



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

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

July 11, 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

---

## BACKGROUND

On November 2, 2007, Shermag Inc. ("Shermag") filed a submission with the Department of Commerce ("Department") requesting a scope clarification on whether convertible infant cribs imported by Shermag 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"). On May 1, 2008, the Department determined that certain convertible cribs that AP Industries imports are not within the scope of the order on WBF from the PRC.<sup>1</sup>

In accordance with 19 C.F.R. 351.225(k)(1), we recommend that the Department determine that convertible cribs covered by Shermag's Scope Request are not within the scope of the order on WBF from the PRC.

---

<sup>1</sup> See *Wooden Bedroom Furniture From the People's Republic of China: Final Scope Ruling Determination (A-570-890)—AP Industries*, dated May 1, 2008.



## 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, 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,

<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).

<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,

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 furniture in which bentwood parts predominate;<sup>12</sup> (9) jewelry armories;<sup>13</sup> (10) cheval mirrors;<sup>14</sup>

---

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.

<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 38621 (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).

(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 . . . 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.

### **SHERMAG’S SCOPE REQUEST**

On November 2, 2007, Shermag filed a request for a scope ruling with respect to its imports of three-in-one cribs. Specifically, Shermag requests a scope ruling for its three-in-one crib that is a convertible piece of furniture which, as purchased, may be assembled into a crib for an infant. Shermag states that its three-in-one crib is sold as an infant crib that can be converted to a toddler/youth bed, and can further convert to a full/double bed. Shermag provided the dimensions, model numbers, written descriptions, and pictures of its three-in-one cribs. See Scope Request at 2.

Shermag argues that its three-in-one cribs are used first and foremost as cribs and, by the nature of its dimensions, can only be defined as a crib. Furthermore, in order to be a full/double bed, all but two of the crib parts are eliminated, additional pieces must be purchased, and disassembly and reassembly must take place to complete the conversion.

Shermag notes that U.S. Customs and Border Protection stated that the Department “issued a

---

<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).

final scope ruling that toddler beds, *i.e.*, toddler beds designed to use a standard crib mattress having the dimensions of 51 5/8 inches in length by 27 1/4 inches in width ... are not within the scope of the antidumping duty order covering wooden bedroom furniture from the People's Republic of China." Shermag asserts that its crib that converts to a toddler/youth bed clearly falls exactly within these standards. Shermag further argues that significant efforts must be undertaken to convert the toddler/youth bed to a full/double bed, and there is a waiting period (while the child grows) of at least seven years for the conversion.

Shermag asserts that at the time its three-in-one crib enters the United States, it meets the definition of an infant crib, and no additional parts to convert the crib to a full/double bed are included with the packaging, nor shipped with the three-in-one crib. Finally, Shermag contends that the essential character of subject merchandise is a crib and, therefore, it is explicitly excluded from the scope of the order.

On February 25, 2008, the Department initiated a formal scope inquiry to determine whether Shermag's three-in-one cribs are excluded from the scope of the WBF order. We initiated Shermag's scope ruling based on 19 C.F.R. 351.225(e)

On March 11, 2008, Petitioners<sup>17</sup> stated that they do not oppose Shermag's request. However, Petitioner stated that they do not agree with Shermag's assertion that the form of the product at importation determines whether it is included within the scope.

## LEGAL FRAMEWORK

The Department examines scope requests in accordance with our regulations at 19 C.F.R. 351.225. Under 19 C.F.R. 351.225, 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 International Trade Commission. See 19 C.F.R. 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 merchandise is covered by the order. See 19 C.F.R. 351.225(d).

Where the descriptions of the merchandise are not dispositive, the Department will consider the following factors, as provided under 19 C.F.R. 351.225(k)(2): 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.

In the instant case, although the Department initiated a formal scope inquiry under 19 C.F.R.

---

<sup>17</sup> Petitioners are the American Furniture Manufacturers Committee for Legal Trade.

351.225(e), upon further examination, evaluation, and analysis of Shermag's request and product information submitted, we find that the descriptions of the product contained in the petition, the initial investigation, and the Order are, in fact, dispositive. Therefore, the Department finds it unnecessary to consider the additional factors set forth at 19 C.F.R. 351.225(k)(2), and we have analyzed Shermag's Scope Request under 19 C.F.R. 351.225(k)(1).

## ANALYSIS

The scope of the order explicitly excluded infant cribs from the scope of the order on WBF from the PRC.<sup>18</sup> The Department has examined the record evidence in this case and determined that Shermag's product titled "three-in-one crib" does, in fact, qualify as an infant crib. We based our determination on record evidence showing Shermag's three-in-one crib utilizes a standard crib mattress with the dimensions of 51 5/8 inches in length by 27 1/4 inches in width and conforms to ASTM F 1821-97. In our Dorel Asia SrL scope ruling dated August 11, 2006, we stated that "toddler beds designed to use a standard crib mattress having dimensions of 51 5/8 inches in length by 27 1/4 inches in width and conforming to ASTM F 1821-97 do not meet the description of merchandise within the scope of the order." Therefore, a finding that the merchandise, as Shermag has described in its submission(s), constitutes an infant crib, and that Shermag's three-in-one crib is not within the scope of the order based on mattress size, is consistent with this decision. Because Shermag's three-in-one crib meets the requirements of an infant crib, and infant cribs are explicitly excluded from the scope of the Order, we find that Shermag's three-in-one cribs at issue are outside the scope of the order covering WBF from the PRC.

<sup>18</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).

**RECOMMENDATION**

We recommend finding that the convertible cribs imported by Shermag are not within the scope of the order because the product at issue is an infant crib and thus satisfies the specific exclusion in the scope for infant cribs. This is consistent with our recent ruling on convertible infant cribs imported by AP Industries.

✓

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

*Stephen J. Glacys*

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

*7/11/06*

\_\_\_\_\_  
Date

