



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

A-570-890

Scope Ruling

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June 11, 2007

MEMORANDUM TO: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

THROUGH: Wendy J. Frankel
Director
AD/CVD Enforcement, Office 8

Robert Bolling
Program Manager
AD/CVD Enforcement, Office 8

FROM: Hua Lu
Case Analyst
AD/CVD Enforcement, Office 8

RE: Wooden Bedroom Furniture from the People's Republic of China

SUBJECT: Final Scope Ruling: Target Corporation

Background

On January 4, 2005, the Department published the antidumping duty order on wooden bedroom furniture from the People's Republic of China ("PRC"). See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture From the People's Republic of China, 70 FR 329 (January 4, 2005) ("Order"), see also Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order/Pursuant to Court Decision: Wooden Bedroom Furniture from the People's Republic of China, 71 FR 67099 (November 20, 2006) ("Amended Determination"). On January 26, 2007, the Department of Commerce ("the Department") received a scope ruling request from Target Corporation ("Target"). See Target's January 26, 2007, Scope Ruling Request Regarding Various Items in the "Manhattan Collection" ("Scope Request"). Target requested that five products in its "Manhattan Collection" be excluded from the scope of the antidumping order on wooden bedroom furniture from China. See Scope Request. On March 9, 2007, American Furniture Manufacturers Committee for Legal Trade ("Petitioners") submitted comments regarding the Scope Request from Target.



Scope of the Order

The Department defined the scope of the investigation in its notice of initiation.¹ During the investigation the scope language was modified to exclude jewelry armoires,² cheval mirrors,³ and mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set⁴ in the Amended Determination and the Order.⁵

The product covered is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, oriented strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifferobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or

¹ See Notice of Initiation of Antidumping Duty Investigation: Wooden Bedroom Furniture from the People's Republic of China, 68 FR 70228 (December 17, 2003).

² On July 7, 2006, the Department published Wooden Bedroom Furniture from the People's Republic of China: Final Changed Circumstances Review, and Determination to Revoke Order in Part, 71 FR 38621 (July 7, 2006), modifying the jewelry armoires' exclusion to exclude jewelry armoires that have at least one side door (whether or not the door is lined with felt or felt-like material) from the scope of the Order

³ See Issues and Decision Memorandum Concerning Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom furniture from the People's Republic of China, to Laurie Parkhill, Office Director, from Robert Bolling, Program Manager, dated August 31, 2004.

⁴ See Memorandum Concerning Mirrors in the Antidumping Duty Investigation of Wooden Bedroom furniture from the People's Republic of China, to Laurie Parkhill, Office Director, from Robert Bolling, Program Manager, dated September 29, 2004.

⁵ See also Memorandum to the File from Laurel LaCivita, Analyst, to Laurie Parkhill, Office Director, Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China: Summary on Comments to the Scope (June 17, 2004); Memorandum to Laurie Parkhill, Office Director, from Erol Yesin, Case Analyst, Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China: Summary on the Scope of the Investigation (November 8, 2004).

hang over the dresser; (5) chests-on-chests;⁶ highboys;⁷ lowboys;⁸ chests of drawers;⁹ chests;¹⁰ door chests;¹¹ chiffoniers;¹² hutches;¹³ and armoires;¹⁴ (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom

⁶ A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

⁷ A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

⁸ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

⁹ A chest of drawers is typically a case containing drawers for storing clothing.

¹⁰ A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

¹¹ A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

¹² A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

¹³ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

¹⁴ An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

furniture in which bentwood parts predominate;¹⁵ (9) jewelry armories;¹⁶ (10) cheval mirrors;¹⁷ (11) certain metal parts;¹⁸ (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds.¹⁹

Imports of subject merchandise are classified under subheading 9403.50.9040 of the Harmonized Tariff Schedule of the United States ("HTSUS") as "wooden...beds" and under subheading 9403.50.9080 of the HTSUS as "other...wooden furniture of a kind used in the bedroom." In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9040 of the HTSUS as "parts of wood" and framed glass mirrors may also be entered under subheading 7009.92.5000 of the HTSUS as "glass mirrors...framed." This order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

¹⁵ As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. See Customs' Headquarters' Ruling Letter 043859, dated May 17, 1976.

¹⁶ Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24" in width, 18" in depth, and 49" in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. See Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, Issues and Decision Memorandum Concerning Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China dated August 31, 2004. See also Wooden Bedroom Furniture from the People's Republic of China: Notice of Final Results of Changed Circumstances Review and Revocation in Part, 71 FR 38621 (July 7, 2006).

¹⁷ Cheval mirrors are, *i.e.*, any framed, tiltable mirror with a height in excess of 50" that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, *i.e.*, a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet lined with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. See also Wooden Bedroom Furniture from the People's Republic of China: Notice of Final Results of Changed Circumstances Review and Revocation in Part, 72 FR 38621 (January 9, 2007).

¹⁸ Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.*, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under HTSUS subheading 9403.90.7000.

¹⁹ Upholstered beds that are completely upholstered, *i.e.*, containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor.

Summary of the Scope Request

On January 26, 2007, Target filed a scope ruling request with the Department and requested that the Department confirm that five of its products (*i.e.*, bench item number 249-10-0011, computer cart item number 249-10-0010, bookcase item number 249-10-0008, modular room divider item number 249-10-0015 and desk number 249-10-0007) in its Manhattan Collection are not within the scope of the order.²⁰ Also, Target acknowledged that two of the products in its Manhattan Collection (*i.e.*, side table and chest of drawers) would properly be included within the scope of the order. Within its scope request, Target provided the description and photographs of each of the five requested products. Additionally, Target stated that an import specialist at the port of Seattle requested Target to seek clarification whether designation as a “collection” requires identical treatment of all furniture within the collection (*i.e.*, whether the entire collection must be treated as either in-scope or out-of-scope). Further, Target stated that the bookcase and computer cart are not made substantially of wood, and thus do not fall within the scope of the order. Specifically, Target provided the analysis of each of the items in the Manhattan Collection that it believed are excluded from the scope of the order. Furthermore, Target requested that the Department confirm that scope determinations are made at the product level, not as a “collection,” *i.e.*, a collection may be comprised of both in-scope and out-of-scope merchandise, and five of its products within its Manhattan Collection are not within the scope of the order.

On March 9, 2007, Petitioners submitted a letter and stated that the Department should grant Target’s request and rule that the five products are not within the scope of the antidumping order. Additionally, Petitioners contend that all of the products within a “collection” should not be treated as either in-scope or out-of-scope in their entirety. Petitioners stated that collections frequently include bedroom and non-bedroom furniture. Further, Petitioners stated that non-bedroom products within a collection should not be treated as subject merchandise merely because the collection includes bedroom furniture. Moreover, Petitioners agree that the five products at issue in this inquiry are not subject merchandise. However, Petitioners disagree with Target’s suggestion that the bench and computer cart are not subject merchandise because they are not “made substantially of wood products.” Petitioners argued that the bench and computer cart are made substantially of wood products based on Target’s descriptions and photographs. Therefore, Petitioners urged the Department to determine the five products are outside the scope of the order based on specific product exclusions, not based on a finding that they are not made substantially of wood products.

Legal Framework

The Department examines scope requests in accordance with the Department’s scope regulations. See 19 CFR 351.225. On matters concerning the scope of an antidumping duty order, the Department first examines the description of the merchandise contained in the petition, the initial investigation, the determinations of the Secretary (including prior scope determinations) and the

²⁰ The original due date for initiating a formal scope inquiry or issuing a scope ruling was March 13, 2007. On March 9, 2007, the Department extended the deadline for the scope inquiry to April 27, 2007. On April 26, 2007, the Department extended the deadline for the scope inquiry to May 25, 2007.

International Trade Commission (“ITC”). See 19 CFR 351.225(k)(1). This determination may take place with or without a formal inquiry. If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling as to whether or not the subject merchandise is covered by the order. See 19 CFR 351.225(d).

Where the descriptions of the merchandise are not dispositive, the Department will consider the five additional factors set forth at 19 CFR 351.225(k)(2). These criteria 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 inquiry is made on a case-by-case basis after consideration of all evidence before the Department.

For this inquiry, the Department evaluated Target’s request in accordance with 19 CFR 351.225(k)(1) because it finds that the description of the product contained in the petition, the initial investigation, the determinations by the Secretary (including prior scope determinations) and the ITC are, in fact, dispositive with respect to Target’s five products (i.e., bench, computer cart, bookcase, modular room divider and desk) in the Manhattan Collection. Therefore, the Department finds it unnecessary to consider the additional factors in 19 CFR 351.225(k)(2).

Analysis

The Department agrees with the parties that its scope rulings should be based on whether the specific characteristics of each product falls within the scope description in the order, rather than on a “collection,” because a “collection” may be comprised of both in-scope and out-of-scope merchandise. We have, therefore, conducted a separate analysis of each of the five products contained in Target’s request.

Bench and Computer Cart

The scope of the Order excludes the following products: “seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture....office furniture, such as...computer cabinets.” Because benches are explicitly excluded from the scope, we have determined that the benches Target imports for its Manhattan collection are not within the scope of the Order. Additionally, we have determined, based on Target’s submission, that the computer cart is a computer stand on wheels not attached to or incorporated into the subject merchandise, and thus, falls within the meaning of the term “office furniture” and fits the description of merchandise specifically excluded from the Order. Therefore, we have determined that the computer carts Target imports are not within the scope of the Order. In sum, the bench and computer cart imported by Target are excluded from the scope based on specific product exclusions.

Bookcase and Desk


The scope of the Order excludes the following products: "office furniture, such as desks, stand-up-desks...computer cabinets, filing cabinets, credenzas and book cases." The bookcases and desks described by Target are stand-alone items that are not attached to or incorporated in an article of bedroom furniture. Because Target's bookcases and desks in the Manhattan Collection are within the meaning of the term "office furniture" which is specifically excluded from the scope of the Order, we have determined that these bookcases and desks are not within the scope of the Order.

Modular Room Divider

The scope of the Order excludes the following products: "other non-bedroom furniture, such as, wall systems, book cases..." Based on Target's description and photograph of its modular room divider, we have determined that the modular room divider is similar in nature to a bookcase or wall unit/system. We based our determination on the fact that the modular room divider has the same characteristics (i.e., it provides storage and privacy for work area, it is a shelving system without a back) of a bookcase and/or wall unit/system and the modular room divider resembles a bookcase or wall unit/system. Therefore, the modular room divider that Target imports for its Manhattan Collection is not within the scope of the Order.

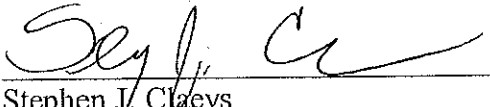
Recommendation

Based upon the above analysis, we recommend the Department determine that the five aforementioned products are not within the scope of the order for the reasons discussed above.



Agree

Disagree



Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

6/11/07

Date

