



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

A-570-967 / C-570-968  
Scope Proceeding: Auto Trim Kits  
**Public Document**  
E&C AD/CVD OIII: RS

July 16, 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

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**FROM:** Raquel Silva  
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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 Signature Partners Inc.'s Auto Trim Kits

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## SUMMARY

On May 7, 2013, the Department of Commerce ("Department") received a scope ruling request from Signature Partners Inc. ("Signature"),<sup>1</sup> to determine whether its auto trim kits 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> For the reasons described below, we determined that the auto trim kits are 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 Signature entitled: "Signature Partners Inc., IOR: 02-057331500-Scope Ruling Request regarding Aluminum Extrusions from China," dated May 6, 2013 ("Signature's 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 May 7, 2013, Signature requested that the Department determine whether its auto trim kits imported from the PRC are outside the scope of the *Orders*.<sup>3</sup> On May 9, 2013, the Department issued a supplemental questionnaire to Signature.<sup>4</sup> On May 22, 2013, Signature submitted its response.<sup>5</sup> On May 31, 2013, the Aluminum Extrusions Fair Trade Committee (“Petitioner”) submitted comments on Signature’s scope ruling request.<sup>6</sup> In response, Signature filed rebuttal comments on July 14, 2013.<sup>7</sup> On September 25, 2013, the Department released its second supplemental questionnaire to Signature.<sup>8</sup> On October 7, 2013, Signature submitted its response.<sup>9</sup> On February 21, 2014, the Petitioner submitted further comments on Signature’s submissions.<sup>10</sup> On March 21, 2014, Aqua EZ, Inc. (“Aqua EZ”), an interested party to the proceeding, submitted comments in response to the Petitioner’s February 21, 2014 comments.<sup>11</sup> The Department extended the deadline for ruling on Signature’s products various times, most recently on July 11, 2014, until July 25, 2014.<sup>12</sup>

## SCOPE OF THE *ORDERS*

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

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<sup>3</sup> See Signature’s Scope Request.

<sup>4</sup> See the Department’s letter entitled, “Aluminum Extrusions from the People’s Republic of China—Scope Ruling Request Supplemental Questionnaire,” dated May 9, 2013.

<sup>5</sup> See Signature’s letter entitled, “Response to Additional Information Scope Inquiry,” dated May 22, 2013 (“Signature’s SQR”).

<sup>6</sup> See Petitioner’s letter entitled, “Aluminum Extrusions from the People’s Republic of China: Comments on Signature Partner’s Scope Ruling Request,” dated May 31, 2013 (“Petitioner’s Comments”).

<sup>7</sup> See Signature’s letter entitled, “Aluminum Extrusions from the People’s Republic of China: Rebuttal Comments In Response to Wiley Rein Comments on Signature Partner’s Scope Ruling Request,” dated June 14, 2013 (“Signature’s Rebuttal Comments”).

<sup>8</sup> See the Department’s letter entitled, “Aluminum Extrusions from the People’s Republic of China – Scope Ruling Request Supplemental Questionnaire,” dated September 25, 2013.

<sup>9</sup> See Signature’s letter entitled, “Response to Additional Information Scope Inquiry,” dated October 7, 2013 (“Signature’s 2<sup>nd</sup> SQR”).

<sup>10</sup> See Petitioner’s letter entitled, “Aluminum Extrusions from the People’s Republic of China: Additional Comments in Response to S4’s Scope Ruling Request,” dated February 21, 2014 (“Petitioner’s Matrix”).

<sup>11</sup> See Aqua EZ’s letter entitled, “Antidumping (AD) and Countervailing Duty (CVD) Orders A-570-967 and C-570-968 relating to extruded aluminum products imported from the People’s Republic of China Auto Trim Kit / S4 Scope Proceeding,” dated March 21, 2014 (“Aqua EZ’s Comments”).

<sup>12</sup> See the Department’s letter entitled, “Aluminum Extrusions from the People’s Republic of China: Extension of Time for Scope Ruling,” dated July 11, 2014.

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

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

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

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

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

The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows

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

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

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 millimeters (“mm”) or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of 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”): 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8516.90.50.00, 8516.90.80.50, 8708.80.65.90, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.30, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20,

9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTS chapters. In addition, fin evaporator coils may be classifiable under HTS numbers: 8418.99.8050 and 8418.99.8060. While HTS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.<sup>13</sup>

## LEGAL FRAMEWORK

When a request for a scope ruling is filed, the Department examines the scope language of the order at issue and the description of the product contained in the scope-ruling request.<sup>14</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>15</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.

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

The products subject to Signature's request are automotive trim components consisting of aluminum extrusions and non-aluminum extrusions, what Signature refers to as "auto trim kits".<sup>16</sup> The aluminum extrusion components of the auto trim kits are custom produced from multiple 6063 extruded aluminum dies, trimmed/cut to specific assembly dimension, bent to specific shape, polished and anodized, mated with liner-backed finishing adhesive,<sup>17</sup> and imported under Harmonized Tariff Code 8708.29.5060, "parts and accessories of the motor vehicle, other."<sup>18</sup> The non-aluminum extrusion components are "built of multiple materials and by way of varied processes including but not limited to, zinc die cast, stamped/formed stainless steel, and injection molded plastic," and are imported under their respective functional and material headings and subheadings.<sup>19</sup>

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<sup>13</sup> See *Orders*.

<sup>14</sup> *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

<sup>15</sup> 19 CFR 351.225(k)(1).

<sup>16</sup> See Signature's Supplemental Questionnaire Response, at page 3.

<sup>17</sup> See Signature's Rebuttal Comments, at page 2.

<sup>18</sup> See Signature's Scope Request, at page 8, Exhibit A.

<sup>19</sup> See *id.*, at page 8.

The components of the imported auto trim kit are custom-produced by various PRC manufacturers, collected at the location of the PRC exporter, and then shipped together to Signature in the United States.<sup>20</sup> After entering the United States, the imported auto trim kit components are distributed among customer orders and combined with U.S.-sourced decorative and functional accessories (*e.g.*, rope light assemblies, window trim) to form Signature's two models of auto trim kits (XTS and MKT).<sup>21</sup> For both models of auto trim kits, Signature organizes the imported and domestically-sourced auto trim kit components on wheeled carts for delivery to its customer.<sup>22</sup> Upon receipt of the kits, Signature's customer applies the auto trim to hearses and limousines.<sup>23</sup>

## ARGUMENTS FROM INTERESTED PARTIES

### Signature's Comments

In its scope request, Signature argues that the auto trim kit should be excluded from the scope of the *Orders* because it is a finished accessory to a specialty vehicle. Signature explains that the auto trim comes kitted, prepared, and ready for application by a production line worker, who affixes the trim, along with roughly 90-100 other vehicle parts, to specific locations on the hearse or limousine. Additionally, Signature contends that the auto trim kit should be excluded because Signature is unable to source it from current and prospective domestic suppliers, and is, therefore, forced to source internationally. Signature further claims that its supplier from the PRC is not selling the auto trim kit below fair value since the components cannot be sourced domestically. Moreover, Signature notes that the aluminum extrusion components of its auto trim kits comprise an insignificant cost and overall portion of its kits. Finally, Signature argues that its auto trim kits are excluded from the scope of the *Orders* because the scope does not specifically mention automotive parts or accessories, nor any HTS numbers from Chapter 87, the chapter under which Signature currently imports the aluminum extrusion components of its auto trim kits.<sup>24</sup>

In its rebuttal comments, Signature argues that the auto trim kit should be excluded because it arrives at Signature's facilities "complete" and ready to install. Further, Signature argues that it contains all of the parts needed, is finished with treatment and coating, and has the adhesive necessary to fully assemble and install the decorative trim, *i.e.*, the finished good, on a vehicle.<sup>25</sup> Signature likens the auto trim kit to IAP Enclosure's window kit, which the Department previously found to be excluded from the scope of the *Orders* because it contained all of the parts needed, including the frame and glass, to fully assemble a finished window.<sup>26</sup>

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<sup>20</sup> See Signature's Supplemental Questionnaire Response, at page 3.

<sup>21</sup> See Signature's Scope Request, at pages 7&8; *see also* Signature's Supplemental Questionnaire Response, at page 3.

<sup>22</sup> See Signature's Scope Request, at page 8.

<sup>23</sup> See *id.*, at page 16.

<sup>24</sup> See *id.*

<sup>25</sup> See Signature's Rebuttal, at page 2.

<sup>26</sup> See *id.* (citing to: the Department's memorandum entitled, "Final Scope Ruling on Window Kits," dated December 6, 2012 ("Window Kits")).

## Petitioner's Comments

Petitioner argues that the auto trim kit is covered by the scope of the *Orders* because, based on its physical description contained in the scope request, it is made solely of 6063 aluminum extrusions, finished and fabricated as expressly covered by the language of the scope. Therefore, the auto trim kit is nothing more than subject aluminum extrusions referenced by end-use. In addition, Petitioner argues that the auto trim kit contains no non-aluminum extrusion components beyond fasteners. Petitioner likens Signature's auto trim kits to Geodesic Domes, Cutting and Marking Edges, and the Refrigerator/Freezer Trim Kits the Department previously confirmed as covered by the scope of the *Orders* due to their lack of non-extruded aluminum components other than fasteners.<sup>27</sup>

Petitioner further argues that Signature's auto trim kit, regardless of whether it contains non-extruded parts beyond fasteners, is merely a subassembly of a larger vehicle, not a finished product, and thus is covered by the scope of the *Orders*.<sup>28</sup> Additionally, citing to the Department's scope rulings on Fence Panels, Posts, and Gates, and on Flag Pole Sets, Petitioner notes that the components of Signature's auto trim kits enter the United States separately from each other, and merely as incomplete parts of a larger auto trim kit.<sup>29</sup> Therefore, Petitioner contends, Signature's auto trim kits are not "finished goods kits" excluded by the scope of the *Orders* because components of the kits enter the United States in separately-bundled packages and are then sorted and re-packaged into complete kits before delivery to the customer.<sup>30</sup>

Petitioner also asks that the Department disregard Signature's argument that its inability to find a domestic supplier of its aluminum extrusion auto kit components necessarily leads to the conclusion that its PRC supplier is not selling the subject merchandise at less than fair value and not injuring the domestic industry. Petitioner notes that the Department does not make injury determinations, and Signature's difficulty in securing a U.S. supplier is irrelevant to the issue of whether the auto trim kit is within the scope of the *Orders*.<sup>31</sup>

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<sup>27</sup> See Petitioner's Comments, at pages 7 – 9 (citing to: the Department's memorandum entitled, "Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on Refrigerator/Freezer Trim Kits," dated December 17, 2012 ("Refrigerator/Freezer Trim Kits"), at 11; the Department's memorandum entitled, "Antidumping ("AD") and Countervailing Duty ("CVD") Orders on Aluminum Extrusions from the People's Republic of China ("PRC"): Final Scope Ruling on J.A. Hancock Co., Inc.'s Geodesic Structures," dated July 17, 2012 ("Geodesic Domes"), at 7; and the Department's memorandum entitled, "Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on Cutting and Marking Edges," dated November 23, 2012 ("Cutting and Marking Edges"), at 11).

<sup>28</sup> See *id.*, at pages 10, 11 – 12, footnote 34, where Petitioner contends that, contrary to the Department's current practice regarding subassemblies, all subassemblies are expressly covered by the scope unless the subassembly is part of a finished goods kit.

<sup>29</sup> See *id.*, at pages 10 – 11 (citing to: the Department's memorandum entitled, "Final Scope Ruling on Origin Point Brands, LLC's Fence Panels, Posts and Gates," dated December 13, 2011 ("Fence Panels, Posts, and Gates"); and the Department's memorandum entitled, "Aluminum Extrusions from the People's Republic of China: Final Scope Ruling on 5 Diamond Promotions, Inc.'s Aluminum Flag Pole Sets," dated April 19, 2013 ("Flag Pole Sets")).

<sup>30</sup> See *id.*, at pages 12 – 14.

<sup>31</sup> See *id.*, at pages 14 – 15.

Finally, Petitioner placed a decision matrix on the record that it devised, and states that the Department should use the matrix for ease of analysis in this and all other aluminum extrusion scope rulings. In using this matrix, Petitioner avers that the Department should find Signature's auto trim kits to be within the scope because: (1) the type of aluminum alloy, finishing and fabrication used by Signature in the subject merchandise is covered by the scope; (2) the auto trim kits are neither heat sinks, collapsible tubular containers, nor rectangular wire, which are expressly excluded from the scope; (3) the kits require additional domestically-sourced parts to be completed; and (4) the kits are merely subassemblies of the larger vehicle, not finished product kits.<sup>32</sup>

#### Aqua EZ's Comments

Aqua EZ argues against the Department's use of Petitioner's decision matrix. Aqua EZ states that Petitioner's decision matrix expands the scope of the *Orders*, conflicts with the scope language, and skews the focus of the Department's analysis. Finally, Aqua EZ notes that the Department has already declined to apply the matrix in another scope proceeding, citing to Kitchen Door Handles.<sup>33</sup>

### **RELEVANT SCOPE DETERMINATIONS<sup>34</sup>**

#### A. Window Kits<sup>35</sup>

IAP Enclosures imported two types of finished window kits: punched window kits and ribbon window kits, both of which consist of finished glass window panels, surrounded by window framing or attached together by extruded aluminum receptors.

The Department noted that the scope of the *Orders* explicitly excludes finished goods kits, which are defined as "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." Thus, the Department found that the window kits are excluded from the *Orders* because they contain, at the time of importation, all of the parts, including the glass panels, necessary to assemble a finished window or windows.

#### B. Flag Pole Sets<sup>36</sup>

In Flag Pole Sets, the Department found that 5 Diamond's flag pole sets do not meet the "finished goods kit" exclusion. Although 5 Diamond's flag pole sets required no further

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<sup>32</sup> See "Petitioner's Matrix", at pages 3 – 5.

<sup>33</sup> See Aqua EZ's letter entitled, "Aqua EZ, Inc.'s Response to Petitioner's Additional Comments Seeking to Fundamentally Change the Scope Analysis for Extruded Aluminum Products From the People's Republic of China," dated March 21, 2014 (citing to the Department's memorandum entitled, "Final Scope Ruling on Kitchen Appliance Door Handles," dated June 21, 2013) ("Kitchen Door Handles").

<sup>34</sup> See the Department's memorandum entitled, "Transmittal of Past Scope Determinations to the File," dated July 11, 2014 ("Past Scopes Memo").

<sup>35</sup> See Window Kits, *id.*, at Attachment 1.

<sup>36</sup> See Flag Pole Sets, *id.*, at Attachment 2.

fabrication once imported, the Department found that the flag pole sets do not constitute finished goods kits because, at the time of importation, similarly-sized unassembled flag pole sections are bundled together for shipment, meaning that all of the sections necessary to assemble a final finished product (*i.e.*, the flag pole) are not packaged together as a complete set in one package. Even though 5 Diamond imported a sufficient number of packages of unassembled sections to create a predetermined number of three- and/or four-section assembled flag pole sets together on the same CBP 7501 form, after importation, the packages had to be opened, and the parts needed to fully assemble an entire flag pole had to be re-packaged before being sold to the end user.

### C. Shower Doors and Enclosures<sup>37</sup>

In the underlying antidumping duty investigation on aluminum extrusions from the PRC, the Shower Door Manufacturers contended that it is normal industry practice to purchase glass panels and shower door kits from different suppliers. Therefore, they argued, any kit purchased from the shower door manufacturer would not include glass panels but, nonetheless, would be considered in the industry to be a complete finished product. The Shower Door Manufacturers urged the Department to clarify the scope language to be explicit that a kit for shower door enclosures does not include the glass, so as to avoid confusion on the part of importers and CBP.

Petitioner urged the Department to conclude that unassembled shower door frames without glass panels do not qualify for the “kit” scope exclusion. The Petitioner noted that aluminum frames without glass would only be considered a “complete finished product” from the perspective of the dealer or distributor, but not a final finished good according to the scope language. The Department agreed with the Petitioner that, at the time of importation, the Shower Door Manufacturers’ unassembled shower door frames did not contain all of the necessary parts to create a final finished good, *i.e.*, a shower door.

### D. Geodesic Domes<sup>38</sup>

At issue in the ruling were certain geodesic dome frame kits consisting solely of extruded aluminum parts along with nuts, bolts, and washers. The requestor argued that the products at issue constituted finished goods kits because the kits contained all the components necessary to assemble a final finished good. It further argued that the products at issue required no further fabrication and are assembled “as is” from the components provided in the kits.

In the Geodesic Domes Scope Ruling, the Department explained that the product at issue met the “initial requirements for inclusion into the finished goods kit exclusion.”<sup>39</sup> However, the Department noted that the scope of the *Orders* states that an “imported product will not be considered a ‘finished goods kit’ . . . merely by including fasteners such as screws, bolts, etc. in

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<sup>37</sup> See the Department’s memorandum entitled “Preliminary Determinations: Comments on the Scope of the Investigations,” dated October 27, 2010, at Comment 7 (“Investigation Prelim Scope Comments”), *id.*, at Attachment 3; see also *Aluminum Extrusions from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 18524 (April 4, 2011) and accompanying Issues and Decision Memorandum at Comment 3D.

<sup>38</sup> See the Department’s memorandum entitled, “Final Scope Ruling on J.A. Hancock, Inc.’s Geodesic Structures,” (July 17, 2012) (“Geodesic Scope Ruling”).

<sup>39</sup> See *id.* at 7.

the packaging with an aluminum extrusion product.”<sup>40</sup> The Department found that since the products at issue consisted solely of extruded aluminum and fasteners, the exception to the exclusion provision applied. Accordingly, the Department found that the products at issue did not meet the exclusion criteria for a finished goods kit.<sup>41</sup>

## DEPARTMENT’S POSITION

Pursuant to 19 CFR 351.225(k)(1), the Department has examined the language of the *Orders* and the description of the products contained in this scope request and Signature’s supplemental questionnaire responses, as well as previous rulings made by the Department. We find that the scope and the Department’s prior rulings are dispositive as to whether the products at issue are subject merchandise. Accordingly, for this determination, the Department finds it unnecessary to consider additional factors specified in 19 CFR 351.225(k)(2). For the reasons set forth below, we find that Signature’s auto trim kits satisfy the description of subject merchandise and do not meet the exclusion criteria for “finished goods kits.”

The scope of the *Orders* covers aluminum extrusions “which are shapes and forms, produced by an extrusions process, made from aluminum alloys having metallic elements corresponding to the alloy series designation ... commencing with the numbers 1, 3, and 6.” Further, subject aluminum extrusions are produced and imported “with a variety of finishes (both coatings and surface treatments), and types of fabrication.” The aluminum extrusion components of Signature’s auto trim kits satisfy the description above, because they are produced from 6063 aluminum extrusions, in various shapes and forms, and with a variety of finishes.

Additionally, the scope of the *Orders* provides an exclusion for a “finished goods kit,” which is defined by the scope language as 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 Department notes that the products at issue are what Signature refers to as auto trim kits, which consist of numerous aluminum extrusion and non-aluminum extrusion components imported by Signature from its PRC supplier.<sup>42</sup> The auto trim kits at issue are not to be confused with the two models of auto trim kits Signature ultimately sells to its customer, and to which Signature also refers as auto trim kits, which are not the subject of this scope ruling.<sup>43</sup> The auto trim kits at issue are the imported shipments of auto trim kit components that enter into the United States, are then sorted, combined with domestically-sourced auto trim kit components, and re-packaged into the final, larger two models of complete auto trim kits (model numbers XTS and MKT).<sup>44</sup>

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<sup>40</sup> *See id.*

<sup>41</sup> *See id.*

<sup>42</sup> *See* Signature’s SQR, at pages 7 – 8.

<sup>43</sup> *See id.*, at pages 2 – 6.

<sup>44</sup> *See* Signature’s 2<sup>nd</sup> SQR, at page 3.

First, as stated above in the description of the merchandise at issue, Signature’s auto trim kits contain both extruded aluminum and non-extruded aluminum parts. Therefore, we find the products meet the Department’s first test for determining whether a good constitutes a finished goods kit, as established in the Geodesic Domes Scope Ruling.<sup>45</sup> However, the Department finds that Signature’s imported auto trim kits do not constitute finished goods kits because the imported kits do not contain “at the time of importation, all of the necessary parts to fully assemble a final finished good.” Instead, at the time of importation, additional components manufactured and sourced in the United States must be added to the imported auto trim kit before delivering the final kits to Signature’s customer.<sup>46</sup> In other words, without the additional components, which are added after importation into the United States, the auto trim kit is not complete.

Signature makes multiple arguments in support of its assertion that its auto trim kits should be excluded from the scope. However, we find the majority of its arguments inapplicable to our analysis and practice of making scope ruling determinations. Specifically, Signature contends that its inability to find domestic suppliers for certain aluminum extrusion components of its kits should lead to the conclusion that those components be excluded from the scope of the *Orders*.<sup>47</sup> Signature similarly claims that its imported auto trim kits should be excluded from the scope because: its PRC supplier is not selling aluminum extrusions below fair value; the aluminum extrusion components comprise an insignificant cost and overall portion of its kits; and the scope does not specifically mention automotive parts or accessories, or any HTS numbers from the chapter under which Signature currently imports the aluminum extrusion components of its auto trim kits.<sup>48</sup>

As noted above, pursuant to 19 CFR 351.225(k)(1), the Department relies solely on the language of the scope and the sources listed in subsection 351.225(k)(1) of the Department’s regulations to determine whether a product is within the scope of an antidumping or countervailing duty order, if it finds those sources to be dispositive. Whether a scope requestor is able to source the products at issue domestically; or the proportion of value the products at issue confer upon the scope requestor’s complete kit are not considerations under the scope or the subsection 351.225(k)(1) sources. Further, the Department has previously declined to consider the value or percentage of aluminum extrusions in determining whether products satisfy the exclusion for finished goods kits.<sup>49</sup> As to Signature’s argument that the Department should consider that its PRC supplier is not selling below fair value, such a determination is not made in a scope proceeding, but rather in an administrative review.<sup>50</sup> As to Signature’s argument that its auto trim kits are not entering the United States under one of the HTS categories listed in the scope, the language of the scope expressly states that “{w}hile HTS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.” In other

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<sup>45</sup> See Geodesic Scope Ruling at 7, where the Department found that since the products at issue consisted solely of extruded aluminum and fasteners, an exception to the finished goods kit exclusion provision applied. Accordingly, the Department found that the products at issue did not meet the exclusion criteria for a finished goods kit.

<sup>46</sup> See Signature’s 2<sup>nd</sup> SQR, at page 4.

<sup>47</sup> See Signature’s Scope Request, at page 16.

<sup>48</sup> See *id.*

<sup>49</sup> See Investigation Scope Memo at Comment 3.

<sup>50</sup> See section 751 of the Tariff Act of 1930, as amended.

words, while we list some HTS subheadings in the scope as a courtesy, the merchandise covered by the scope may or may not enter under those subheadings, and the narrative portion of the scope language is dispositive.

With regard to Signature's statement that the imported auto trim kits, upon arrival at its facilities, contain all of the parts needed to fully assemble and install the trim on a vehicle,<sup>51</sup> we disagree. As explained above, while the individual imported auto trim components do not require further finishing or fabrication after importation, they do not enter the United States as individually packaged kits, or with all components necessary to complete the final auto trim kit that is delivered to Signature's customer. For the same reason, we disagree with Signature's comparison of its imported auto trim kits to IAP Enclosure's window kits, which the Department previously found excluded from the scope.<sup>52</sup> In Window Kits, we found that the merchandise met the finished goods kit exclusion because the product contained all the necessary parts to assemble a final, finished good, including the glass. We agree with Petitioner that Signature's imported auto trim kits are more akin to Flag Pole Sets, which were found to be covered by the scope because they did not enter the United States as individually packaged kits.<sup>53</sup>

We further find Signature's auto trim kits akin to Shower Doors and Enclosures, which we found to be included in the scope because they are not imported with the glass panel needed to create a complete, finished product (*i.e.*, a shower door). In our Shower Doors and Enclosures determination, we determined that relying on the dispositive language of the scope rather than extraneous factors such as industry expectations, or in this case, the respondent's ability to source the merchandise domestically, led to the conclusion that the merchandise at issue is covered by the scope.

With regard to Aqua EZ's argument that the Department should not use Petitioner's decision matrix in its analysis,<sup>54</sup> we did not find it necessary to consider Petitioner's decision matrix here because we find that Signature's products are subject to the *Orders* based on the language of the scope and prior scope 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 auto trim kits addressed by the instant request are subject to the scope of the *Orders*.

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<sup>51</sup> See Signature's Rebuttal, at page 2.

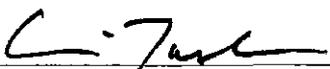
<sup>52</sup> See *id.*

<sup>53</sup> See Petitioner's Comments, at page 11.

<sup>54</sup> See Aqua EZ's Comments.

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

7/17/14  
\_\_\_\_\_  
Date