



30 November 2014

Mr Rowan Ramsey MP
Chair, House of Representatives Standing Committee on Agriculture and Industry
Parliament House
Canberra ACT 2600

Dear Mr Ramsey

Submission on circumvention of anti-dumping laws

I make this submission to the House of Representatives Standing Committee on Agriculture and Industry in relation to its inquiry into the circumvention of anti-dumping laws. In the last two years Parliament has passed numerous laws to strengthen Australia's anti-dumping system, including by creating the Anti-Dumping Commission and introducing an anti-circumvention framework to allow the Commission to investigate and take action against importers and exporters who deliberately circumvent anti-dumping duties.

Australia's anti-circumvention framework prescribes five types of circumvention behaviours against which the Commission can take action, and was mirrored to a degree on the United States (US) system. However there are some elements of the US system that were overlooked and, in my opinion, would be more useful for preventing and taking action against more common types of circumvention behaviours. I propose that Australia introduce processes similar to those available in the United States (US) anti-dumping system to:

1. Amend the scope of an anti-dumping investigation after an investigation has been initiated – to prevent ambiguous rulings that can be easily circumvented.
2. Clarify the scope of anti-dumping measures once those measures are in force – to:
 - a. prevent exporters from circumventing measures through slight modification of the goods, and
 - b. make definitive rulings as to whether specific goods are covered by measures or not.

Defining the scope of an anti-dumping investigation

In Australia, the scope of an anti-dumping investigation is defined by the description of the imported goods provided by the local industry in its application for anti-dumping measures. The industry may not in fact be aware of the exact nature and form of the goods being imported, especially where the imported goods are incorporated into further processed goods before being seen in the market. Once an investigation has been initiated the definition of the goods cannot be changed, even if it becomes clear that the scope of the investigation is narrower or wider than the industry intended. This can have significant implications for the assessment of injury to the local industry and the application of any resulting measures. If measures are applied to a group of goods with an ambiguous definition, the measures may be more easily circumvented.

The US recognises the limitations of relying upon a definition provided by the industry and its law allows the scope to be amended at any time.¹ The US notes that the initial scope definition is based on whatever information the applicant may have had available at the time of initiating the case, and may not make sense in light of the information available to the authorities or subsequently obtained during the investigation.² On initiating a case the US invites comments on the scope definition from interested parties and will refine the scope if required during the investigation.

Applying a similar approach in Australia would allow interested parties to comment on the scope of the investigation and highlight potential issues early, and allow the Anti-Dumping Commission to amend the scope based on information from interested parties or information from the Customs import database or another source.

Proposal 1: Amend Australian law to give the Anti-Dumping Commission the power to amend the scope of an investigation prior to initiation and during an investigation.

Defining the scope of anti-dumping measures

In Australia, the scope of anti-dumping measures is defined in the dumping or countervailing duty notice issued by the Minister. Australian law provides a mechanism for certain goods to be exempted from anti-dumping measures,³ but there is no process for clarifying the scope of the measures and determining whether certain goods are covered by the measures or not.

Following the imposition of anti-dumping measures in the US there are two mechanisms for determining whether particular goods are subject to the measures:

1. The anti-circumvention framework
2. Scope rulings

¹ Title VII of the US Tariff Act of 1930, Section 732(b)(1) (Attachment A)

² US Import Administration 2009, *Antidumping Manual*, Chapter 26, Section II, 'Scope of the order' (Attachment B)

³ *Customs Tariff (Anti-Dumping) Act 1975*, s.8(7)

Anti-circumvention framework

The US anti-circumvention framework covers four circumvention activities:

1. *Merchandise completed or assembled in the United States*
2. *Merchandise completed or assembled in other foreign countries*
3. *Minor alteration of merchandise*
4. *Later-developed merchandise*⁴

The first two circumvention activities are uncommon but are mirrored in Australia's new legislation. In the US experience, completion/assembly in the US has only been found once since 1993—just this year in relation to plastic supermarket bags from China that were exported to the US in an unfinished state, with the final process of manufacture (stamping the handles and opening of the bags) being completed in the US.

The US has found completion/assembly in another foreign country (third country) five times since 2000:

- Frozen fish fillets from Vietnam (2006)—whole fish sent to Cambodia for processing, freezing and export to the US
- Tissue paper products from China (2011 & 2013)—jumbo rolls sent to Vietnam and India for cutting into consumer products, packaging and export to the US
- Graphite electrodes from China (2012)—parts sent to the UK for assembly and export to the US, and
- Innerspring units from China (2014)—components sent to Malaysia for assembly and export to the US.

The *minor alteration of merchandise* circumvention activity covers goods altered in form or appearance in minor respects in order to fall outside the literal scope of the measures, and do not have to be in the same tariff classification as the original goods. Since 2000 the US has found five cases where goods were altered marginally to fall outside the strict definition in the scope of the measures:

- Carbon steel plate from Canada (2001)—small amount of boron added to steel
- Folding metal tables from China (2009)—cross-bars added to table legs
- Steel threaded rod from China (2012)—chromium levels increased to marginally above maximum threshold
- Wire rod from Mexico (2012)—rod diameter reduced to marginally below minimum threshold, and
- Graphite electrodes from China (2013)—electrode diameter increased to marginally above maximum threshold.

This activity was supposed to be covered by Australia's anti-circumvention framework as *slight modification of goods*, however unlike other circumvention activities it was to be addressed administratively rather than in legislation. In 2012 Customs stated its proposed approach to members of the International Trade Remedies Forum (ITRF):

⁴ Title VII of the US Tariff Act of 1930, Section 781 (Attachment A)

Additionally, the Framework will address goods which have been *slightly modified*. Customs and Border Protection intends to address this through the existing 'like goods' provisions in the Customs Act rather than by legislative amendment, which would raise complex definitional issues and some serious operational challenges. As a result, 'slight modification' will not be a ground for an anti-circumvention inquiry under the proposed new Division. Instead, Customs and Border Protection, in consultation with stakeholders, will consider modifying or clarifying its current approach to 'like goods' under section 269T and make any necessary administrative changes. As a result, affected parties will be able to notify Customs and Border Protection that relevant goods have been slightly modified so that those goods may be considered in the context of 'like goods' in relation to a specific dumping duty notice.⁵

It is likely that such an approach would have been able to address current issues being experienced in relation to steel (addition of boron) and canned tomatoes (addition of spices), however the government has taken no further action in relation to this proposal and it is possible the policy has been shelved.

Proposal 2: Implement the approach to *slight modification of goods* announced in 2012.

The final circumvention activity covered by the US framework, *later-developed merchandise*, only covers goods that were developed subsequent to an investigation. In other words, this does not cover goods that were commercially available prior to the imposition of measures.

There have only ever been three cases of *later-developed merchandise* in the US:

- petroleum wax candles—original duties covering 100% petroleum wax candles **expanded** to cover mixed-wax candles with any amount of petroleum wax
- honey—original duties on honey **expanded** to cover honey/rice-syrup blends, and
- laminated woven sacks—original duties on sacks with one type of printed graphics **not expanded** to sacks with a different type of printed graphics.

In the candles and honey cases the threshold issue that allowed the duties to be expanded was that mixed-wax candles and honey/rice syrup blends were not commercially available prior to the original investigation. In laminated woven sacks this was not the case, however it is not clear whether the different type of printing would have still qualified as circumvention as *minor alteration of merchandise*.

Once this issue is clear, the US law provides six criteria that must be considered in determining whether to expand duties to *later-developed merchandise*:

- their general physical characteristics with respect to the original goods
- the expectations of the ultimate purchasers
- the ultimate use of the original goods and *later-developed merchandise*
- whether sales are made through the same channels of trade, and
- whether the goods are marketed in a similar manner.

⁵ Customs and Border Protection 2012, *ITRF 3 – Agenda Item 4a – Anti-circumvention framework* (agenda paper to the third meeting of the International Trade Remedies Forum)

The US law also states that duties can be expanded to cover goods that come under different tariff classifications and have additional functionality, unless the additional functionality constitutes the primary use of the goods and the additional cost is high. Given the infrequent occurrence of this circumvention activity, a similar mechanism for Australia is probably not necessary. It is also possible that the proposed Australian approach to *slight modification of goods* discussed earlier could also capture instances of *later-developed merchandise*, given that the six criteria the US uses are similar to the criteria Australia uses to determine whether goods are 'like goods'.

Scope rulings

Scope rulings are far more common in the US than circumvention inquiries. To determine whether a particular product falls within scope, a two-step approach is applied, as codified in the US regulations:

1. Examine the descriptions of the goods contained in the initial application, the original investigation, and all previous findings (including prior scope rulings)
2. If step one is inconclusive, consider the same criteria that apply to *later-developed merchandise*, ie the:
 - physical characteristics of the product
 - expectations of the ultimate purchasers
 - ultimate use of the product
 - channels of trade in which the product is sold, and
 - manner in which the product is advertised and displayed.

US reports refer to these criteria as the Diversified Products criteria, after the original court case where this approach was upheld (*Diversified Products Corporation v. US*).

In the US these rulings have been used extensively in the case of aluminium extrusions to clarify that a range of goods are in the scope of the duties, including:

- curtain rail kits and retractable awning mechanisms
- fence sections, posts and gates
- machine parts and motor cases, and
- kitchen door handles.

Out of 58 aluminium extrusions scope rulings the US found in 28 cases that all of the products were in scope, while in 30 cases products satisfied the exclusion criteria on the basis of being finished goods (13), finished good kits (14), not produced using an extrusions process (1), not produced using Chinese extrusions (1), or manufactured from a specific alloy not covered by the duties (1). For products to qualify as finished goods or finished good kits, they must comprise parts other than aluminium extrusions other than mere fasteners. A summary of the scope rulings is at Attachment C.

In the case of machine parts and motor cases, the US found that these goods were still covered by the duties despite the high cost and value added by the precision machine fabrication process required to produce those goods from raw extrusions. The functionality and cost restrictions that apply to scope expansion for *later-developed merchandise* do not apply to these scope rulings, which make them significantly broader than the US anti-circumvention framework.

It is clear that the US system contains broad powers to clarify and refine the scope of dumping and countervailing duties and the authorities regularly exercise those powers to ensure duties are collected on all of the goods intended. The US approach to scope rulings has been around for many years and has not been challenged in the WTO.

The absence of a scoping mechanism in Australia leaves a level of uncertainty around anti-dumping measures and the goods on which they should be applied, and allows importers to 'circumvent' measures, deliberately or otherwise, by claiming that certain goods are not subject to measures.

Proposal 3: Introduce a mechanism for the Anti-Dumping Commission to issue rulings as to whether particular goods are subject to dumping and countervailing duty notices (may or may not require legislative change).

Justin Wickes
Director

TITLE VII OF THE TARIFF ACT OF 1930

Sec. 732. Procedures for initiating an antidumping duty investigation

(b) Initiation by Petition.

- (1) Petition requirements. An antidumping proceeding shall be initiated whenever an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) files a petition with the administering authority, on behalf of an industry, which alleges the elements necessary for the imposition of the duty imposed by section 731, and which is accompanied by information reasonably available to the petitioner supporting those allegations. The petition may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

Sec. 781. Prevention of circumvention of antidumping and countervailing duty orders

(a) Merchandise Completed or Assembled in the United States.

- (1) In general. If
 - (A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of
 - (i) an antidumping duty order issued under section 736,
 - (ii) a finding issued under the Antidumping Act, 1921, or
 - (iii) a countervailing duty order issued under section 706 or section 303,
 - (B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order or finding applies,
 - (C) the process of assembly or completion in the United States is minor or insignificant, and
 - (D) the value of the parts or components referred to in subparagraph (B) is a significant portion of the total value of the merchandise, the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect.
- (2) Determination of whether process is minor or insignificant. In determining whether the process of assembly or completion is minor or insignificant under paragraph (1)(C), the administering authority shall take into account
 - (A) the level of investment in the United States,
 - (B) the level of research and development in the United States,
 - (C) the nature of the production process in the United States,
 - (D) the extent of production facilities in the United States, and
 - (E) whether the value of the processing performed in the United States represents a small proportion of the value of the merchandise sold in the United States.

(3) Factors to consider. In determining whether to include parts or components in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as

- (A) the pattern of trade, including sourcing patterns,
- (B) whether the manufacturer or exporter of the parts or components is affiliated with the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (1) applies, and
- (C) whether imports into the United States of the parts or components produced in such foreign country have increased after the initiation of the investigation which resulted in the issuance of such order or finding.

(b) *Merchandise Completed or Assembled in Other Foreign Countries.*

(2) In general. If

- (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of
 - (i) an antidumping duty order issued under section 736,
 - (ii) a finding issued under the Antidumping Act, 1921, or
 - (iii) a countervailing duty order issued under section 706 or section 303,
- (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which
 - (i) is subject to such order or finding, or
 - (ii) is produced in the foreign country with respect to which such order or finding applies,
- (C) the process of assembly or completion in the foreign country referred to in subparagraph (B) is minor or insignificant,
- (D) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States, and
- (E) the administering authority determines that action is appropriate under this paragraph to prevent evasion of such order or finding, the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect.

(3) Determination of whether process is minor or insignificant. In determining whether the process of assembly or completion is minor or insignificant under paragraph (1)(C), the administering authority shall take into account

- (A) the level of investment in the foreign country,
- (B) the level of research and development in the foreign country,
- (C) the nature of the production process in the foreign country,
- (D) the extent of production facilities in the foreign country, and
- (E) whether the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States.

(4) Factors to consider. In determining whether to include merchandise assembled or completed in a foreign country in a countervailing duty order or an antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as

- (A) the pattern of trade, including sourcing patterns,
- (B) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B) is affiliated with the person who uses the merchandise described in paragraph (1)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and
- (C) whether imports into the foreign country of the merchandise described in paragraph (1)(B) have increased after the initiation of the investigation which resulted in the issuance of such order or finding.

(c) *Minor Alterations of Merchandise.*

(1) In general. The class or kind of merchandise subject to

- (A) an investigation under this title,
- (B) an antidumping duty order issued under section 736,
- (C) a finding issued under the Antidumping Act, 1921, or
- (D) a countervailing duty order issued under section 706 or section 303, shall include articles altered in form or appearance in minor respects (including raw agricultural products that have undergone minor processing), whether or not included in the same tariff classification.

(2) Exception. Paragraph (1) shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the investigation, order, or finding.

(d) *Later-Developed Merchandise.*

(1) In general. For purposes of determining whether merchandise developed after an investigation is initiated under this title or section 303 (hereafter in this paragraph referred to as the "later-developed merchandise") is within the scope of an outstanding antidumping or countervailing duty order issued under this title or section 303 as a result of such investigation, the administering authority shall consider whether

- (A) the later-developed merchandise has the same general physical characteristics as the merchandise with respect to which the order was originally issued (hereafter in this paragraph referred to as the "earlier product"),
- (B) the expectations of the ultimate purchasers of the later-developed merchandise are the same as for the earlier product,
- (C) the ultimate use of the earlier product and the later-developed merchandise are the same,
- (D) the later-developed merchandise is sold through the same channels of trade as the earlier product, and

- (E) the later-developed merchandise is advertised and displayed in a manner similar to the earlier product. The administering authority shall take into account any advice provided by the Commission under subsection (e) before making a determination under this subparagraph.
- (2) Exclusion from orders. The administering authority may not exclude a later-developed merchandise from a countervailing or antidumping duty order merely because the merchandise
 - (A) is classified under a tariff classification other than that identified in the petition or the administering authority's prior notices during the proceeding, or
 - (B) permits the purchaser to perform additional functions, unless such additional functions constitute the primary use of the merchandise and the cost of the additional functions constitute more than a significant proportion of the total cost of production of the merchandise.

CODE OF FEDERAL REGULATIONS

Title 19 - Customs Duties

§ 351.225 Scope rulings

- (i) Minor alterations of merchandise. Under section 781(c) of the Act, the Secretary may include within the scope of an antidumping or countervailing duty order articles altered in form or appearance in minor respects.
- (j) Later-developed merchandise. In determining whether later-developed merchandise is within the scope of an antidumping or countervailing duty order, the Secretary will apply section 781(d) of the Act.
- (k) Other scope determinations. With respect to those scope determinations that are not covered under paragraphs (g) through (j) of this section, in considering whether a particular product is included within the scope of an order or a suspended investigation, the Secretary will take into account the following:
 - (1) The descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the Commission.
 - (2) When the above criteria are not dispositive, the Secretary will further consider:
 - (i) The physical characteristics of the product;
 - (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.

2009 (UNITED STATES) IMPORT ADMINISTRATION ANTIDUMPING MANUAL**CHAPTER 26****SCOPE AND ANTICIRCUMVENTION DETERMINATIONS****References:**

The Tariff Act of 1930, as amended (the Act)
Section 781 - prevention of circumvention of ARs
Department of Commerce (DOC) Regulations
19 CFR 351.225 - scope determinations
SAA
Section C.11 - anticircumvention

I. Scope of the Investigation

An antidumping investigation typically is initiated based on a petition filed by a domestic industry requesting that the Department conduct an investigation into possible dumping. The petition initially determines the scope of the investigation. The Department will carefully examine the scope in pre-petition counseling, or even after the petition is filed, to determine if it is administrable. The notice of initiation of investigation invites parties to comment on the scope of the petition.

The statute provides that the “petition may be amended at such time, and upon such conditions as the Department and the ITC may permit.” 19 U.S.C. 1673(a)(b)(1). The Department has the “inherent power to establish the parameters of the investigation. . . . Without this inherent authority, the Department would be tied to an initial scope definition that is based on whatever information the petitioner may have had available at the time of initiating the case, and which may not make sense in light of the information available to the Department or subsequently obtained in the investigation.” See Cellular Mobile Telephone and Subassemblies From Japan; Final Determination of Sales at Less Than Fair Value, 50 FR 45447, 45449 (October 31, 1985).

The role of the ITC, in an antidumping investigation, is to determine what domestic industry produces products like the ones in the class defined by the Department and whether that industry is injured by the relevant imports. See Algoma Steel Corp. v. United States, 688 F. Supp 639, 644 (CIT 1988), aff’d 865 F. 2d 240 (Fed. Cir. 1989). The ITC does not have the authority to exclude from a like product determination merchandise corresponding to that within the scope of the Department’s investigation. Wheatland Tube Co. v. United States, 973 F. Supp. 149, 158 (CIT 1997) (Wheatland Tube), citing United States Steel Group v. United States, 873 F. Supp. 673, 683 n. 6 (CIT 1994).

“Commerce retains broad discretion to define and clarify the scope of an antidumping investigation in a manner which reflects the intent of the petition.” Mitsubishi Heavy Indus. Ltd., v. United States, 21 CIT 1227, 1232, 986 F. Supp. 1428, 1433 (1997) (quoting Minebea Co. v. United States, 16 CIT 20, 22, 782 F. Supp. 117, 120 (1992)); but see Royal Bus. Mach., Inc. v. United States, 1 CIT 80, 87, 507 F. Supp. 1007, 1014 (1980) (discussing the constraints of prior administrative action: “Each stage of the statutory

proceeding maintains the scope passed on from the previous stage.”). Thus, the Department’s final determination reflects the decision that has been made as to which merchandise is within the final scope of the investigation and is subject to the order. See Duferco Steel, Inc., v. United States, 296 F.3d 1087, 1095 (Fed. Cir. 2002) (Duferco).

II. Scope of the Order

As the agency vested with authority to administer the antidumping law, the Department has the authority not only to define the scope of an antidumping investigation but also to clarify the scope of antidumping or countervailing duty orders and findings. See e.g., Diversified Products Corporation v. United States (Diversified Products), 572 F. Supp. 883, 887 (CIT 1983) and; Wheatland Tube, 973 F. Supp 149 (CIT 1997). The Department, “not United States Customs Service (Customs), has authority to clarify the scope of antidumping or countervailing duty orders or findings.” See Wirth Limited v. United States, 5 F. Supp. 2d 968 (CIT 1998) (Wirth).

Moreover, the Department is given broad discretion to administer the AD and CVD laws. The Department “enjoys substantial freedom to interpret and clarify its antidumping duty orders.” See, e.g. Ericsson GE Mobile Communications, Inc. v. United States, 60 F.3d 778, 782 (Fed. Cir. 1995) (Ericsson); and Eckstrom Industries, Inc. v. United States, 27 F. Supp 2d 217 (CIT 1998) (Eckstrom). Further, the Department is granted significant deference in its interpretation of AD/CVD orders.⁶ In reviewing a scope determination, the court “must sustain the Department’s determination unless it is unsupported by substantial evidence on the record or otherwise not in accordance with the law.” See Wirth, 5 F. Supp. 2d at 968. If the Department’s interpretation is reasonable, it will be sustained and it need not be the only reasonable interpretation. The court has recognized that it “may not substitute its judgment for that of [the ITA] when the choice is between two fairly conflicting views, even though the court would justifiably have made a different choice had the matter been before it *de novo*.” See Mitsubishi Electric Corp., 700 F. Supp. at 538.

While the Department may interpret AD and CVD orders, it may not expand the scope of such orders beyond the merchandise encompassed by the final less than fair value determinations. As noted above, each segment of the proceeding maintains the scope passed on from the previous segment. A scope determination is merely a clarification of the terms of the original antidumping duty order; it does not modify the order from its terms. See Alsthom Atlantique v. United States, 787 F.2d 565 (Fed. Cir. 1986). Thus, “an expansion of the scope of the order is impermissible and not in accordance with the law.” See Eckstrom, 27 F. Supp 2d at 217.

III. Scope Determinations

As noted above, a scope determination is a clarification of what the scope of the order was at the time the order was issued. As the agency charged with administering the AD and CVD laws, the Department is responsible for interpreting the AD and CVD orders

⁶ See, e.g., Duferco, 296 F.3d at 1095; see also Allegheny Bradford Corporation, d/b/a Topline Process Equipment Co., v. United States, 342 F. Supp. 2d 1172, 1183 (CIT 2004) (Allegheny Bradford).

and determining whether certain products fall within the scope of the order. See Ericsson, 60 F. 3d at 784. This authority is codified in the Department's regulations (19 CFR 351.225).

The interpretive rules for scope determinations are necessary to resolve issues that arise because the descriptions of subject merchandise contained in the Department's determinations must be written in general terms. See 19 CFR 351.225(a). Thus, after an order is published, scope rulings may be necessary when interested parties need clarification as to the status of their products under the order. At other times, a domestic interested party may allege that changes to an imported product or the place where the imported product is assembled constitutes circumvention under section 781 of the Act.

A scope proceeding may be self-initiated by the Department (19 CFR 351.225(a)) or in response to a scope ruling request filed by an interested party (19 CFR 351.225(b)). Based on the information contained in the application, the Department determines whether a formal inquiry is warranted. If an inquiry is not warranted, the Department issues a final ruling as to whether the merchandise which is the subject of the request is included in the existing order. If a formal scope inquiry is warranted, the Department requests comments from all interested parties, and subsequently issues its determination.

There are two categories of scope ruling determinations. The first category is based on descriptions of products, and answers the question of whether a particular product was originally intended to be included within the scope of an order. The second category involves products which are not explicitly covered by the scope of the order, but which a petitioner believes should be covered in order to prevent circumvention.

A. Scope Determinations Based on Descriptions of Products/Other Scope Determinations

In considering whether a particular product is included within the scope of an order, the Department will take into account the descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Department (including prior scope determinations) and the ITC. See 19 CFR 351.225(k)(1). However, before "taking into account" information from the sources identified in 19 CFR 351.225(k)(1), the Department must conclude that the language of the order pertaining to scope is "subject to interpretation" on the issue presented by the merchandise under consideration. See Duferco, 296 F.3d at 1097. The Court of Appeals for the Federal Circuit has directed that the Department must consult the final scope language as the primary source in making a scope ruling because "Commerce's final determination reflects the decision that has been made as to which merchandise is within the final scope of the investigation and is subject to the order." Id. at 1096. In Duferco, the Court held that "scope orders may be interpreted as including subject merchandise only if they contain language that specifically includes the subject merchandise or may be reasonably interpreted to include it." Id. at 1089. The Court explained that resort to sources of information other than the final scope language, such as the petition and determinations made during investigation, "...may provide valuable guidance as to the interpretation of the final order. But they cannot substitute for language in the order itself. Thus, a predicate for the interpretative process is language in the order that is

subject to interpretation.” *Id.* at 1097 and 1098. Unless the Department finds that the language of the scope of the order is ambiguous with respect to the merchandise subject to a scope ruling, then the language of the scope is not “subject to interpretation.” However, if the Department considers that the scope of the order is ambiguous with regard to whether or not the product at issue is included or excluded from the order, then guidance may be sought by examining the descriptions contained in 19 CFR 351.225(k)(1). See [Allegheny Bradford](#), 342 F. Supp. 2d at 1185.

As explained above, the applicable regulations explain how the Department will determine whether a particular product is included within the scope of an AD/CVD order. First, the Department will examine the descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the ITC. Note that, in setting forth the “descriptions of the merchandise contained” in its petition, a petitioner need not “circumscribe the entire universe of articles” that might possibly fall within the order it seeks. Thus, the “absence of a reference to a particular product in the Petition does not necessarily indicate that the product is not subject to an order.” See [Nitta Industries Corp. v. United States](#), 997 F.2d 1459, 1464 (Fed. Cir. 1993) (*Nitta*). Indeed, as stated previously, section 19 CFR 351.225(a) recognizes that the Department must conduct scope determinations in the first place because the “descriptions of the subject merchandise. . . must be written in general terms.”

Furthermore, a reference to an HTSUS number “is not dispositive” of the scope of an AD/CVD order. See [Smith Corona Corp. v. United States](#), 915 F.2d 683, 687 (Fed. Cir. 1990). Although the regulations state that petitions must contain a “detailed description of the subject merchandise that defines the requested scope of the investigation, including. . . its current U.S. tariff classification number,” (19 CFR 351.202(b)(5)), that regulation does not in turn say that failure to include a particular HTSUS number within a petition means the resulting order will likewise exclude the product that is designated under that particular HTSUS classification number. See [Novosteel SA v. United States](#), 284 F.3d 1261, 1272 (Fed. Cir. 2002) (*Novosteel*). Therefore, “the inclusion of various HTSUS headings in a petition ordinarily should not be interpreted to exclude merchandise determined to be within the scope of the antidumping or countervailing duty orders but classified under an HTSUS heading not listed in the petition.” See [Wirth](#), 5 F. Supp. 2d at 977-978.

Additionally, the court has stated that the Department’s scope determinations are independent from classification determinations by CBP. “The determinations under the antidumping law may properly result in the creation of classes which do not correspond to classifications found in the tariff schedules or may define or modify a known classification in a manner not contemplated or desired by the Customs Service.” See [Royal Business Machines](#), 507 F. Supp. at 1014. Therefore, although the Department may consider the decisions of CBP, it is not obligated to follow, nor is it bound by, the classification determinations of CBP. See [Wirth](#), 5 F. Supp. 2d at 968.

Moreover, in making a scope determination, the Court of International Trade has held that the Department must either act in accordance with its prior, similar scope determinations or else provide “rational reasons for deviating” from them. See [Novosteel](#), 284 F.3d. at 1272. The Department’s general obligation to follow prior, similar scope determinations, “is premised in part on the fact that the prior decisions

are indeed determinations, with formal procedures to ensure reliable results.” See [Allegheny Bradford](#), 342 F. Supp. 2d at 1189.

B. Analysis under 19 CFR 351.225(k)(2)

If the Department finds that the descriptions found in 19 CFR 351.225(k)(1) are dispositive, the regulation instructs the Department to issue a final scope determination based upon these descriptions alone. See [Nitta](#), 997 F. 2d at 1461. However, if determination of whether a product falls within the scope of an order cannot be made using the descriptions in 19 CFR 351.225(k)(1), the Department will further consider: (i) the physical characteristics of the product; (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. See 19 CFR 351.225(k)(2). As shorthand, we sometimes refer to these criteria as [Diversified Products](#) criteria. See also [Diversified Products](#), 572 F. Supp. 889 and [Kyowa Gas Chemical Industry Co., Ltd. v. United States](#), 582 F. Supp. 887 (CIT 1984).

In evaluating the 19 CFR 351.225(k)(2) criteria, the Department is directed to “determine whether [the contested] product is sufficiently similar [to] merchandise unambiguously within the scope of [the] order as to conclude the two are merchandise of the same class of kind.” See [Wirth](#), 5 F. Supp. 2d at 981. Under these criteria, the Department need only demonstrate that the general physical characteristics of the products under consideration are “sufficiently similar” in order to conclude that the two are of the same class or kind. [Id.](#) at 981.

IV. Scope Determinations Based on Circumvention Inquiries

The Department is bound by the “general requirement of defining the scope of AD and CVD orders by the actual language of the orders.” See [Duferco](#), 296 F.3d at 1098. The only exception to this rule occurs in certain situations where orders might be circumvented. See [Wheatland Tube Co., v. United States](#), 161 F.3d 1365, 1370 ([Wheatland Tube Co.](#)) (discussing Section 781 of the Act). These situations are addressed by section 781 of the Act.

A section 781 circumvention proceeding is a “clarification or interpretation” of an outstanding order to include products that may not fall within the order’s literal scope. See [Wheatland Tube Co.](#), 161 F.3d at 1370. These proceedings are in contrast to those conducted under 19 CFR 351.225(k) which addresses whether the product is within the literal scope.

The regulations at 19 CFR 351.225(g)-(j) describe four types of scope inquiries corresponding to the four exceptions of Section 781(a)-(d). An interested party may petition the Department to determine whether a particular product being imported into the United States is within the scope of an outstanding antidumping order under 19 CFR 351.225(b). The decision to initiate a scope inquiry and the type of inquiry to conduct are left to the Department’s discretion. [Id.](#) at 1370.

A. Merchandise Completed or Assembled in the United States

Parts, components or subassemblies of the subject merchandise are not usually presumed to be included within the scope of an AD/CVD order unless the language of the order clearly specifies that they are. After an AD/CVD order is issued, respondents may begin to import parts or components of the subject merchandise for completion in the United States and sale to U.S. customers. Through a circumvention inquiry, those parts can be brought into the scope of an AD/CVD order if the Department finds that:

- the completed merchandise being sold in the United States is the same “class or kind” as the merchandise subject to the order;
- this merchandise is completed or assembled from parts produced in the foreign country subject to the AD/CVD order;
- the process of assembly or completion in the United States is minor or insignificant; and,
- the value of the parts or components is a significant portion of the total value of the merchandise.

See Section 781(a)(1) of the Act and 19 CFR 351.225(g).

In determining whether a process is “minor or insignificant,” the Department will consider the level of investment in the United States necessary to perform the completion or assembly, the nature of the research or development undertaken in the United States, the nature of the production process, the extent of U.S. production facilities, and whether or not the value of the processing performed in the United States represents a small proportion of the value of the merchandise sold. See Section 781(a)(2).

The prerequisite for an affirmative circumvention finding is that the difference in value between the imported merchandise and the finished product must be small. When comparing the value of the imported parts to the total value of the merchandise, the Act does not establish a specific value-added percentage that constitutes “significant portion.” The legislative history denotes that Congress recognized that the facts of circumvention vary from case to case and intended that the Department employ wide discretion in these situations. See Ausimont USA, Inc. And Ausimont SPA, v. United States, 882 F. Supp. 1087, 1099 (CIT 1995).

Finally, the Department will take into account the relevant patterns of trade, whether the U.S. assembler is affiliated with the foreign producer, and whether imports into the United States increased after the imposition of the order. See Section 781(a)(3) and 19 CFR 351.225; see also [Initiation of Anticircumvention Inquiry on Antidumping and Countervailing Duty Orders on Hot-Rolled and Bismuth Carbon Steel Products from the United Kingdom and Germany](#), 62 FR 34213 (June 25, 1997); [Granular Polytetrafluoroethylene Resin From Italy; Final Affirmative Determination of Circumvention of Antidumping Duty Order](#), 58 FR 26100 (April 30, 1993).

B. Merchandise Completed or Assembled in Other Foreign Countries

Rather than shipping parts to the United States for completion, respondents faced with an AD/CVD order may ship parts, subassemblies or components to a third country for completion there, prior to export to the United States. Because final assembly of the

merchandise is completed in a third country, the respondent may claim that such merchandise is the product of that third country, and is thus not within the scope of the order. Through a scope inquiry, such third-country imports can be brought within the scope of the AD/CVD order if the Department finds that:

- merchandise imported into the United States is the same “class or kind” as the merchandise subject to the order;
- this merchandise is completed or assembled from merchandise covered by an AD/CVD order, or from merchandise produced in the foreign country to which the order applies;
- the process of assembly or completion in the third country is minor or insignificant; and
- the value of the parts or components produced in the foreign country subject to the AD/CVD order is a significant portion of the total value of merchandise exported to the United States.

See Section 781(b)(1) and 19 CFR 351.225(h).

In the case of third country circumvention, the Department must also find it is “appropriate” to include the merchandise within the scope of the AD/CVD order to prevent evasion. See Section 781(b)(1)(E).

In determining whether a process is “minor or insignificant,” the Department will consider the level of investment in the foreign country, the level of the research and development undertaken in the foreign country, the nature of the production process in the foreign country, the extent of production facilities in the foreign country, and whether the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise sold. See Section 781(b)(2).

Finally, in determining whether to include merchandise assembled or completed in a foreign country within the scope of the order, the Department will consider the factors set out in section 781(b)(3) of the Act. See [Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Initiation of Anticircumvention Inquiry and Scope Inquiry](#), 69 FR 63507 (November 2, 2004).

C. Minor Alterations of Merchandise

After an AD/CVD order is issued, a respondent producing and exporting subject merchandise may alter or modify its products so that they no longer meet the physical description contained in the order. Through a scope inquiry, the Department can determine if this merchandise should nevertheless be included within the scope of the AD/CVD order if those alterations or modifications are deemed to be minor. See Section 781(c) and 19 CFR 351.225(i); see also, [Petroleum Wax Candles From the People’s Republic of China: Initiation of Anticircumvention Inquires of Antidumping Duty Order](#), 70 FR 10962 (March 7, 2005) ([Petroleum Wax Candles From the People’s Republic of China](#)).

Section 781(c) reflects the concern of Congress that foreign producers were circumventing AD duty orders by making minor alterations to products falling within the scope of an order in an effort to take these products outside of the literal scope. Senate Report No. 100-71 at 100 (1987) states that the “Committee intends this

provision to prevent foreign producers from circumventing existing findings or orders through the sale of later-developed products or of products with minor alterations that contain features or technologies not in use in the class or kind of merchandise imported in the United States at the time of the original investigation.”

Section 781(c)(1) of the Act provides that “the class or kind of merchandise subject to . . . an antidumping duty order. . . shall include articles altered in form or appearance in minor respects. . . whether or not included in the same tariff classifications.” This provision does not apply, however, if the Department “determines that it would be unnecessary to consider the altered merchandise within the scope of the order.” See section 781(c)(2) of the Act. In essence, section 781(c) includes within the scope of an antidumping duty order products that are so insignificantly changed from a covered product that they should be considered within the scope of the order even though the alterations remove them from the order’s literal scope. See Wheatland Tube, 161 F.3d at 1372.

D. Later-Developed Merchandise

Merchandise developed subsequent to an investigation can be included within the scope of an AD/CVD order, even if its physical characteristics are not the same as those described in the order, if the Department finds that:

- the later-developed merchandise has the same general physical characteristics
- as the merchandise with respect to which the order was originally issued (the ‘earlier product’);
- the expectations of the ultimate purchasers of the later-developed merchandise
- are the same as for the earlier product;
- the ultimate use of the earlier product and the later-developed merchandise is
- the same;
- the later-developed merchandise is sold through the same channels of trade as
- earlier product; and
- the later-developed merchandise is advertised and displayed in a manner
- similar to the earlier product.

See section 781(d) of the Act, and 19 CFR 351.225(j).

Later-developed merchandise can be included within the scope of an AD/CVD order even if it has different tariff classifications from the earlier product. Also, the Department will not exclude later-developed merchandise from an order simply because it has additional functionality, unless that additional functionality is the primary use of the product, and the cost of that additional functionality is high, relative to the total cost of the product. See section 781(d)(2) of the Act, and [Petroleum Wax Candles From the People’s Republic of China](#), 70 FR at 10965.

E. Notification of ITC

A fundamental requirement of U.S. law is that an AD duty order be supported by an ITC determination of material injury. The injury determination covers only products within the original scope of the investigation. It would follow that any expansion of the scope by the Department would extend the AD duty order beyond the limits of the ITC injury

determination and would therefore violate both U.S. and international law. See Wheatland Tube, 973 F. Supp. at 159 .

Thus, in cases involving later-developed merchandise and the completion or assembly in the United States or a third country, the Department must consult with the ITC if it intends to include the merchandise within the order so that the ITC can provide its opinion on whether or not the inclusion of the merchandise would be inconsistent with the affirmative determination issued in the original investigation. See section 781(e) of the Act, and [Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta From Italy: Affirmative Preliminary Determinations of Circumvention of Antidumping and Countervailing Duty Orders](#), 68 FR 46571 (August 6, 2003).

“Commerce retains broad discretion to define and clarify the scope of an antidumping investigation in a manner which reflects the intent of the petition.” Mitsubishi Heavy Indus. Ltd., v. United States, 21 CIT 1227, 1232, 986 F. Supp. 1428, 1433 (1997) (quoting Minebea Co. v. United States, 16 CIT 20, 22, 782 F. Supp. 117, 120 (1992)); but see Royal Bus. Mach., Inc. v. United States, 1 CIT 80, 87, 507 F. Supp. 1007, 1014 (1980) (discussing the constraints of prior administrative action: “Each stage of the statutory proceeding maintains the scope passed on from the previous stage.”). Thus, the Department’s final determination reflects the decision that has been made as to which merchandise is within the final scope of the investigation and is subject to the order. See Duferco Steel, Inc., v. United States, 296 F.3d 1087, 1095 (Fed. Cir. 2002) (Duferco).

United States - Aluminium Extrusions from China - Final Scope Rulings

Doc. No.	Decision Date	Company	Product	Excluded	Reason	Comments
1	14-Oct-11	Tri Vantage	Certain Retractable Awning Mechanisms	N	Does not meet the criteria for the finished good / kit exclusion	Requires the textile awning cover
2	19-Oct-11	Skyline Displays Inc	Banner Stands and Back Wall Kits	Y	Finished good kit	Contains all necessary parts for assembly plus a hard-cover carrying case (analogous to picture frames)
3	25-Oct-11	Rubbermaid Commercial Products LLC	Certain Cleaning System Components	N	Does not meet the criteria for the finished good / kit exclusion	Requires mop end (even though they are disposable)
4	31-Oct-11	Rubbermaid Commercial Products LLC	Certain Decorative Waste Containers	Y	Not produced using extrusion process	Mostly rolled aluminium sheet
5	31-Oct-11	Peak Products America Inc	Certain Modular Aluminum Railing Systems	N	Does not meet the criteria for the finished good / kit exclusion	These are just parts to assemble an overall system (US acknowledges a job lot for a hotel or apartment building could potentially satisfy the exclusion)
6	7-Nov-11	Sapa Extrusions, Inc	Shower Door Kits	Y	Finished good kit	Contains all necessary parts for assembly (including the glass panel) and requires no further fabrication
7	9-Nov-11	Moss Holding Company	EZ Fabric Wall Systems	Y	Finished good kit	Contains all necessary parts for assembly (similar to banner stands ruling)
8	2-Dec-11	American Fence Manufacturing Company LLC	Fence Sections, Posts and Gates	N	Does not meet the criteria for the finished good / kit exclusion	These are just parts to assemble an overall fencing system
9	9-Dec-11	IAP Enclosure Systems, LLC	Window Kits	Y	Finished good kit	Contains all necessary parts for assembly (including the glass panel) and requires no further fabrication
10	13-Dec-11	Ameristar Fence Products	Aluminum Fence and Post Parts	N	Does not meet the criteria for the finished good / kit exclusion	These are just parts to assemble an overall fencing system
11	13-Dec-11	Origin Point Brands, LLC	Fence Panels, Posts and Gates	N	Does not meet the criteria for the finished good / kit exclusion	These are just parts to assemble an overall fencing system
12	3-Feb-12	The Rowley Company	Drapery Rail Kits	N	Does not meet the criteria for the finished good / kit exclusion	Requires the textile curtain to be a finished good (distinguished from banner stands)
13	28-Mar-12	IDEX Health & Sciences, LLC	Precision Machine Parts	N	Not distinct goods (applying Diversified Products criteria)	Applied the five Diversified Products criteria and found the parts are not distinct from fabricated extrusions covered by the measures
14	6-Jul-12	UQM Technologies, Inc.	Motor Cases	N	Not distinct goods (applying Diversified Products criteria)	Applied the five Diversified Products criteria and found the parts are not distinct from fabricated extrusions covered by the measures despite the high level of investment in product development and substantial value add from the computer numerical controlled (CNC) precision machine process and finishing process
15	13-Jul-12	Electolux	Fin Evaporator Systems	N	Covered by the original orders	Measures include "aluminum extrusion components that are attached (e.g., by welding or fasteners) to form subassemblies" and all components of the subassembly do not need to be aluminium
16	17-Jul-12	J.A. Hancock Co	Geodesic Structures	N	Does not meet the criteria for the finished good / kit exclusion	Must be more than just fasteners included in the packaging of an aluminium extrusion product
17	15-Aug-12	Ameristar Fence Products	Kitted Fences	N	Does not meet the criteria for the finished good / kit exclusion	These are just parts to assemble an overall fencing system
18	6-Sep-12	Sinobec Resources LLS	Aluminum Rails for Showers and Carpets	Y	Uses alloy not covered by meausres	Aluminium alloy 5050 not covered
19	17-Oct-12	A.O. Smith Corporation	Aluminum Anodes for Water Heaters	Y	Finished good	Anode is a finished good for use with another finished good (water heater) and is not integral component of a water heater
20	31-Oct-12	Valeo Group	Automotive Heating and Cooling Systems	N	Does not meet the criteria for the finished good / kit exclusion	Merely extrusions that have undergone extensive fabrication
21	31-Oct-12	Clenergy (Xiamen) Technology Co. Ltd.	Solar Panel Mounting Systems	Y	Finished good kit	Contains all necessary parts for assembly and requires no further fabrication (the mounting system is generally compatible with solar panels available in the market, ie mounting system is sold as a finished good to be used with other finished goods, solar panels, purchased from another source)
22	13-Nov-12	Plasticoid Manufacturing Inc.	Cutting and Marking Straight Edges	N	Covered by the original orders	Merely an extrusion (doesn't matter that it's a distinct product ready to use)
23	19-Nov-12	UQM Technologies Inc.	Assembled Motor Cases Housing Stators	Y	Finished good	A subassembly can be a finished good if it is ready for installation with no further work and is not entirely constructed of extrusions (in this case it houses a copper wire stator)
24	14-Nov-12	Signtex Lighting, Inc.	Aluminum Mounting Plates	N	Does not meet the criteria for the finished good / kit exclusion	Other parts are added in the US
25	30-Nov-12	Northern California Glass Management Assoc.	Curtain Wall Units	N	Covered by the original orders	This is not analysed with reference to the other rulings - it is based on a technical interpretation of the original orders

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26	17-Dec-12	Meridian Products LLC	Refrigerator/Freezer Trim Kits	N	Does not meet the criteria for the finished good / kit exclusion	Just extrusions packaged with fasteners, an assembly wrench and instruction booklet (analogous to geodesic structures)
27	26-Oct-12	Innovative Controls Inc.	Side Mount Valve Controls	Y	Finished good kits	Not contested by industry
28	17-Aug-12	Construction Specialties Inc.	Solarmotion Controllable Sunshades	Y	Finished good kits	Contains all necessary parts for assembly (including the motor) and requires no further fabrication
29	14-Mar-13	Tesla	Curtain Walls with Non-PRC Extrusions	Y	Extrusions not produced in China	Extrusions produced in Thailand and assembled into curtain walls with other components in China
30	19-Apr-13	5 Diamond	Flag Pole Sets	N	Does not meet the criteria for the finished good / kit exclusion	Flag poles are not imported packaged as a complete set (pieces are re-packaged into sets in the US)
31	20-Mar-13	Asia Sourcing Corporation ("ASC")	Boat and Dock Ladders and Strip Door Mounting Brackets	Y	Finished good kits	Only fully assembled ladders and ladder kits with plastic steps were excluded - the all-aluminium fully assembled ladders and kits were all within scope as no non-aluminium extrusion components beyond the fasteners were included in the kit
32	21-Jun-13	Meridian Products LLC	Kitchen Appliance Door Handles	N	Covered by the original orders	Merely aluminium extrusions referred to by their end use
33	12-Sep-13	Law St. Enterprises LLC	Disappearing Door Screens	N	Does not meet the criteria for the finished good / kit exclusion	Like parts are packaged together and not packaged as a kit at time of importation (analogous to flag poles)
34	21-Nov-13	Kam Kiu	Subparts for Metal Bushings	N	Covered by the original orders	Merely extrusions - the fact that the billet and extrusions are tested for compliance with a particular international standard is irrelevant
35	2-Dec-13	Traffic Brick Network LLC	Aluminum Event Decor Parts and Kits	Y	Finished good kits	Only satisfy the criteria because they are packaged into kits in Canada (and not transshipping because still declared as Chinese origin goods)
36	9-Sep-13	Port-A-Cool LLC	Louver Assemblies	Y	Finished goods	Louvers are a finished good for use with another finished good and include non-aluminium components (analogous to water heater anodes)
37	27-Mar-14	Aluwind Inc.	Gallery Assemblies for Wind Turbines	Y	Finished goods	Fully assembled finished good that is subsequently incorporated into a larger product, being a wind turbine (analogous to water heater anodes)
38	27-Mar-14	Yuanda	Curtain Wall Units	N	Covered by the original orders	Consistent with previous curtain wall ruling but with more robust analysis
39	8-Jul-14	Titan Worldwide Industries Acquisition LLC	Scaffolding Planks	Y	Finished goods	A finished good subassembly not entirely made of extrusions (analogous to 'housing stators')
40	16-Jul-14	Signature Partners Inc.	Auto Trim Kits	N	Does not meet the criteria for the finished good / kit exclusion	Does not contain all of the parts at time of importation - US-sourced components are added post-import
41	22-Jul-14	Five Lakes Trading Inc.	Pocket Door Tracks	N	Covered by the original orders	Merely fabricated extrusions that are cut-to-length and punched
42	23-Jun-14	Glenmore Industries LLC	Trade Booth Kits	Y	Finished good kits	Does not consist entirely of extruded aluminium and meets kit definition even though an entire 'kit' may be too big to ship in a single container
43	19-Jun-14	N.R. Windows Inc.	Window Wall Kits	Y	Finished good kits	Unlike curtain wall, a single window wall is a finished good akin to a window - the kits contain all of the necessary parts to assemble it
44	25-Jul-14	SPX Cooling Technologies Inc.	Fan Blade Assemblies	Y	Finished goods	A finished good subassembly not entirely made of extrusions
45	1-Aug-14	Larson Manufacturing Company	Storm Door Accessory Kits	Y	Finished good kits	Contains all necessary parts for assembly (incl. non-aluminium parts) and requires no further fabrication
46	4-Aug-14	Whirlpool Corporation	Kitchen Door Handles With or Without Plastic End Caps	N	Does not meet the criteria for the finished good / kit exclusion	Handles are entirely extruded aluminium and the plastic end caps are just fasteners
47	1-Aug-14	TACO Metals Inc.	Recreational Marine Products	Y	Finished good kits	Include non-extrusion parts and require no further finishing or fabrication.
48	7-Aug-14	Rheetech Sales & Services Inc.	Screen Printing Frames with Mesh Screen Attached	Y	Finished goods	A finished good subassembly not entirely made of extrusions
49	14-Aug-14	Districargo Inc.	Exhibition Booth Kits	N	Does not meet the criteria for the finished good / kit exclusion	Consists only of extrusions and fasteners, plus like parts are packaged together and not packaged as a kit at time of importation (analogous to disappearing door screens)
50	22-Jul-14	Dynasty Profiles, LLC	Complete Aluminum Fence Kits	N	Does not meet the criteria for the finished good / kit exclusion	Fits with the business practice of the fence industry - ie that various parts are imported in bulk and stocked in a warehouse.

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51	18-Aug-14	TACO Metals Inc.	Telescoping Boat Cover Poles, Fishing Rod Holders and Fishing Rod Racks	Y	Finished goods	Comprise non-extrusion parts and require no further finishing or fabrication.
52	12-Sep-14	Vico Plastic Inc.	Cam-Lock Support Poles	Y	Finished goods	Comprise non-extrusion parts and require no further finishing or fabrication.
53	3-Nov-14	KIK Custom Products	Telescoping Poles	Y	Finished goods	Comprise non-extrusion parts and are fully and permanently assembled and completed at time of importation.
54	3-Nov-14	Danfoss LLC	Micro Channel Heat Exchangers	Y	Finished goods	A finished good subassembly not entirely made of extrusions
55	4-Nov-14	Unger Enterprises Inc.	Aluminium Grabbers	Y	Finished goods	Comprise non-extrusion parts and are fully and permanently assembled and completed at time of importation.
56	4-Nov-14	Pacific Product Solutions	Motorized Arm Set Kits	Y	Finished good kits	A finished good subassembly not entirely made of extrusions
57	19-Nov-14	Clik-Clik Systems Inc.	MagPole	Y	Finished goods	Analogous to telescoping poles
58	24-Nov-14	ECCO Group	Heat Sinks for LED Light Bars	N	Does not meet the criteria for finished heat sinks	Applicant failed to identify target thermal performance requirements of the goods & failed to demonstrate how the goods are tested to comply with such requirements.