



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

A-570-890  
Scope Inquiry  
IA / Office 8: LA  
Public Document

April 30, 2008

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

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

Robert A. Bolling  
Program Manager  
AD/CVD Operations, Office 8.

**FROM:** Lori E. Apodaca  
Analyst  
China/NME Group, Office 8

**RE:** Wooden Bedroom Furniture from the People's Republic of China:  
Final Scope Ruling on Convertible Cribs

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## BACKGROUND

On June 26, 2007, AP Industries Inc. ("AP"), filed a submission with the Department of Commerce ("Department") requesting a scope clarification on whether convertible cribs imported by AP are included within the scope of the antidumping duty order ("order") on wooden bedroom furniture ("WBF") from the People's Republic of China ("PRC") ("Scope Request"). AP asserts that infant cribs are explicitly excluded from the scope of the order. AP contends that its convertible crib is sold as an infant crib that can be converted to either a mini-daybed or full/double bed, or another version of just a mini-daybed. As part of its Scope Request, AP provided physical dimensions of its convertible cribs (*i.e.*, dimensions, model numbers, written descriptions and pictures of the merchandise). See Scope Request at 2.

Additionally, AP argues that at the time its convertible cribs enter the United States, they meet the exclusionary language of the order, and by definition they are explicitly excluded from the scope of the order. Finally, AP argues in an analysis under 19 C.F.R. 351.225(k)(2), physical characteristics, expectations of ultimate purchasers, ultimate use, channels of trade, and marketing and advertising, that its convertible cribs are outside the scope of the WBF from the PRC order.



On February 25, 2008, pursuant to 19 C.F.R. 351.225(e), the Department initiated a formal scope inquiry to determine whether AP's convertible cribs are excluded from the scope of the WBF order.

On March 20, 2008, the Department, in accordance with 19 C.F.R. 351.225, preliminarily determined that certain convertible cribs covered by AP Industries' Scope Request are not within the scope of the order on WBF from the PRC. See Memorandum to Stephen J. Claeys from Lori E. Apodaca "Wooden Bedroom Furniture from the People's Republic of China: Preliminary Scope Ruling on Convertible Cribs", dated March 20, 2008 ("Preliminary Scope Ruling").

On March 28, 2008, Petitioners<sup>1</sup> submitted comments on the Department's Preliminary Scope Ruling. Also on March 28, 2008, AP submitted a request that the Department's scope ruling cover AP Industries Inc. and Les Industries AP Inc. in AP's scope ruling request on its convertible cribs. The Department has determined that both names (*i.e.*, AP Industries Inc. and Les Industries AP) are collectively one entity based on the documentation AP provided in its March 28, 2008, submission. Therefore, AP's Scope Request and the Department's final scope ruling will cover both names.

## SCOPE

The Department published the order covering WBF from the PRC on January 4, 2005.<sup>2</sup> Since that date, certain clarifications to the WBF Order have been made, so that the current scope language is as follows:

The product covered by the order 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,

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<sup>1</sup> Petitioners are the American Furniture Manufacturers Committee for Legal Trade.

<sup>2</sup> See 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)

bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-on-chests,<sup>3</sup> highboys,<sup>4</sup> lowboys,<sup>5</sup> chests of drawers,<sup>6</sup> chests,<sup>7</sup> door chests,<sup>8</sup> chiffoniers,<sup>9</sup> hutches,<sup>10</sup> and armoires;<sup>11</sup> (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

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<sup>3</sup> 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.

<sup>4</sup> 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).

<sup>5</sup> A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

<sup>6</sup> A chest of drawers is typically a case containing drawers for storing clothing.

<sup>7</sup> 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.

<sup>8</sup> 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.

<sup>9</sup> A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

<sup>10</sup> A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

<sup>11</sup> 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;<sup>12</sup> (9) jewelry armories;<sup>13</sup> (10) cheval mirrors;<sup>14</sup> (11) certain metal parts;<sup>15</sup> (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; and (13) upholstered beds.<sup>16</sup>

Imports of subject merchandise are classified under subheading 9403.50.9040 of the 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 . . .

<sup>12</sup> 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.

<sup>13</sup> 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 Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, 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 33621 (July 7, 2006).

<sup>14</sup> Cheval mirrors are 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 Wooden Bedroom Furniture From the People’s Republic of China: Final Results of Changed Circumstances Review and Determination To Revoke Order in Part, 72 FR 948 (January 9, 2007).

<sup>15</sup> 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 the Harmonized Tariff Schedule of the United States (“HTSUS”) subheading 9403.90.7000.

<sup>16</sup> 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. See Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part, 72 FR 7013 (February 14, 2007).

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.

## DISCUSSION OF THE ISSUES

Petitioners state that they do not agree with the Department’s rationale, which focuses on the form of the merchandise at issue at the time of entry into the United States. Petitioners contend that the form of the product at the time of importation does not determine whether a product is considered within the scope of an order. Petitioners argue that the Department’s rationale in the preliminary ruling is not correct because the scope definition explicitly included wooden bedroom furniture “whether or not assembled, completed, or finished.”

Petitioners also emphasize the incompatibility of the Department’s rationale with both judicial precedent and the Department’s past practice. Petitioners state that in Gold Star Co., Ltd. v. United States, the Court of International Trade held that the Department’s original scope definition included all “color television receivers, complete or incomplete” within the scope of the antidumping order on color television receivers from Korea.<sup>17</sup> Petitioners assert that in Gold Star Co., Ltd. v. United States the Court stated that “Plaintiffs cannot avoid the imposition of antidumping duties merely by bifurcating their shipments.”

Finally, Petitioners state that by focusing on a product’s form at the time of importation, the Department would create a loophole in the enforcement of its orders. Petitioners recommend that the Department determine that the product at issue is covered by the existing exclusion for cribs and omit the language regarding the form of the product at the “time of importation.”

AP did not respond to Petitioners’ comments.

### Department Position:

The Department agrees that the use of the phrase “time of importation” in its Preliminary Scope Ruling was misplaced. The Department’s Preliminary Scope Ruling that AP’s convertible cribs are outside the scope of the order is based on the evidence and facts submitted on the record by AP. After examining the evidence contained in AP’s scope request, we determined that the merchandise described in AP’s scope request is clearly a crib and thus, satisfies the exclusion requirement in the scope of the order. The fact that AP’s merchandise is a crib at time of importation did not dictate the outcome of our determination. Petitioners have not disputed the fact that AP’s merchandise is a crib and have submitted no evidence to the contrary. Therefore, for the final scope ruling, we continue to find that the convertible cribs imported by AP are not within the scope of the order on WBF from the PRC.

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<sup>17</sup> Gold Star Co., v. United States, 692 F. Supp. 1382 (Ct. Int’l Trade 1988)

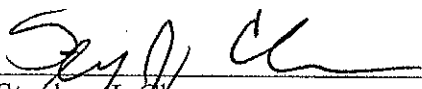
**RECOMMENDATION**

We recommend finding that the convertible cribs imported by AP are not within the scope of the order because the product is an infant crib and thus satisfies the specific exclusion in the scope for infant cribs.

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\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

  
\_\_\_\_\_  
Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

4/30/08  
\_\_\_\_\_  
Date