

July 6, 2009

MEMORANDUM TO: John M. Andersen
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

THROUGH: Abdelali Elouaradia
Director
AD/CVD Operations, Office 4

Howard Smith
Program Manager
AD/CVD Operations, Office 4

FROM: Melissa Blackledge
International Trade Analyst
AD/CVD Operations, Office 4

RE: Wooden Bedroom Furniture from the People's Republic of China:
Scope Ruling on a White Toy Box

Background

On May 20, 2009, Target Corporation ("Target") filed a scope request with the Department of Commerce (the "Department"), asking that the Department determine whether the white toy box that it imported is outside the scope of the antidumping duty order on wooden bedroom furniture from the People's Republic of China ("WBF Order"). Although the Department has already revoked the WBF Order for certain toy boxes imported on or after January 1, 2007,¹ Target states that a scope ruling on its white toy box is necessary in order to resolve an outstanding issue with U.S. Customs and Border Protection ("CBP") concerning toy box entries made prior to January 1, 2007, that [***]. Target argues that the application of a "Diversified Products" analysis should result in a finding that its white toy box falls outside the scope of the WBF Order.

Nonetheless, if the Department finds that the white toy box at issue is within the original scope of the WBF Order, Target asks the Department to clarify whether the dimensions used to identify toy boxes covered by the Partial Revocation apply only to the storage compartment, or also apply

1. See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke the Order in Part, 74 FR 8506 (February 25, 2009) ("Partial Revocation").

to the attached lid. Target acknowledges that the lid of its white toy box is slightly larger than the dimensions for toy boxes excluded from the scope of the WBF Order, while the box itself is within the dimensional ranges of the exclusion. Target argues that it is reasonable to conclude that the dimensions used to identify toy boxes that are excluded from WBF Order apply to the storage compartment because it is the largest component and gives the toy box its essential character:

On June 17, 2009, the American Furniture Manufacturers Committee for Legal Trade and Vaughn-Bassett Furniture Co., Inc. (“petitioners”) submitted comments regarding Target’s scope request stating that they have no interest in antidumping relief from imports of such toy boxes, regardless of entry date. Petitioners add that the WBF Order now contains an explicit exclusion for toy boxes.

Request for Scope Ruling

After considering Target’s request, we recommend finding that a scope ruling is not warranted in this case. Target indicated that a scope ruling was needed in order to resolve an outstanding issue with CBP concerning [***]. Thus, Target has acknowledged that it is requesting a scope ruling with respect to entries [***].² Since the entries in question [***], and because the status of future entries of such merchandise has already been determined by the Partial Revocation, the results of the requested scope ruling could not be implemented. Thus, a scope inquiry would have no concrete effect.

Request for Clarification of Partial Revocation

With regard to Target’s question of how to apply the dimensions of the toy boxes excluded pursuant to the Partial Revocation, the scope of the WBF Order states, in pertinent part, “{t}o be excluded the toy *box* {emphasis added} must...have dimensions within 16 - 27 inches in height, 15 - 18 inches in depth, and 21 - 30 inches in width...{and}... have a hinged lid that encompasses the entire top of the box.” Thus, a plain reading of the scope indicates that the dimensional requirements apply to the box itself and not the lid that encompasses the top of the box.

2. See Target’s May 20, 2009 scope request at 2, footnote 3.

Recommendation

For the reasons discussed above, we recommend that the Department not conduct the requested scope inquiry. We further recommend clarifying that the dimensional ranges used to identify the toy boxes that are excluded from the WBF order apply to the box itself rather than the lid.

Agree

Disagree

John M. Andersen
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

Date