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Scope Inquiry
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MEMORANDUM TO: Stephen J. Claeys
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

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

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RE: Wooden Bedroom Furniture from the People's Republic of China:
Final Scope Ruling Determination

BACKGROUND

On August 8, 2008, Stanley Furniture Company, Inc. ("Stanley") filed a submission¹ with the Department of Commerce ("Department") requesting a scope clarification on whether convertible cribs imported by Stanley are included within the scope of the antidumping duty order on wooden bedroom furniture ("WBF") from the People's Republic of China ("PRC").² In several recent scope rulings, the Department has determined that certain similarly designed merchandise is not within the scope of the AD order.³

¹ See Letter from Stanley entitled, "Scope Request: Stanley Furniture Company, Inc. – Convertible Cribs" (August 8, 2008) ("Scope Request").

² 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) ("AD order").

³ See Memorandum from Lori Apodaca to Stephen Claeys regarding Wooden Bedroom Furniture From the People's Republic of China: Final Scope Ruling Determination- AP Industries (May 1, 2008) ("AP Industries Scope Ruling"); Memorandum from Lori Apodaca to Stephen Claeys regarding Wooden Bedroom Furniture From the



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

SCOPE

Since the publication of the AD order on January 4, 2005, certain clarifications 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,⁴ highboys,⁵ lowboys,⁶ chests of drawers,⁷ chests,⁸

People's Republic of China: Final Scope Ruling Determination- Dutailier (July 11, 2008); Memorandum from Lori Apodaca to Stephen Claeys regarding Wooden Bedroom Furniture From the People's Republic of China: Final Scope Ruling Determination- Shermag (July 11, 2008) ("Shermag Scope Ruling").

⁴ 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.

⁵ 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).

⁶ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

⁷ A chest of drawers is typically a case containing drawers for storing clothing.

⁸ 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.

door chests,⁹ chiffoniers,¹⁰ hutches,¹¹ and armoires;¹² (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 furniture in which bentwood parts predominate;¹³ (9) jewelry armories;¹⁴ (10) cheval mirrors;¹⁵

⁹ 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.

¹⁰ A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

¹¹ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

¹² 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.

¹³ 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.

¹⁴ 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).

¹⁵ 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 AD 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

(11) certain metal parts;¹⁶ (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.¹⁷

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.

STANLEY’S SCOPE REQUEST

Stanley requests that the Department issue a determination that is consistent with previous scope rulings on comparable products. In particular, Stanley cites to the May 1, 2008, AP Industries Scope Ruling, and asks that the convertible cribs it imports be excluded from the scope of the AD order on a similar basis.

Stanley notes that all of its convertible cribs have the same basic design and, as imported, assembly of the component parts of the merchandise per the instructions will result in the construction of a product that is an infant crib in both dimension and function. Stanley points out that the assembled convertible cribs meet all applicable Consumer Product Safety Commission, ASTM International, and Juvenile Product Manufacturers Association regulations for infant crib

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).

¹⁶ 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.

¹⁷ 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).

safety.

Stanley asserts that, although the assembled merchandise may be converted into a toddler bed or day bed, a separately purchased kit is required for this conversion. The assembly instructions for several models, submitted by Stanley in the Scope Request, demonstrate that this conversion maintains the crib spring, crib mattress, and internal dimensions of the initial configuration and cannot accommodate a twin-size mattress.¹⁸ Stanley notes that the cribs at issue may also be converted into a double bed, but that this process is only achievable through extensive physical alterations resulting from another separately purchased kit.

Stanley claims that its 2007 sales statistics show only 16 double bed and 38 toddler/day bed conversions are sold per 100 convertible cribs sold, asserting that a substantial majority are never converted into either.¹⁹ Stanley cites to average price estimates of both the convertible cribs and conversion kits and contends that the costs involved make it unlikely that consumers seeking either a day bed or double bed would purchase both the subject merchandise and convertible kit in lieu of purchasing the conventional version of the respective products.

Stanley points out that, from petition to AD order, “infant cribs” have been expressly excluded from the scope definition of wooden bedroom furniture. Stanley notes that the Department has already determined that certain convertible cribs are “infant cribs” and were excluded from the scope of the AD order in the AP Industries Scope Ruling. Stanley contends that the merchandise in question is of similar construction, characteristics, and marketing focus as those subject to the AP Industries Scope Ruling.²⁰ As such, Stanley requests that its convertible cribs be excluded from the scope of the AD order.

We have not summarized Stanley’s arguments that address the criteria set forth at 19 C.F.R. 351.225(k)(2) because the Department is considering this request pursuant to 19 C.F.R. 351.225(k)(1).

Neither Petitioner nor any other interested party has commented on Stanley’s Scope Request.

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 (k)(1), 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. This determination may take place with or without a formal inquiry. If the Department determines

¹⁸ See Scope Request at Exhibit 10 and Exhibit 11.

¹⁹ See Scope Request at 6.

²⁰ See Scope Request at Exhibit 2 and Exhibit 13.

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 AD order, in accordance with 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 present case, the Department finds that the descriptions of the product contained in the petition, the initial investigation, and the AD order are, in fact, dispositive. Therefore, the Department finds it unnecessary to initiate a formal scope inquiry under 19 C.F.R. 351.225(e) or to consider the additional factors set forth at 19 C.F.R. 351.225(k)(2), and we have analyzed Stanley's Scope Request under 19 C.F.R. 351.225(k)(1).

ANALYSIS

Infant cribs are explicitly excluded from the scope of the AD order.²¹ The Department has examined the record evidence in this case and determined that Stanley's convertible cribs do, in fact, qualify as infant cribs. Record evidence demonstrates that Stanley's products utilize a standard crib mattress with the dimensions of 51 5/8 inches in length by 27 1/4 inches in width.²² In a previous scope ruling 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."²³ Consistent with the recent scope determinations on similar products mentioned above,²⁴ we determine that, based on mattress size, Stanley's convertible cribs, as described in the Scope Request, are not within the scope of the AD order.

²¹ See AD order at 332.

²² See, e.g., Scope Request Exhibit 3 at 8.

²³ See Memorandum from Michael Holton to Stephen Claeys regarding Wooden Bedroom Furniture from the People's Republic of China: Infant (baby) Changing Tables and Toddler Beds Scope Determination (August 11, 2006) ("Dorel Scope Ruling").

²⁴ See Shermag Scope Ruling and Dorel Scope Ruling.

