to trim kits, which are merely a collection of aluminum extrusions parts and extraneous materials.

Meridian’s comment that the Side Mount Valve Controls Scope Ruling and Auto Parts Remand considered the “extent that value has been added to the product through processing”⁵⁸ is incorrect; this did not factor into either scope ruling.⁵⁹ The extent of processing does not render

⁵⁴ See Meridian’s Comments on the Draft, at 4.

⁵⁵ See Meridian’s Submission, at 4.

⁵⁶ See Side Mount Valve Controls Scope Ruling, at 7 (describing the kit as being “mounted on a fire truck where it is ready for use upon installation”) and Auto Parts Remand, at 10 (describing the auto parts for heating/cooling systems as “finished goods’ that are inherently part of a larger whole”).

⁵⁷ See Side Mount Valve Controls Scope Ruling, at 7.

⁵⁸ See Meridian’s Submission, at 4-5.

⁵⁹ See, e.g., Auto Parts Ruling, at 9-10.

a product out of the scope because aluminum extrusions which are fabricated are included in the *Orders*.⁶⁰

The trim kits do not incorporate or display customizable materials, and so the reasoning of the Drapery Rail Kits Remand and the Solar Panel Mounting Systems Scope Ruling does not apply. Meridian argues that the trim kits are analogous to the drapery rail kits and solar panel mounting systems because they “enhance” the use of an appliance and can be used with interchangeable components. But the question contemplated in the Drapery Rail Kits Remand and Solar Panel Mounting Systems Scope Ruling was not whether the kits “enhanced” the customizable material, but whether the product incorporated the customizable materials.⁶¹ In other words, draperies hang on a drapery rail kit and a solar panel is mounted on a solar panel mounting system. Further, a picture is inserted into a picture frame with glass and backing material.⁶² In contrast, the trim kit is affixed to cabinetry surrounding an appliance; it does not display or incorporate a refrigerator.

Further, carpet trim enhances a floor, and can be used with interchangeable carpets, but it is nevertheless included in the *Orders*. It is also irrelevant that trim kits are sold separately from the appliance, because the same can be said of subject merchandise such as carpet trim and fence posts. Meridian’s argument that the “aesthetic” function of its trim kit puts it into the category of picture frames or drapery rail kits must fail because carpet trim could also be said to have an aesthetic function, and yet it is included in the *Orders*.

⁶⁰ See scope of the *Orders* (describing subject merchandise as being “produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication”).

⁶¹ See Drapery Rail Kits Remand, at 8 (describing the product as being “designed to incorporate readily interchangeable drapers or curtains that can change with users’ needs and are intended to be customizable) and Solar Panel Mounting Systems Scope Ruling, at 9 (describing the product as being “designed to work with removable/replaceable components”).

⁶² See scope of the *Orders*; Banner Stands Scope Ruling, at 10.

In sum, pursuant to the Court’s order in *Meridian*, the Department considered the finished goods scope exclusion of the *Orders*, taking into account the language of the scope of the *Orders* and its prior scope rulings, and determined that the trim kits do not meet the exclusion for finished goods kits. We agree that the trim kits include all the necessary parts to assemble a trim kit with no further fabrication and can be assembled “as is” and affixed to cabinetry. However, the trim kits are neither subassemblies, nor are they a means to display customizable materials. The trim kits are subject extrusions identified by reference to their end use, analogous to carpet trim. Because the trim kits do not meet the additional criteria identified in prior scope rulings, the reasoning of the Side Mount Valve Controls Scope Ruling, the Auto Parts Remand, and the Drapery Rail Kits Remand do not apply.

Comment 2: Fasteners and Extraneous Materials

In its July 1, 2013 submission, Meridian argued that the Department mistakenly characterized the non-aluminum extrusion components of its trim kits as an exception to the finished goods exclusion. However, the language of the scope which discusses fasteners is not an exception but rather “a sensible clarification that the addition of fasteners will not automatically qualify an aluminum extrusion product as a finished good.”⁶³

Meridian argued that a “typical” trim kit contains corner brackets, screws, hinge covers, a wrench, and an installation booklet, all of which are not made of aluminum extrusions, and that many of these non-aluminum extrusion components serve the same purposes as the non-aluminum extrusion components in the products at issue in the Drapery Rail Kits Remand.⁶⁴

Meridian argued that the Department did not address aluminum content at all in the Drapery Rail Kits Remand, but nevertheless found that the products are finished goods kits because the

⁶³ See Meridian’s Submission, at 6.

⁶⁴ See *id.*, at 6-7.

products are intended to be customizable.⁶⁵ In fact, according to Meridian, the trim kits are “comprised of more non-aluminum componentry than drapery kits.”⁶⁶

Alternatively, Meridian contended that, even if the trim kits are entirely aluminum extrusions, the content of aluminum extrusions should be irrelevant to the issue of whether the products are finished goods. Citing the Solar Panel Mounting Systems Scope Ruling, Meridian argued that the Department did not intend that the application of the finished goods exclusion be dependent on aluminum content.⁶⁷ Meridian argued that the Department has applied an aluminum extrusion content test by finding that products which consist entirely of aluminum extrusions are within the scope of the *Orders*. Thus, the amount of aluminum extrusion content is determinative of the outcome of the scope ruling, in opposition to the Department’s statement that aluminum content is irrelevant.⁶⁸ Further, Meridian argued that the original petition lists shower frame kits, window kits, unassembled unitized curtain walls, and windows and doors as finished goods kits which are excluded from the *Orders* and that these products could be predominantly, or entirely, aluminum extrusions and fasteners.⁶⁹ Meridian also argued that the products at issue in the Auto Parts Remand consist entirely of aluminum extrusions, yet these products were excluded as finished goods.⁷⁰

Meridian argues that, in the Draft Remand, the Department has expanded “its ‘aluminum-only’ exception to reach products comprised of both aluminum extrusions and non-aluminum

⁶⁵ *See id.*

⁶⁶ *See id.*, at 7-8 (emphasis in original) and Attachment C.

⁶⁷ *See id.*, at 8-9, citing Solar Panel Mounting Systems Scope Ruling. Meridian also cites Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Banner Stands and Back Wall Kits” (October 31, 2012) (“Banner Stands Scope Ruling”) and Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on American Fence Manufacturing Company LLC’s Fence Sections, Posts and Gates” (December 2, 2011).

⁶⁸ *See id.*, at 7.

⁶⁹ *See id.*, at 9-10, citing Petition at Exhibit I-5.

⁷⁰ *See id.*, at 10, citing Auto Parts Remand and Attachment D (scope request in Auto Parts Remand) and Attachment E (technical drawings of products at issue in the Auto Parts Remand).

extrusion components.”⁷¹ Meridian contends that the exceptions to the finished goods exclusion for “fasteners” and products that “otherwise do not ‘complete the kit’” are not based in the scope language.⁷²

Nevertheless, Meridian argues that even if the “new exceptions” to the finished goods exclusion were valid, at least two of the non-aluminum components in trim kits—plastic hinge covers and steel brackets—are not fasteners.⁷³ Meridian provides a dictionary definition of fasteners, and argues that the hinge covers do not fasten any of the components because they “have an aesthetic purpose: concealing the appliance hinge” and the brackets do not fasten, but rather “have a structural purpose.”⁷⁴ According to Meridian, the non-aluminum extrusion components in the Drapery Rail Kits Remand serve virtually identical purposes.⁷⁵

Meridian argues that the hinge covers and brackets “complete the trim kits,” just as glass completes a window kit or a shower door kit because “without these non-aluminum extrusion components, a purchaser would not be able to assemble the trim kits into their final form and install them around a kitchen appliance.”⁷⁶

Department’s Position:

In the Draft Remand, the Department found that Meridian’s trim kits consist entirely of aluminum extrusions (trim, grille and center strip), fasteners (brackets, screws and hinge covers) and extraneous materials (a wrench and installation kit).⁷⁷ The trim, grille and center strip are indisputably aluminum extrusions in shapes and forms “made from aluminum alloy having elements corresponding to the alloy series designation published by the Aluminum Association

⁷¹ See *id.*, at 4-5.

⁷² See *id.*, at 5, citing Draft Remand at 11.

⁷³ See *id.*, at 5.

⁷⁴ See *id.*

⁷⁵ See *id.*, at 5-6.

⁷⁶ See *id.*, at 6-7.

⁷⁷ See Draft Remand, at 9-10.

commencing with the number 6.”⁷⁸ Thus, these components meet the physical description of merchandise subject to the *Orders*. The wrench and installation kit are not incorporated into the trim; rather, they are used to assemble the products. The Department found that the remaining materials are fasteners.⁷⁹

The Department determined that the trim kits do not meet the definition of “finished goods kit” because they are subject aluminum extrusions which merely include fasteners and extraneous materials.⁸⁰ Further, the Department agreed with Meridian that the inclusion of fasteners is not an “exception” to the finished goods exclusion and that the percentage of aluminum content is irrelevant to determining whether merchandise is subject to the scope of the *Orders*.⁸¹

We agree with Meridian that the language concerning fasteners in the scope is a “sensible clarification that the addition of fasteners” which will not transform subject aluminum extrusions, when imported together, into an excluded finished goods kit.⁸² The scope of the *Orders* specifies that, merely by the inclusion of fasteners, a product which would otherwise be subject does not become non-subject. Thus, the scope contemplates that the inclusion of extraneous materials is not sufficient to exclude subject merchandise. This is reasonable because if the inclusion of minor accessories in a kit could render it non-subject, importers could easily evade the *Order* by including one piece of extraneous plastic in a “kit” which consists only of aluminum extrusions.

⁷⁸ See Scope Request, at 1; see also Meridian’s Submission, at 7.

⁷⁹ See Draft Remand, at 9.

⁸⁰ See *id.*, at 10, citing Geodesic Domes Scope Ruling, at 5, 7 and Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Meridian Kitchen Appliance Door Handles” (June 21, 2013) (“Door Handles Scope Ruling”) at 14.

⁸¹ See Draft Remand, at 10 n 3.

⁸² See Meridian’s Submission, at 6.

Meridian argues that the brackets included in its trim kits are not “fasteners” as this term is described by www.dictionary.com because they “stabilize the flexible pieces of trim and lock{ } them permanently into place.”⁸³ But according to the installation booklet, the brackets “attach...to the angled end of each side trim” and are secured by screws.⁸⁴ The brackets hold together two objects (each side trim) on two edges. Thus, the brackets meet Meridian’s definition of fasteners as “any of various devices...for holding together two objects or parts sometimes required to be separate, as two edges or flaps of a piece of clothing.”⁸⁵

As to the plastic, silver-plated hinge covers included in the trim kits, we agree that these are not fasteners. However, the hinge covers are not assembled into the finished good. In the installation booklet, the purchaser is instructed to “remove the black plastic top hinge covers {from the appliance} and replace with the silver hinge covers.”⁸⁶ The finished goods kit exclusion is understood to mean “a packaged combination of parts that contains...all of the necessary parts to fully *assemble* a final finished good.”⁸⁷ The hinge covers, like the wrench and installation booklet, are not a part to be assembled into a final finished good. Thus, the trim kits contain aluminum extrusions, fasteners, and extraneous materials. The mere inclusion of the non-aluminum extrusion components of the trim kits will not result in the exclusion of the trim kits from the scope of the *Orders*. Moreover, we also note that Meridian describes the “typical” trim kit for which it seeks exclusion from the *Orders* as containing hinge covers. However, Meridian does not indicate whether or not all three trim kit styles which are subject to its request actually include such hinge covers.

⁸³ See Meridian’s Comments on the Draft, at 5.

⁸⁴ See Scope Request, at Attachment 2, Installation Booklet, at 3.

⁸⁵ See Meridian’s Comments on the Draft, at 5.

⁸⁶ See Scope Request, at Attachment 2, Installation Booklet, at 5.

⁸⁷ See scope of the *Orders* (emphasis added).

Meridian argues that the hinge covers and brackets “complete the trim kits,” just as glass completes a window kit or a shower door kit because “without these non-aluminum extrusion components, a purchaser would not be able to assemble the trim kits into their final form and install them around a kitchen appliance.”⁸⁸ Fasteners, such as screws and brackets, will often be necessary to assemble a final finished product, but the mere inclusion of fasteners in a finished goods kit will not render otherwise subject merchandise out of scope. For instance, screws or nails are necessary to affix carpet trim to a floor, but a carpet trim kit which merely includes screws or nails is nevertheless subject to the *Orders*. We also disagree that a purchaser could not assemble the trim kits without the hinge covers, which are not attached to the trim kits at all.

Meridian argues that the non-aluminum extrusion components in the trim kit serve the same purpose as those in the Drapery Rail Kits Remand. We disagree. The steel finials in the Drapery Rail Kits Remand are attached to the ends of the aluminum extrusion rail, unlike the hinge covers which are completely separate from other parts of the trim kits.⁸⁹ Further, as described in Comment 1 above, the drapery rail kits are finished goods kits intended to incorporate customizable material.

We also disagree with Meridian’s contention that a kit which consists of entirely aluminum extrusions could be excluded from the scope of the *Orders*. Meridian states that shower frame kits, window kits, doors, and unassembled curtain walls may be predominantly or entirely aluminum extrusions and yet are excluded by the language of the scope of the *Orders*. But the scope only excludes windows *with glass*, doors *with glass or vinyl*, picture frames *with glass pane and backing material*.⁹⁰ Thus, finished goods or finished goods kits listed in the scope expressly excludes otherwise subject merchandise that incorporates significant, non-

⁸⁸ See *id.*, at 6-7.

⁸⁹ See Drapery Rail Kits Remand, at 4.

⁹⁰ See scope of the *Orders*.

aluminum extrusion components. In contrast, “window frames {and} door frames,” *i.e.*, aluminum extrusions without glass or vinyl, are expressly included in the scope of the *Orders*.⁹¹ Curtain walls are also expressly included in the scope of the *Orders*.⁹² As to Meridian’s argument that the kit in the Auto Parts Remand consisted entirely of aluminum extrusions, we disagree. The kit at issue in the Auto Parts Remand included “an additional foam material that adds three millimeters of aluminum to one segment of the tube” and end pieces.⁹³ Even if the kit at issue in the Auto Parts Remand consists entirely of aluminum extrusions, as Meridian suggests, it is clear from the Auto Parts Remand that no arguments were made on this point; and, further, that the Department did not find the kit to consist entirely of aluminum extrusion content when it found that the kit was excluded from the *Orders* as a subassembly.⁹⁴

Meridian argues that the Department claims not to consider aluminum content, and yet does so when it finds that products which consist entirely of aluminum extrusions are included in the scope of the *Orders*. We agree that the Department does not consider the content of aluminum extrusions in making its scope rulings. However, an exclusion permitting finished goods that consist entirely of aluminum extrusions to be excluded as finished goods kits would gut the scope, which covers aluminum extrusions.⁹⁵ Under this logic, it is possible if not likely that any aluminum extrusion product, when merely packaged with other extraneous non-aluminum extrusion parts, could be excluded from the scope of the *Orders*. This cannot have been the intent of the drafters of the scope language covering aluminum extrusions.

⁹¹ *See id.*

⁹² *See id.* (listing curtain walls as in-scope).


⁹³ *See* Auto Parts Remand, at 5, citing the scope request in the Auto Parts Remand, at 2-4.

⁹⁴ *See id.*, at 5 (describing products at issue).

⁹⁵ *See* Door Handles Scope Ruling, at 14.

Conclusion

In compliance with the Court's order in *Meridian*, and in consideration of Meridian's comments, we continue to determine that the trim kits are subject to the scope of the *Orders* because the trim kits are neither subassemblies nor finished goods kits intended to display customizable materials, and consist entirely of aluminum extrusions, fasteners and extraneous materials.



Paul Piquado
Assistant Secretary
for Import Administration

14 AUGUST 2013
Date