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

A-570-890

Scope Inquiry

IA / Office 4: DJ

**PUBLIC VERSION**

**MEMORANDUM TO:** Susan H. Kuhbach  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

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

Howard Smith *HS*  
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**FROM:** Drew Jackson *DJ*  
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**RE:** Wooden Bedroom Furniture from the People's Republic of China:  
Scope Ruling on Target Corporation's Children's Accent Table

### Background

On March 18, 2010, Target Corporation (Target) requested a ruling by the Department of Commerce (Department) on whether a table it imported and described as an accent table (hereinafter, Kid's Accent Table) is outside the scope of the order on wooden bedroom furniture (WBF) from the People's Republic of China (PRC).<sup>1</sup> On May 3, 2010, the Department initiated a formal scope ruling pursuant to 19 CFR 351.225(e). On August 27, 2010, the Department extended the time period for issuing its scope ruling by 60 days until October 29, 2010.

### Description of the Merchandise

Target describes the product subject to this scope ruling as a wooden table (Model No. DPCI No. 249-20-0087) consisting of a top piece with one drawer resting on four open legs with one small shelf near the bottom of the legs. The Kid's Accent Table measures 27 inches high, 16 inches wide by 14 inches deep. Target states that the Kid's Accent Table is made in a casual style and

<sup>1</sup> See Target's March 18, 2010, scope ruling request at 2-3 (Scope Request); see also 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).



comes in four bright colors. It is sold as a stand-alone item that is neither part of a set nor designed to coordinate with any other items of furniture.<sup>2</sup>

### Scope of the Order

The product covered by the order is WBF which 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, 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, 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.

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<sup>2</sup> See Scope Request at 2.

<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.

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> (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; (13) upholstered beds<sup>16</sup> and (14) toy boxes.<sup>17</sup>

<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: Final Changed Circumstances Review, and Determination To Revoke Order 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 line 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 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).

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.” The order covers all WBF 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.

### Legal Framework

The Department examines scope requests in accordance with its regulations at 19 CFR 351.225. Under 19 CFR 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 (ITC). If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling as to whether the merchandise is covered by the order.<sup>18</sup>

Where the descriptions of the merchandise are not dispositive, the Department will consider the following factors, as provided under 19 CFR 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.

### Interested Party Comments and Analysis

Target argues that the Department should find the Kid’s Accent Table to be outside the scope of the order on WBF under 19 CFR 351.225(k)(1). However, Target also argues that the Kid’s Accent Table would be considered outside the scope of the order on WBF under 19 CFR

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<sup>17</sup> To be excluded the toy box must: (1) be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials (ASTM) standard F963-03. Toy boxes are boxes generally designed for the purpose of storing children’s items such as toys, books, and playthings. See Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part, 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling memorandum “Wooden Bedroom Furniture from the People’s Republic of China: Scope Ruling on a White Toy Box,” dated July 6, 2009, 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.

<sup>18</sup> See 19 CFR 351.225(d).

351.225(k)(2). Parties' arguments under each of these sections of the Department's regulations, and our analysis follow below.

1. Whether the Kid's Accent Table Should be Excluded from the WBF Order Pursuant to 19 CFR 351.225(k)(1)

In its Scope Request, Target contends that the descriptions of WBF contained in the petition, the initial investigation, and the determinations of the Department and the ITC support a finding that the Kid's Accent Table is outside the scope of the order on WBF from the PRC. First, Target notes that the petition stated, and the current scope of the order states, that subject merchandise is "generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, commonly called bedroom suites, bedroom groups, or bedrooms, in which all of the individual pieces are of approximately the same style, and approximately the same material/finish."<sup>19</sup> Target further notes that, during its investigation, the ITC described subject merchandise as "wooden furniture that is designed and manufactured for use in the bedroom."<sup>20</sup> According to Target, the fact that its Kid's Accent Table is designed as a stand-alone item supports a finding that it is excluded from the scope of the WBF order because items of WBF are typically of approximately the same style, material, or finish.<sup>21</sup> Target further argues that its Kid's Accent Table meets the definition of an "occasional table," an item that is explicitly excluded by the scope of the WBF order.<sup>22</sup> Target argues that the explicit exclusion of occasional tables from the scope of the WBF order is consistent with the intent to cover only furniture designed for use in the bedroom rather than multi-purpose items that could potentially be used in a bedroom.<sup>23</sup>

Target further states that its table is an occasional table, which is properly classified under HTSUS 9403.60.8080<sup>24</sup> ("Other furniture and parts thereof: Other wooden furniture: Other, Other"), which is not included among the HTSUS numbers listed in the scope of the WBF order. Pursuant to US Customs and Border Protection (CBP) rulings placed upon the record by Target regarding classification of wooden chests, end tables, and occasional tables under HTSUS 9403.60.8080, Target argues that the Kid's Accent Table is an occasional table. Target, therefore, argues that pursuant to 19 CFR 351.225(k)(1), the Department should find the Kid's Accent Table is not covered by the scope of the order on WBF.

Petitioners,<sup>25</sup> however, argue that the Kid's Accent Table is not an accent table, but rather is a night stand, which is covered by the scope of the WBF order.<sup>26</sup> Petitioners state that Target's

<sup>19</sup> See Scope Request at 3.

<sup>20</sup> See *id.*

<sup>21</sup> See *id.* at 6.

<sup>22</sup> See *id.* at 5 (citing the *Dictionary of Furniture*, which defines an occasional table as "any portable table intended for many uses, as circumstance demands...meant primarily for decoration or display."); see also *id.* at Ex. 3.

<sup>23</sup> See *id.*

<sup>24</sup> See *id.* at 2, Ex. 2.

<sup>25</sup> Petitioners in this proceeding are American Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc.

website specifically classifies and markets the Kid's Accent Table as bedroom furniture and specifically as a night stand.<sup>27</sup> Petitioners note that the scope of the WBF order expressly includes items that are not designed to be part of a set of WBF.<sup>28</sup> Thus, Petitioners argue that a finding that the Kid's Accent Table falls outside of the scope of the WBF order under 19 CFR 351.225(k)(1) is unwarranted.

### Analysis

We find that the description of subject merchandise in the scope, the description of the merchandise contained in the petition, and the initial investigation, and the determinations of the Department (including prior scope determinations), and the ITC are not dispositive as to whether the Kid's Accent Table is covered by the scope of the WBF order. Specifically, we find that the records established by the Department and the ITC in the underlying investigation, and past scope determinations, do not contain sufficient descriptions of "night stands" or "occasional tables" that would permit the Department to determine whether the Kid's Accent Table is covered by the scope of the WBF order without further analysis. Moreover, we find that the scope expressly includes WBF that is not part of a coordinated group of bedroom furniture and, thus, the fact that the Kid's Accent Table is a stand-alone item is not dispositive.<sup>29</sup> Accordingly, the Department is unable to make a scope determination under 19 CFR 351.225(k)(1), and has instead conducted an analysis pursuant to 19 CFR 351.225(k)(2).

2. Whether the Kid's Accent Table is Excluded from the WBF Order Pursuant to 19 CFR 351.225(k)(2)

### Introduction

As discussed below, based on a consideration of the factors set forth in 19 CFR 351.225(k)(2) in light of the information on the record of this scope inquiry, we consider the Kid's Accent Table to be a type of occasional table and thus not covered by the scope of the WBF order. We note that the scope of the WBF order does not define "night stands," which are explicitly covered by the scope of the order, or "occasional tables," which are explicitly excluded from the scope of the order. In the absence of such definitions, an analysis of the Kid's Accent Table under 19 CFR 351.225(k)(2) is required. Our analysis under 19 CFR 351.225(k)(2) indicates that customer expectations, ultimate use, and the manner in which the item is displayed supports finding that the Kid's Accent Table is a multi-purpose accent or occasional table, rather than a night stand. Accordingly, the weight of the evidence on the record, when considered as whole, supports a

<sup>26</sup> See Petitioners' April 5, 2010, submission at 3.

<sup>27</sup> See *id.* at 2, Ex. 5-6.

<sup>28</sup> See Petitioners' June 3, 2010, submission at 3.

<sup>29</sup> The scope of the order states, in pertinent part: "The product covered by the order is WBF which 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." See, e.g., Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, 74 FR 41374, 41375-76 (August 17, 2009) (emphasis added).

finding that the Kid's Accent Table is not covered by the scope of the order. We have considered each criterion under 19 CFR 351.225(k)(2) below.

#### Physical Characteristics of the Product (19 CFR 351.225(k)(2)(i))

Target argues that the Kid's Accent Table's small surface area and open leg design limit its utility as a night stand.<sup>30</sup> According to Target, the Kid's Accent Table most closely resembles a telephone table, and its practical utility is limited to holding a telephone, a small lamp, or displaying curios.<sup>31</sup> Target further argues that the bright coloration of the Kid's Accent Table indicates that it is an accent piece that is not designed to coordinate with other pieces of WBF.<sup>32</sup> Target also argues that the presence of the single drawer on the Kid's Accent Table is consistent with accent tables.<sup>33</sup>

Petitioners, however, argue that the physical characteristics of the Kid's Accent Table support a finding that it is a night stand.<sup>34</sup> Petitioners state that the small size and bright coloration of the Kid's Accent Table is consistent with a night stand designed for children.<sup>35</sup> Petitioners contend that the Kid's Accent Table is capable of holding items that one would expect to find on a night stand.<sup>36</sup> Petitioners further argue that the open leg design of the Kid's Accent Table does not distinguish an accent table from a night stand, and notes that Target sells night stands with open leg designs.<sup>37</sup> Petitioners further note that the Kid's Accent Table has a drawer to hold small items, which one would expect to find on a night stand.<sup>38</sup>

#### Analysis

The record developed in this scope inquiry indicates that the Kid's Accent Table shares the physical characteristics of other items marketed by Target as night stands and accent tables. While Target argues that the open leg design of the Kid's Accent Table distinguishes it from night stands, its website features night stands with open leg designs.<sup>39</sup> It is clear, therefore, that an open leg design alone does not distinguish an accent table from a night stand. Similarly, the small size of the Kid's Accent Table does not distinguish it from a night stand. The record contains no evidence that the Kid's Accent Table is too small in size to serve as a child's night stand. The Department further notes that Target sells both accent tables and night stands equipped with a single drawer.<sup>40</sup> Moreover, the Department finds that the bright coloration of

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<sup>30</sup> See Scope Request at 6.

<sup>31</sup> See *id.*

<sup>32</sup> See *id.*

<sup>33</sup> See Target's April 13, 2010, submission at 2.

<sup>34</sup> See Petitioners' June 3, 2010, submission at 2.

<sup>35</sup> See *id.*

<sup>36</sup> See Petitioners' May 24, 2010, submission at 2-3.

<sup>37</sup> See Petitioners' June 3, 2010, submission at 3.

<sup>38</sup> See Petitioners' April 5, 2010, submission at 2-3.

<sup>39</sup> See Target's May 24, 2010, submission at Ex. 4.

<sup>40</sup> See *id.* at Ex. 2, and Ex. 4.

the Kid's Accent Table could be consistent with both an accent table and a child's night stand.<sup>41</sup> Accordingly, we find that the Target has not established that the Kid's Accent Table can be distinguished from a night stand on the basis of physical characteristics alone.

Expectations of the Ultimate Purchasers (19 CFR 251.225(k)(2)(ii))

Target argues that, based on the physical characteristics and marketing of the Kid's Accent Table, ultimate purchasers of the item would expect it to serve multiple purposes rather than serve exclusively as a night stand.<sup>42</sup> Target argues that a significant percentage of the ultimate purchasers of the Kid's Accent Table purchased the item as an accent table rather than a night stand.<sup>43</sup> Target states that the Kid's Accent Table is displayed in its stores separately from WBF, and that the tag affixed to the item identifies it only as an accent table, and provides photographic evidence in support of this statement.<sup>44</sup> Thus, Target argues there is no indication that purchasers of the Kids Accent Table perceived the item to be anything other than an accent table.<sup>45</sup> Target acknowledges that its website lists the Kid's Accent Table as a night stand as well as an accent table, but states that a comparison of sales made in stores, where the Kid's Accent Table is marketed solely as an accent table, to those made online during a twelve-month period demonstrates that only an insignificant number of ultimate purchasers could have perceived the Kid's Accent Table as a night stand. Specifically, Target states that it sold [ ] Kid's Accent Tables in stores and [ ] pieces online during a twelve-month period.<sup>46</sup> Target contends that its marketing of the Kid's Accent Table online as a night stand as well as an accent table is consistent with the item's design as a multi-purpose item.<sup>47</sup>

Petitioners argue, however, that the only record evidence regarding the expectations of the ultimate purchasers of the Kid's Accent Table supports a finding that the item is a night stand.<sup>48</sup> Specifically, Petitioners point to an online product review from a customer that states "I actually brought {sic} this for a {sic} usage night stand in my bedroom, the pink really sold me on it."<sup>49</sup> Petitioners contend that this comment indicates that the customer purchased the item with the express intent of using the item as a night stand.

In rebuttal, Target asserts that a single customer review is not representative of the expectations of ultimate purchasers. Target further claims that the wording of the online customer review of the Kid's Accent Table placed on the record of this scope inquiry demonstrates that the reviewer acknowledged that its use of the Kid's Accent Table as a night stand was unusual. Specifically, Target asserts that the use of the word "actually" indicates that the customer viewed using the

<sup>41</sup> See *id.* at Ex. 4 (depicting a bright red night stand).

<sup>42</sup> See Target's May 24, 2010, submission at 8.

<sup>43</sup> See Target's June 3, 2010, submission at 3; see also Target's March 18, 2010 submission at Ex. 1, Ex. 5.

<sup>44</sup> See *id.*

<sup>45</sup> See *id.*

<sup>46</sup> See *id.* at 3.

<sup>47</sup> See *id.*

<sup>48</sup> See Petitioners' June 3, 2010, submission at 5.

<sup>49</sup> See Petitioners' May 24, 2010, submission at Ex. A.



table as a night stand to be unusual.

In rebuttal, Petitioners claim that the customer was indicating that the use of a child's night stand in an adult bedroom is unusual, not that using the table as a night stand was unusual.<sup>50</sup>

### Analysis

The weight of the evidence indicates the vast majority of Target's customers that purchased the Kid's Accent Table viewed the item as an accent table, rather than a night stand. The Kid's Accent Table is not labeled in Target's stores as a night stand, and it is displayed in a different location in the store than WBF.<sup>51</sup> Specifically, record evidence indicates that in its stores, Target labels the product with a hang tag that reads "Kid's Accent Table," and displays the piece on its shelves among ottomans and bean bag chairs.<sup>52</sup> Over a twelve-month period, approximately [ ] percent of Target's sales of the Kid's Accent Table were made through Target's stores, where the Kid's Accent Table is put forward as an accent table.<sup>53</sup> We believe these facts indicate it is likely that the majority of purchasers perceived the Kid's Accent Table as an accent table rather than a piece of WBF. Therefore, it is reasonable to conclude that the vast majority of Target's customers perceived the Kid's Accent Table as an accent table rather than a night stand.

While the record contains a single customer review stating that the Kid's Accent Table was used as a night stand, we do not find this evidence to be dispositive of the typical expectations of the majority of ultimate purchasers.<sup>54</sup> Moreover, the customer review contains ambiguous language that may be interpreted as indicating that the customer perceived the use of the Kid's Accent Table as a night stand to be unconventional.<sup>55</sup>

### Ultimate Use of the Product (19 CFR 251.225(k)(2)(iii))

As noted above, Target claims that the Kid's Accent Table is a multi-purpose accent piece rather than WBF explicitly designed to serve as a night stand.<sup>56</sup> Target states that the physical characteristics of the Kid's Accent Table limit the piece's utility as a night stand.<sup>57</sup>

By contrast, Petitioners argue that the physical characteristics of the Kid's Accent Table (i.e., its small size, open design, and bright coloration) do not make the product unsuitable for use as night stand in a *child's* room.<sup>58</sup> Petitioners further claim that Target has presented no evidence

<sup>50</sup> See Petitioners' June 3, 2010, submission at 4.

<sup>51</sup> See Target's June 3, 2010, submission at 3.

<sup>52</sup> See Scope Request at Ex. 1 and Ex. 5.

<sup>53</sup> See *id.*

<sup>54</sup> See Petitioners' May 24, 2010, submission at attachment A.

<sup>55</sup> See *id.*

<sup>56</sup> See Target's May 24, 2010, submission at 9.

<sup>57</sup> See *id.*

<sup>58</sup> See Petitioners' June 3, 2010, submission at 5 (emphasis in the original).

that the Kid's Accent Table is used as anything other than a night stand.<sup>59</sup>

### Analysis

In determining the ultimate use of the Kid's Accent Table, we have examined the record for evidence of the use for which it was designed. We note that in its stores Target markets the Kid's Accent Table solely as an accent table, rather than a night stand.<sup>60</sup> As noted above, the vast majority of Target's customers who purchased the Kid's Accent Table bought the item from Target's stores where it was displayed separately from WBF and labeled with a hang tag that identified the product as an accent table.<sup>61</sup> Thus, Target's in-store marketing of the Kid's Accent Table is consistent with its assertion that the item is designed to serve as a multi-purpose accent piece, which may serve, *inter alia*, as a night stand, rather than as a piece designed primarily for use as a night stand. Additionally, the fact that most purchases of the Kid's Accent Table were made in stores where the product was displayed as an accent table indicates that the majority of purchasers perceived the Kid's Accent Table as an occasional table.

While the record contains a single customer review stating that the Kid's Accent Table was used as a night stand, we do not find this evidence to be dispositive of the ultimate use of the item.<sup>62</sup> As noted above, the customer review contains ambiguous language that may be interpreted as indicating that the customer perceived the use of the Kid's Accent Table as a night stand to be unconventional.<sup>63</sup> Moreover, we note that small-sized tables such as occasional tables are versatile pieces of furniture that may be used in many rooms, including the bedroom, and that such use would not necessarily bring the item within the scope of the WBF order, particularly, as here, where the evidence indicates limited use as an in-scope item (night stand).

### Channels of Trade in Which the Product is Sold (19 CFR 251.225(k)(2)(iv))

Target states that, like many items of furniture that it sells, the Kid's Accent Table is sold both in stores and through its website.<sup>64</sup>

Similarly, Petitioners state that Target has acknowledged that the Kid's Accent Table is sold through the same channels of trade as all other night stands.<sup>65</sup>

### Analysis

There is no evidence indicating that the Kid's Accent Table is sold through different channels of trade than night stands. Target sells both the Kid's Accent Table and subject merchandise in its

<sup>59</sup> See id.

<sup>60</sup> See Target's May 24, 2010, submission at 10.

<sup>61</sup> See Target's June 3, 2010, submission at 3.

<sup>62</sup> See Petitioners' May 24, 2010, submission at attachment A.

<sup>63</sup> See id.

<sup>64</sup> See Target's May 24, 2010, submission at 9.

<sup>65</sup> See Petitioners' June 3, 2010, submission at 5.

stores and through its website.<sup>66</sup> However, Target sells all other non-subject furniture in its stores and through its website, *i.e.*, through the same channels of trade as subject merchandise.<sup>67</sup> Therefore, subject WBF cannot be distinguished from non-subject merchandise by the channels of trade through which Target sold them. Accordingly, we do not find channels of trade to be dispositive in this ruling.

The Manner in Which the Product is Displayed and Advertised (19 CFR 251.225(k)(2)(v))

Record evidence shows that the Kid's Accent Table is displayed in stores separately from WBF, and that the hang tag affixed to the item identifies the product as an accent table, rather than a night stand.<sup>68</sup> Target further states that advertising circulars for its stores depict the product with an ottoman and advertise the item as "kid's accent furniture."<sup>69</sup> Target concedes that the Kid's Accent Table is classified as a night stand, *inter alia*, on its website, but argues that such classification is consistent with the product's design as a multi-purpose item.<sup>70</sup>

Petitioners claim that the Kid's Accent Table is marketed and sold online as a night stand, rather than an accent table.<sup>71</sup> Specifically, they note that the Kid's Accent Table appears on Target's website among items described as "Kid's Night stands," and is also included on Target's website among the 671 items classified as "Kid's Bedroom Furniture."<sup>72</sup> Petitioners argue that Target does not market or sell these items online as "accent tables."<sup>73</sup>

Analysis

As noted above, Target displays the Kid's Accent Table separately from WBF with a hang tag that describes the item as an accent table.<sup>74</sup> On its website, the Kid's Accent Table is advertised as both a night stand and an accent table.<sup>75</sup> Moreover, Target's advertising circulars depict the Kid's Accent Table as "kid's accent furniture."<sup>76</sup> Thus, we find that Target displays and advertises the Kid's Accent Table as a multi-purpose accent table, rather than as an item intended to serve primarily as a night stand or a bedside table.

Conclusion

Based on a consideration of the totality of the factors set forth in 19 CFR 351.225(k)(2) in light

<sup>66</sup> See Target's May 24, 2010, submission at 9.

<sup>67</sup> See *id.*

<sup>68</sup> See *id.* at 10.

<sup>69</sup> See *id.* at 10, Ex. 7.

<sup>70</sup> See *id.*

<sup>71</sup> See Petitioners' April 5, 2010, submission at 2.

<sup>72</sup> See *id.*

<sup>73</sup> See Petitioners' June 3, 2010, submission at 5.

<sup>74</sup> See Target's May 24, 2010, submission at 10.

<sup>75</sup> See *id.*, at Ex. 2, Ex. 4.

<sup>76</sup> See Target's May 24, 2010, submission at 10, Ex. 7.

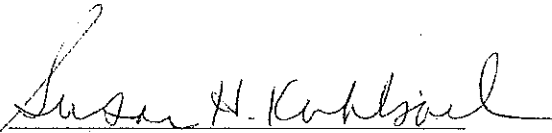
of the record of this scope inquiry, we consider the Kid's Accent Table to be a type of occasional table expressly excluded from the scope of the WBF order. Significantly, with respect to 19 CFR 251.225(k)(2)(ii), the record indicates that the ultimate purchasers of the Kid's Accent Table formed the expectation that they were buying an accent table, rather than a night stand. Additionally, with respect to 19 CFR 251.225(k)(2)(iii), the record of this scope inquiry indicates that the ultimate use of the Kid's Accent Table is consistent with a multi-purpose piece of furniture as opposed to WBF. Moreover, with respect to 19 CFR 251.225(k)(2)(v), the Kid's Accent Table is primarily displayed and advertised as an accent piece. Accordingly, pursuant to 19 CFR 351.225(k)(2), the weight of the evidence on the record supports finding that the Kid's Accent Table is excluded from the scope of the WBF order.

### Recommendation

Based upon the above analysis, we recommend that the Department find that the furniture subject to this request meets the description of merchandise excluded from the scope of the order and, therefore, is not subject to the antidumping duty order on WBF from the PRC.

\_\_\_\_\_  
Agree

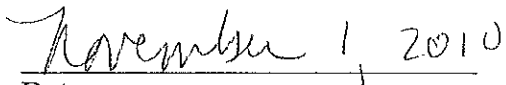
\_\_\_\_\_  
Disagree



Susan H. Kuhbach

Acting Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations



Date