

**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 (Order) (February 13, 2013)**

SUMMARY

The U.S. Department of Commerce (“Department”) has prepared these final results of redetermination pursuant to the remand order of the U.S. Court of International Trade (“CIT” or the “Court”), issued on February 13, 2013, in *Valeo, Inc., Valeo Engine Cooling Inc., and Valeo Climate Control Corp. v. United States*, Court No. 12-00381 (“*Remand Order*”). This final redetermination addresses the issue of whether the automotive heating and cooling system components imported by Valeo, Inc., Valeo Engine Cooling Inc., and Valeo Climate Control Corp. (collectively, “Valeo”) are encompassed within the scope of the antidumping duty (“AD”) and countervailing duty (“CVD”) orders on aluminum extrusions from the People’s Republic of China.¹ In accordance with the *Remand Order* and in reconsideration of the record evidence, the Department has determined that Valeo’s T-Series and M-Series automotive heating/cooling system components are not covered by the scope of the *Orders*.

In the Automotive Heating/Cooling Systems 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*.² On November 26, 2012, Valeo filed a complaint with the Court, alleging, *inter alia*, that the Department did not address or apply the “subassemblies test” that was established in the final scope ruling on side-mount

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

² See the Department’s memorandum regarding: Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China – Final Scope Ruling on Valeo’s Automotive Heating and Cooling Systems, dated October 31, 2012 (“Auto Heating/Cooling Systems Scope Ruling”).

valve controls (“SMVCs”)³ to the merchandise at issue in Valeo’s Scope Request.⁴ In response to the Department’s February 12, 2013, request for a voluntary remand, the Court issued the *Remand Order* in which it granted the Department the opportunity to re-evaluate the evidence on the record, consider the “subassemblies test” established in the SMVCs Scope Ruling, and issue an amended final scope ruling consistent with its re-evaluation. In accordance with the *Remand Order*, the Department issued its Draft Remand Results⁵ in which it re-examined its initial determination and concluded that the products at issue in Valeo’s request are not covered by the scope of the *Orders*. For the reasons discussed below, the Department continues to find that the automotive heating and cooling system components are not covered by the scope of the *Orders*.

BACKGROUND

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

The merchandise covered by the{se} order{s} is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains

³ See the Department’s memorandum regarding: Final Scope Ruling on Side Mount Valve Controls, dated October 26, 2012 (“SMVCs Scope Ruling”); see also the Department’s memorandum regarding: Antidumping Duty (AD) and Countervailing Duty (CVD) Orders: Aluminum Extrusions from the People’s Republic of China (PRC), Initiation and Preliminary Scope Ruling on Side Mount Valve Controls, dated September 24, 2012 (“SMVCs Preliminary Scope Ruling”).

⁴ See Valeo’s letter to the Department regarding: Antidumping and Countervailing Duty Orders on Aluminum Extrusions for the People’s Republic of China: Scope Request – Certain Aluminum Parts for Automotive Heating and Cooling Systems, dated May 16, 2012 (“Scope Request”).

⁵ See Draft Results of Redetermination Pursuant to Court Remand, *Valeo, Inc., Valeo Engine Cooling Inc., and Valeo Climate Control Corp., v. United States*, Court No. 12-00381 (Order) (April 16, 2013) (“Draft Remand Results”).

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

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

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

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods ‘kit’ defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation.

The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum

Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a “finished goods kit.” A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled ‘as is’ into a finished product. An imported product will not be considered a ‘finished goods kit’ and therefore excluded from the scope of the investigation merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 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 this order 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”): 7604.21.0000, 7604.29.1000, 7604.29.3010, 7604.29.3050, 7604.29.5030, 7604.29.5060, 7608.20.0030, 7608.20.0090, 8302.10.3000, 8302.10.6030, 8302.10.6060, 8302.10.6090, 8302.30.3010, 8302.30.3060, 8302.41.3000, 8302.41.6015, 8302.41.6045, 8302.41.6050, 8302.41.6080, 8302.42.3010, 8302.42.3015, 8302.42.3065, 8302.49.6035, 8302.49.6045, 8302.49.6055, 8302.49.6085, 8302.50.0000, 8302.60.9000, 8306.30.0000, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 9403.90.1040, 9403.90.1050, 9403.90.1085, 9403.90.2540, 9403.90.2580, 9403.90.4005 9403.90.4010, 9403.90.4060, 9403.90.5005, 9403.90.5010,

9403.90.5080, 9403.90.6005, 9403.90.6010, 9403.90.6080, 9403.90.7005, 9403.90.7010, 9403.90.7080, 9403.90.8010, 9403.90.8015, 9403.90.8020, 9403.90.8041, 9403.90.8051, 9403.90.8061, 9506.91.0010, 9506.91.0020, and 9506.91.0030. The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTS chapters. In addition, fin evaporator coils may be classifiable under HTS numbers: 8418.99.8050 and 8418.99.8060. While HTS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Valeo filed its Scope Request on May 16, 2012. The products subject to the Scope Request are two distinct types of automotive heating and cooling parts/components, T-Series and M-Series, which are produced from aluminum extrusion raw materials. T-Series parts are characterized by their bent, tubular shape and fitted end-forms. After a straightening and cutting stage, the tubes are machined to achieve a specific diameter and wall thickness. Each tube is then chamfered, deburred, and bent to precise angles in four places. Next, the ends are shaped by a five-step end-forming and double-bead end-forming process that includes fitting the tube with end pieces and an additional foam material that adds three millimeters of aluminum to one segment of the tube. M-Series parts consist of bent, tubular aluminum parts that are brazed onto shaped blocks. The first stage is the same process as T-Series parts. The shaped aluminum block made from aluminum bar undergoes cutting, smoothing, lathing, milling, grooving, drilling holes, chamfering, tapping, washing, and thread checking. The components are then assembled via brazing using two finished tubes, the finished block, and rings. The brazing process involves ring installation, coating, assembly, pre-heating, heating, and cooling steps, which permanently affix the components into a finished M-Series product.⁶

In its Scope Request, Valeo argues that its T-Series and M-Series components for automotive heating and cooling systems should be excluded from the scope of the *Orders* for two reasons. First, Valeo argues that its components undergo extensive post-extrusion

⁶ See Scope Request at 2-4.

processing that is not described in the *Orders* so as to meet unique criteria required by the auto industry. Second, Valeo argues that parts for automotive heating and cooling systems are excluded from the scope of the *Orders* because the language of the *Orders* and scope of the investigations did not include such products. Finally, Valeo argues that if the Department finds that the language of the *Orders* and scope of the investigations is ambiguous, then it should find the components at issue to be outside the scope of the *Orders* based on the *Diversified Products* factors set forth in 19 CFR 351.225(k)(2). On these bases, Valeo asserts that Petitioners⁷ did not intend to cover its T-Series and M-Series parts in the defined scope.⁸

On June 19, 2012, Petitioners filed comments opposing Valeo's scope request.⁹ Petitioners argue that Valeo's T-Series and M-Series parts fall within the scope of the *Orders* because the end-forming and brazing processes utilized in production are nothing more than fabrication processes and the scope explicitly includes aluminum extrusions that are "fabricated." Further, Petitioners refute Valeo's argument that the scope excludes parts designed for automotive applications. Petitioner states that such an argument is irrelevant because the scope is not defined by any particular end-uses and, therefore, aluminum extrusion products that are not explicitly listed in the scope are not rendered excluded from the *Orders*.¹⁰

On August 31, 2012, Valeo submitted rebuttal comments and reiterated that its components for automotive heating and cooling systems are not covered by the scope because they are downstream products produced from aluminum extrusions. Valeo urged the Department

⁷ Petitioners in this proceeding are the Aluminum Extrusions Fair Trade Committee (comprised of Aerolite Extrusion Company, Alexandria Extrusion Company, Benada Aluminum of Florida, Inc., William L. Bonnell Company, Inc., Frontier Aluminum Corporation, Futura Industries Corporation, Hydro Aluminum North America, Inc., Kaiser Aluminum Corporation, Profile Extrusions Company, Sapa Extrusions, Inc. and Western Extrusions Corporation), the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

⁸ See *id.* at 7-9.

⁹ See Petitioners' letter to the Department regarding: Aluminum Extrusions From The People's Republic Of China: Comments Regarding The Scope Ruling Request Of Valeo, dated June 19, 2012 ("Petitioners' Comments").

¹⁰ See *id.* at 6-7.

to initiate a full scope inquiry under 19 CFR 351.225(k)(2) to overcome the ambiguity of the scope language and determine whether the T-Series and M-Series components are covered by the *Orders*.¹¹

On October 31, 2012, the Department issued its final scope ruling and determined that Valeo's automotive heating and cooling system components were within the scope of the *Orders*.¹² In its ruling the Department explained that Valeo's description of its T-Series and M-Series parts indicated that the products were aluminum extrusions that have undergone extensive fabrication. The record demonstrated that the production processes utilized by Valeo constituted further fabrication and, therefore, the Department determined that the T-Series and M-Series parts were specifically covered by the *Orders*, which state that "subject merchandise includes aluminum extrusions that are finished..., fabricated, or any combination thereof." The Department also relied on its prior rulings on precision machine parts and motor cases to support its determination.¹³ In its Precision Machine Parts Scope Ruling, the Department determined that the products at issue were all covered by the scope because the computer numerical control ("CNC") machining process was not distinct from the fabrication processes used to produce "machined" aluminum extrusions that are subject to the scope of the *Orders*.¹⁴ In its Motor Cases Scope Ruling, the Department determined that parts imported by UQM Technologies, Inc. ("UQM") are covered by the scope of the *Orders* because of similarities to the parts examined in the Precision Machine Parts Scope Ruling and because UQM presented no information or argument that would lead the Department to reach a conclusion that differed from that of the

¹¹ See Valeo's letter to the Department regarding: Antidumping and Countervailing Duty Orders on Aluminum Extrusions for the People's Republic of China: Rebuttal to Petitioners' Scope Comments, dated August 31, 2012.

¹² See Auto Heating/Cooling Systems Scope Ruling, at 7-8.

¹³ See *id.* at 6-7.

¹⁴ See *id.* at 6; see also the Department's memorandum regarding: Antidumping Duty (AD) and Countervailing Duty (CVD) Orders: Aluminum Extrusions from the People's Republic of China (PRC): Final Scope Ruling on Precision Machine Parts, dated March 28, 2012 ("Precision Machine Parts Scope Ruling").

Precision Machine Parts Scope Ruling.¹⁵ In light of the record evidence and its two prior scope rulings involving complex machining processes, the Department concluded that Valeo’s T-Series and M-Series parts are covered by the *Orders* because the scope includes fabricated aluminum extrusions. Further, the Department disagreed with Valeo’s contention that its T-Series and M-Series parts are not covered by the *Orders* because the scope does not specifically mention auto parts, explaining that the scope does not attempt to limit the parts that are covered as aluminum extrusions.¹⁶

In the SMVCs Preliminary Scope Ruling, the Department determined that SMVCs fulfilled the exclusion for “finished goods kits,” as described in the scope of the *Orders*, because SMVCs are imported with all necessary components and hardware and require no further fabrication prior to being assembled.¹⁷ Once assembled, an SMVC is mounted on a fire truck, where it is ready for use upon installation. The Department’s analysis in the SMVCs Preliminary Scope Ruling yielded the “subassemblies test,” which considers whether the product subject to a scope proceeding constitutes a subassembly, *i.e.*, “merchandise that is ‘partially assembled’ and inherently part of a larger whole.”¹⁸ The Department explained that aluminum extrusion subassemblies may be excluded from the scope of the *Orders* as “finished goods” or “finished goods kits” provided that they require no further “finishing” or “fabrication” prior to assembly, contain all the necessary hardware and components for assembly, and are ready for installation at the time of entry.¹⁹ The Department found that the “subassemblies test” is consistent with the scope of the *Orders* because subassemblies that enter the United States as “finished goods” or

¹⁵ See Auto Heating/Cooling Systems Scope Ruling at 6-7; see also the Department’s memorandum regarding: Antidumping Duty (AD) and Countervailing Duty (CVD) Orders: Aluminum Extrusions from the People’s Republic of China (PRC): Final Scope Ruling on Motor Cases, dated July 6, 2012 (“Motor Cases Scope Ruling”).

¹⁶ See Auto Heating/Cooling Systems Scope Ruling at 7.

¹⁷ See SMVCs Preliminary Scope Ruling at 7.

¹⁸ See *id.*

¹⁹ See *id.*

“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 glass or 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.²⁰ On October 26, 2012, the Department issued its final determination in the SMVCs scope inquiry and sustained its determination in the SMVCs Preliminary Scope Ruling.²¹

On November 26, 2012, Valeo filed a complaint with the Court, alleging, *inter alia*, that the Department did not address or apply the “subassemblies test” that was established in SMVCs Scope Ruling to the merchandise at issue in the instant scope ruling. On February 12, 2013, the Department requested that the Court grant a voluntary remand to allow the Department to reevaluate the determination it reached in the Auto Heating/Cooling Systems Scope Ruling, consider the “subassemblies test” established in the SMVCs Scope Ruling, and issue a decision consistent with its reevaluation. On February 13, 2013, the Court granted the Department’s request for a voluntary remand.

ANALYSIS

Upon review of the underlying record and in light of the “subassemblies test” developed in the SMVCs Scope Ruling, the Department explained in its Draft Remand Results that Valeo’s T-Series and M-Series aluminum components are analogous to the subassemblies examined in the SMVCs Scope Ruling. As with SMVCs, Valeo’s T-Series and M-Series components enter the United States as finished goods that are ready for installation into automotive heating and cooling systems with no further finishing or fabrication. In its Scope Request, Valeo explained that, after importation, its T-Series and M-Series components are assembled only into finished

²⁰ *See id.*

²¹ *See* SMVCs Scope Ruling at 2.

automotive heating and cooling systems, according to design specifications of the customers.²²

This information indicates that Valeo's T-Series and M-Series components constitute "finished goods" that are inherently part of a larger whole. Further, the T-Series and M-Series components are ready for installation into an automotive heating and cooling system with no additional fabrication or finishing, and thus are ready for assembly without any additional hardware or parts.

Based on the information on the record of this scope inquiry, the Department determined in its Draft Remand Results that Valeo's T-Series and M-Series components, at the time of importation, contain all of the necessary components required for integration into a larger system, *i.e.*, an automotive heating and cooling system, like a window with glass, or a door with glass or vinyl. The Department applied the "subassemblies test" and concluded that there is no meaningful distinction between the extruded aluminum parts described in Valeo's Scope Request and the products considered in the SMVCs Scope Ruling, and thus determined that Valeo's T-Series and M-Series components are subassemblies that constitute excluded "finished goods," as described in the *Orders*, and are not covered by the scope.

COMMENTS FROM INTERESTED PARTIES

The Department did not receive any comments on its Draft Remand Results.

²² See Scope Request at 13-14.

FINAL RESULTS OF REDETERMINATION

Pursuant to the Court's *Remand Order*, we have re-evaluated the evidence on the record and analyzed Valeo's T-Series and M-Series components by applying the "subassemblies test" established in the SMVCs Scope Ruling. Pursuant to this re-evaluation, we have determined that Valeo's T-Series and M-Series components are subassemblies that meet the description of excluded "finished goods" and are, therefore, not subject to the scope of the *Orders*.

Paul Piquado
Assistant Secretary
for Import Administration

Date