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Scope Proceeding: Scaffolding Planks

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July 8, 2014

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

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

Erin Begnal  
Program Manager, Office III  
Antidumping and Countervailing Duty Operations

**FROM:** Brendan Quinn  
International Trade Compliance Analyst, Office III  
Antidumping and Countervailing Duty Operations

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

**SUBJECT:** Final Scope Ruling on Titan's Scaffolding Planks

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## SUMMARY

On March 17, 2014, the Department of Commerce ("Department") received a scope ruling request from Titan Worldwide Industries Acquisition LLC ("Titan"),<sup>1</sup> to determine whether three types of scaffolding planks that incorporate extruded aluminum (hereafter, "scaffolding planks" or "planks") are subject to the antidumping ("AD") and countervailing duty ("CVD") orders on aluminum extrusions from the People's Republic of China ("PRC").<sup>2</sup> Based on our analysis of the request, we determine that the scaffolding planks are not included in the scope of the AD and CVD *Orders* on aluminum extrusions from the PRC.

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<sup>1</sup> See letter from Titan entitled, "Request for Scope Ruling on Aluminum Scaffolding Planks from the People's Republic of China," dated March 17, 2014 ("Scope Request").

<sup>2</sup> 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) (collectively the "*Orders*").

## BACKGROUND

On March 17, 2014, Titan requested that the Department determine whether its scaffolding planks are outside the scope of the *Orders*.<sup>3</sup> On April 25, 2014, the Department twice extended the deadline for a final scope ruling by 45 days, first to June 16, 2014, and, again, to July 15, 2014.<sup>4</sup> Petitioner did not submit comments regarding the Scope Request.<sup>5</sup>

## SCOPE OF THE ORDERS

The merchandise covered by these *Orders* are aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

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

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

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<sup>3</sup> See Scope Request.

<sup>4</sup> See letters from the Department entitled “Aluminum Extrusions from the People’s Republic of China: Extension of Time for Scope Ruling,” dated April 25, 2014 and June 11, 2014.

<sup>5</sup> Petitioner is the Aluminum Extrusions Fair Trade Committee.

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 mm or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of these *Orders* are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (“HTS”): 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8516.90.50.00, 8516.90.80.50, 8708.80.65.90, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.30, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTS chapters. In addition, fin evaporator coils may be classifiable under HTS numbers: 8418.99.80.50 and 8418.99.80.60. While HTS subheadings are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.

## LEGAL FRAMEWORK

When a request for a scope ruling is filed, the Department examines the scope language of the order and the description of the product contained in the scope-ruling request.<sup>6</sup> Pursuant to the Department’s regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from the investigations, and prior scope determinations made for the same product.<sup>7</sup> If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling as to whether the merchandise is covered by an order.

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<sup>6</sup> *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

<sup>7</sup> 19 CFR 351.225(k)(1).

Conversely, where the descriptions of the merchandise are not dispositive, the Department will analyze the factors set forth at 19 CFR 351.225(k)(2). These factors are: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope proceeding is made on a case-by-case basis after consideration of all evidence before the Department.

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

Titan imports, sells, and rents ladders and scaffolding equipment at the wholesale level, including scaffolding planks which, essentially, comprise the horizontal “floor” sections in various scaffolding system upon which laborers work.<sup>8</sup> Titan’s scope request covers three types of scaffolding planks, each of which are comprised of extruded aluminum and non-extruded aluminum components: Aluminum Stages (*a.k.a.*, Aluminum Planks, Aluminum Staging or Aluminum Picks), Aluminum Planks with Plywood Top (*a.k.a.*, Plywood Scaffolding Planks or Plywood Walk Boards), and Aluminum Scaffold Boards (*a.k.a.*, Aluminum Scaffold Planks or Aluminum Walk Boards).<sup>9</sup> Titan states that each type of scaffolding plank enters the United States complete and fully assembled and can be used as a finished plank in a scaffolding system as imported (*i.e.*, the planks need no post-importation manufacturing or processing).<sup>10</sup>

Each type of plank is similar in form and function to the other, as all are made up of: 1) a “deck” (*i.e.*, the actual floor surface), 2) aluminum extrusion side rails, center support rungs, and end pieces that make up the structural frame of the product and hold the deck in place, 3) arms/handles to attach the plank to the scaffold structure, and 4) various fasteners and supports.<sup>11</sup> The three types of planks (each of which have sub-types that vary in length and width) differ from each other only in the material composition of certain components, particularly the deck and handles. Specifically:

### Product #1: Aluminum Stages<sup>12</sup>

#### *Aluminum Extrusion Components:*

- Side Rails (Provide the structural frame of the product)
- Center Rungs (Provide structural support and connect the Side Rails together)
- End Pieces (Secure the decking to the Side Rails)

#### *Non-Extrusion Components:*

- Decking (Non-extruded aluminum)
- Hooks (Die-cast aluminum)
- Rivet Fasteners (Galvanized steel)

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<sup>8</sup> See Scope Request at 1-2.

<sup>9</sup> For ease of reference, these products are referred to as Product #1 or Aluminum Stages, Product #2 or Plywood Planks, and Product #3 or Aluminum Walk Boards, respectively.

<sup>10</sup> See Scope Request at, *e.g.*, 13.

<sup>11</sup> *Id.* at 2-4 and Exhibits 1-3.

<sup>12</sup> *Id.* at Exhibit 1.

### Product #2: Plywood Planks<sup>13</sup>

#### *Aluminum Extrusion Components:*

- Side Rails (Provide the structural frame of the product)
- Center Rungs (Provide structural support and connect the Side Rails together)
- End Pieces (Secure the decking to the Side Rails)
- Hooks (Secure plank to scaffold structure)

#### *Non-Extrusion Components:*

- Decking (Plywood, includes supportive “crossers” placed under the decking)
- Rivet Fasteners (galvanized steel)

### Product #3: Aluminum Walk Board<sup>14</sup>

#### *Aluminum Extrusion Components:*

- Side Rails (Provide the structural frame of the product)
- Center Rungs (Provide structural support and connect the Side Rails together)
- End Pieces (Secure the decking to the Side Rails)
- Decking (Extruded aluminum)

#### *Non-Extrusion Components:*

- Handles (Die-cast aluminum)
- Rivet Fasteners (Galvanized steel)

In sum, each of the requested plank products have structural side rails, center rungs, and end pieces made of extruded aluminum and are held together by non-extruded fasteners. The products differ in that: A) Products 1 and 2 have non-extruded decking or “floors” (made of non-extruded aluminum and plywood, respectively), whereas Product 3’s decking is made of extruded aluminum, and B) Products 1 and 3 have non-extruded hook/handle components that affix the plank structure to the scaffolding system (die-cast aluminum hooks and die-cast aluminum handles, respectively), whereas Product 2 is secured to the scaffold structure by extruded aluminum hooks.

## **ARGUMENTS FROM INTERESTED PARTIES**

### Titan’s Request

Titan requests that the Department find each of the three scaffolding plank products described above outside the scope of the *Orders*. Titan notes that each of the three items are made of both extruded and non-extruded components that are completely finished at the time of importation and undergo no post-importation processing and thus are finished subassemblies designed to work with other parts to form a larger structure or system.<sup>15</sup>

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<sup>13</sup> *Id.* at Exhibit 2.

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

<sup>15</sup> *Id.* at 2.

Titan first argues that the planks are fully manufactured and assembled at the time of importation and are analogous to the “finished windows with glass” and “doors with glass or vinyl” specifically listed as finished goods in the scope of the *Orders*, which are also fully finished and contain both aluminum extrusion and non-aluminum extrusion components. Titan states that the planks should be considered finished goods as considered by the express language of the scope of the *Orders* and various dictionary definitions of the word “finished.”<sup>16</sup>

Titan then contends that the finished scaffolding planks are subassemblies designed to work “as-is” with other parts to form a larger structure or system (*i.e.*, incorporated into scaffolding systems to enable workers to work at elevated levels). Thus, the application of the subassemblies test established in the *Side Mount Valve Controls*<sup>17</sup> and *Valeo Remand Redetermination*<sup>18</sup> further supports the finding that the planks in question are finished goods.<sup>19</sup> Titan asserts that the present issue is nearly identical to that faced in *Housing Stators*,<sup>20</sup> in which the Department determined that certain fully-assembled housing stator subassemblies, which included both extruded and non-extruded parts were excluded from the scope of the *Orders*.<sup>21</sup> Therefore, according to Titan, because the scaffolding planks require no further finishing after importation and are finished subassemblies included “as-is” into scaffolding systems composed of non-extruded parts (*i.e.*, plywood, cast aluminum, aluminum sheet), Titan’s products should be excluded from the scope of the *Orders* pursuant to 19 CFR 351.225(k)(1).<sup>22</sup>

Titan states that because the Department should be able to make a scope ruling based on the plain language of the scope of the *Orders* and the relevant subassembly rulings referenced above, pursuant to 19 CFR 351.225(k)(1), it should not be necessary to examine the *Diversified Products*<sup>23</sup> criteria set forth in 19 CFR 351.225(k)(2).<sup>24</sup> However, according to Titan, these criteria further support the exclusion of the material in question from the scope of the *Orders*.<sup>25</sup> Titan then provides a brief analysis for each of the *Diversified Products* criteria, arguing that

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<sup>16</sup> *Id.* at 7-9.

<sup>17</sup> See the Department’s 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, unchanged in Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Side Mount Valve Controls,” October 26, 2012 (“*Side Mount Valve Controls*”).

<sup>18</sup> See *Valeo, Inc. v. United States*, Court No. 12-381, dated February 13, 2013 (“*Valeo*”) and the 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*, Court No. 12-00381, dated May 13, 2013 (“*Valeo Remand Redetermination*”).

<sup>19</sup> See Scope Request at 9-12.

<sup>20</sup> See the Department’s memorandum entitled, “Antidumping Duty (AD) and Countervailing Duty (CVD) Orders on Aluminum Extrusions from the People’s Republic of China (PRC): Final Scope Ruling on Motor Cases, Assembled and Housing Stators,” dated November 19, 2012 (“*Housing Stators*”).

<sup>21</sup> See Scope Request at 11-12.

<sup>22</sup> *Id.* at 12.

<sup>23</sup> See *Diversified Products Corporation. v. United States*, 572 F. Supp. 883, 887 (CIT 1983) (“*Diversified Products*”).

<sup>24</sup> See Scope Request at 12.

<sup>25</sup> *Id.*

physical characteristics, customer expectations, ultimate use, channels of trade, and manner of advertising are very different for its planks than for typical aluminum extrusion products.<sup>26</sup>

### Petitioner's Comments

Petitioner did not submit comment on Titan's scope request.

## **RELEVANT SCOPE DETERMINATIONS<sup>27</sup>**

### Side Mount Valve Controls Scope Ruling<sup>28</sup>

In its scope ruling request, Innovative Controls Inc. ("Innovative") argued that certain side mount valve controls ("SMVCs") that it imports are finished goods that are outside the scope of the *Orders*. Innovative argued that an SMVC, as imported, contains all the components necessary to complete the product and that all SMVC components and hardware are fully fabricated and require no further finishing or fabrication prior to being assembled. On this basis, Innovative argued that the product in question met the exclusion criteria for "finished goods."

Petitioner argued that the SMVC itself is not a final finished good because it is a component of a larger firefighting apparatus, and it is imported under an HTS subheading for parts and accessories of such larger systems. Petitioner further argued that in order for the SMVC to perform any function it must be attached to the valve, and ultimately to the firefighting apparatus, that it is designed to control. As a result, the SMVC could not be considered a finished product.

The Department explained that, upon review of the language in the scope of the *Orders*, it was revising the manner in which it determines whether a given product is a "finished good" or "finished goods kit," in order to avoid unreasonable results. For example, in the instant SMVCs case, an interpretation of the "finished goods kit" language to mean that the product in question must contain all parts to assemble the ultimate downstream product might suggest the absurd requirement that the SMVC kit must contain all parts necessary to assemble an entire fire truck. The Department explained that such an interpretation could expand the scope of the *Orders* to cover far more products than aluminum extrusions.<sup>29</sup>

Thus, the Department determined that the scope, taken as a whole, indicates that "subassemblies" (*i.e.*, "partially assembled merchandise") may be excluded from the scope provided that they enter the United States as "finished goods" or "finished goods kits" and that the "subassemblies" require no further "finishing" or "fabrication." Therefore, the Department analyzed whether the

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<sup>26</sup> *Id.* at 12-14. Because, as discussed below, we are able to make a ruling based on the language of the scope of the *Orders* and prior scope rulings, pursuant to 19 CFR 351.225(k)(1), it is unnecessary to examine the *Diversified Products* criteria and, as such, we do not address the merits of Titan's *Diversified Products* arguments in our "Department's Position," below.

<sup>27</sup> See the Department's memorandum entitled: "Antidumping ("AD") and Countervailing Duty ("CVD") Orders on Aluminum Extrusions from the People's Republic of China ("PRC"): Transmittal of Scope Determinations to the File," dated June 16, 2014.

<sup>28</sup> See *Side Mount Valve Controls*.

<sup>29</sup> *Id.* at 6-8.



SMVC at issue constituted a subassembly that enters the United States as a “finished goods kit.” In order for such a kit to be excluded from the scope of the *Orders*, the Department found that the SMVC had to be ready for installation and require no further finishing or fabrication.<sup>30</sup>

The Department concluded that the product at issue contained all of the parts necessary to assemble a complete SMVC and that all the components and hardware of the SMVC are fully fabricated and require no further finishing or fabrication prior to being assembled. The Department further found that upon assembly, the SMVC is mounted on a fire truck where it is ready for use upon installation. Based on this information, the Department found that the SMVC at issue met the exclusion criteria for subassemblies that enter the United States as “finished goods kits.”<sup>31</sup>

#### Assembled Motor Case Housing Stators<sup>32</sup>

The Department found that assembled motor case housing stators were outside the scope of the *Orders* because they were a finished product. In reaching its determination, the Department noted: “due to the inclusion of the stator (which contains insulated copper wire) the assembled motor cases housing stators do not consist entirely of extruded aluminum.” As a result, the Department found the assembled motor cases housing stators are analogous to the merchandise examined in the *Side Mount Valve Controls* scope ruling.<sup>33</sup> Using the same methodology followed in *Side Mount Valve Controls*, the Department found the housing stators outside the scope of the *Orders* as they required no further finishing or manufacturing after importation.

#### Components for Auto Cooling and Heating Systems<sup>34</sup> and Valeo Remand Redetermination<sup>35</sup>

In the *Valeo Scope Ruling*, the Department determined that Valeo’s T-Series and M-Series parts for heating/cooling systems were covered by the scope of the *Orders* because the products were aluminum extrusions that had undergone further fabrication and such products are specifically covered by the *Orders*. Subsequently, Valeo, Inc. filed a complaint with the Court of International Trade alleging that the Department did not address or apply the “subassemblies test” that was established in *Side Mount Valve Controls* to the merchandise at issue in Valeo’s initial scope request. In response, the Department requested and was granted a voluntary remand to consider whether components for cooling and heating systems are covered by the *Orders* based upon the Department’s new subassembly test. In the *Valeo Remand Redetermination*, the Department revised its earlier decision and found the parts outside the scope of the *Orders*. In reaching its decision, the Department noted that the subassemblies test is consistent with the scope of the *Orders* because subassemblies that enter the United States as “finished goods” or “finished goods kits” and are later integrated into a larger structure or system are analogous to products that are explicitly excluded from the scope, such as “windows with glass, or doors with

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

<sup>31</sup> *Id.*

<sup>32</sup> *See Housing Stators.*

<sup>33</sup> *Id.* at 14.

<sup>34</sup> *See* the Department’s memorandum entitled, “Final Scope Ruling on Valeo’s Automotive Heating and Cooling Systems,” dated October 31, 2012 (“*Valeo Scope Ruling*”).

<sup>35</sup> *See Valeo Remand Redetermination.*

glass of vinyl,” each of which includes all of the parts necessary to assemble a complete window or door, but is necessarily integrated into a larger structure.<sup>36</sup>

### Dock Ladders and Mounting Brackets<sup>37</sup>

The Department found certain boat ladders excluded from the scope of the *Orders* as finished products, but other finished ladders and brackets included within the scope because “the Department will not find a simple aluminum extrusion, without non-extruded aluminum parts, to be an excluded finished product regardless of whether it is ready for use upon importation.”<sup>38</sup> Specifically, the Department found a certain model of boat ladder excluded from the scope because it consisted of permanently and fully assembled plastic steps and aluminum extrusion handrails, but found certain strip door mounting brackets to fall within the scope of the *Orders* because, although fully assembled at the time of entry, they consisted solely of aluminum extrusions and did not include any non-extruded aluminum parts other than fasteners.

### **DEPARTMENT’S POSITION**

We examined the description of the products in the Scope Request, the scope language of the *Orders*, and the Department’s prior relevant scope rulings summarized above. Pursuant to 19 CFR 351.225(k)(1), we find that the scope and the Department’s prior rulings are dispositive as to whether the scaffolding planks are outside of the scope of the *Orders*.

The scope of the *Orders* excludes “finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry.” In order to avoid “absurd” results stemming from a rigid definition of finished merchandise, the Department later refined its analysis of the finished goods and finished goods kits exclusion (in *Side Mount Valve Controls* and further supported in the later *Valeo Remand Redetermination* and *Housing Stators* determinations) to include subassemblies of larger products or systems provided that they enter the United States as finished goods or finished goods kits and require no further finishing or fabrication. The description of the scaffolding plank products in question indicates that these planks are comprised of aluminum extrusions and non-extruded and/or non-aluminum components.<sup>39</sup> Furthermore, the products enter as fully-assembled finished goods that are permanently assembled, completed, and are ready to use in a scaffolding system with no further modification subsequent to importation. As such, these products are fully assembled subassemblies ready for immediate installation and use in a larger system, thus analogous to the merchandise considered in the prior *Side Mount Valve Controls*, *Valeo Remand Redetermination*,

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<sup>36</sup> *Id.* at 8-9.

<sup>37</sup> See the Department’s memorandum entitled, “Final Scope Ruling on Asia Sourcing Corporation’s Boat and Dock Ladders and Strip Door Mounting Brackets,” dated March 20, 2013 (“*Boat Ladders and Brackets*”).

<sup>38</sup> *Id.* at 8.

<sup>39</sup> Unlike Products #1 and #2, the decking on Product #3 (*i.e.*, Aluminum Walk Boards) is made entirely of extruded aluminum, and the steel rivets and the cast-aluminum handles constitute the only non-extruded components of this type of scaffolding plank. We find the handle to be a non-extraneous component to the finished product critical to both moving the plank around the worksite and attaching it to the larger scaffolding super-structure. As such, the exclusion of this product from the scope is consistent with our determinations in, *e.g.*, *Boat Ladders and Brackets*, where the inclusion of non-extruded components (beyond fasteners) in a finished product was sufficient to exclude the product from the scope of the *Orders*.

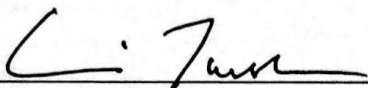
and *Housing Stators* rulings and eligible for the finished goods exclusion based on the same principles enumerated in these prior rulings.

**RECOMMENDATION**

For the reasons discussed above, and in accordance with 19 CFR 351.225(d) and 351.225(k)(1), we recommend finding that the scaffolding planks described in the Scope Request are not subject to the scope of the AD and CVD orders on aluminum extrusions from the PRC.

If the recommendation in this memorandum is accepted, we will serve a copy of this determination to all interested parties on the scope service list via first-class mail, as directed by 19 CFR 351.225(d).

Agree  Disagree



Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

7/8/14

Date