



**UNITED STATES DEPARTMENT OF COMMERCE**  
**International Trade Administration**

Washington, D.C. 20230

A-570-890

Scope Inquiry

IA / Office 4: DJ

**Public Document**

MEMORANDUM TO: Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

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

Howard Smith  
Program Manager, Office 4  
AD/CVD Operations

FROM: Drew Jackson  
International Trade Compliance Analyst  
AD/CVD Operations, Office 4

RE: Wooden Bedroom Furniture from the People's Republic of China:  
Final Scope Ruling on Delta Children's Products Inc. "Crib and  
Changing Table Combo Collection."

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Summary

Based on the analysis below, we recommend finding that the product subject to this scope request is excluded from the scope of the antidumping duty order on wooden bedroom furniture (WBF) from the People's Republic of China (PRC).<sup>1</sup>

Background

On September 23, 2010, Delta Children's Products Inc. (Delta) requested a ruling by the Department of Commerce (Department) to determine whether the crib and changing table combo collection (Crib Combo) imported by Delta is outside the scope of the order on WBF from the PRC.<sup>2</sup> No other interested parties have commented on Delta's scope ruling request. On November 4, 2010, in accordance with 19 CFR 351.302(b), the Department extended the time

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<sup>1</sup> 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) (WBF Order).

<sup>2</sup> See Delta's September 21, 2010 submission (which was received by the Department on September 23, 2010) (Scope Ruling Request); see also WBF Order.



period for issuing its scope ruling or initiating a formal scope inquiry by an additional 45 days until December 22, 2010.<sup>3</sup>

### Description of the Merchandise

Delta describes the product subject to its Scope Ruling Request as a convertible infant crib that is constructed to have an integrated infant changing area.<sup>4</sup> The Crib Combo is made of wood and wood components, fits a standard mattress size, and meets applicable crib safety standards.<sup>5</sup> The changing area on the Crib Combo features a horizontal area to place an infant during a diaper change or dressing which is over storage shelves and drawers.<sup>6</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>7</sup> highboys,<sup>8</sup> lowboys,<sup>9</sup> chests of drawers,<sup>10</sup> chests,<sup>11</sup>

<sup>3</sup> See Letter to Delta from Abdelali Elouaradia, Director, Office 4, AD/CVD Operations, concerning, Wooden Bedroom Furniture from the People's Republic of China Scope Ruling Request, dated November 4, 2010.

<sup>4</sup> See Scope Ruling Request at 2.

<sup>5</sup> See *id.*

<sup>6</sup> Delta's Scope Ruling Request stated that the merchandise subject to the request "may contain storage shelves, drawers, or cabinet space of different configurations. See Scope Ruling Request at 2. Subsequently, Delta clarified its Scope Ruling Request, limiting it to a single item. See Delta's October 26, 2010, submission (erroneously dated September 21, 2010) at 2, and Exs. A and B. The item depicted in these exhibits contains drawers and shelves but lacks a cabinet. See also Delta's October 28, 2010 submission at 1-2.

<sup>7</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>8</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>9</sup> A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

<sup>10</sup> A chest of drawers is typically a case containing drawers for storing clothing.

<sup>11</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

door chests,<sup>12</sup> chiffoniers,<sup>13</sup> hutches,<sup>14</sup> and armoires;<sup>15</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 furniture in which bentwood parts predominate;<sup>16</sup> (9) jewelry armories;<sup>17</sup> (10) cheval mirrors;<sup>18</sup> (11) certain metal parts;<sup>19</sup> (12) mirrors that do not attach to, incorporate in, sit on, or hang over a

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doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

<sup>12</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>13</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>14</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>15</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>16</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>17</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>18</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>19</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

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>20</sup> and (14) toy boxes.<sup>21</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.” 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 our 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>22</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. These factors are known commonly as the Diversified Products criteria.<sup>23</sup> The determination as to which analytical framework is most appropriate in any given

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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>20</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).

<sup>21</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 wooden bedroom furniture order apply to the box itself rather than the lid.

<sup>22</sup> See 19 CFR 351.225(d).

<sup>23</sup> See Diversified Products Corp. v. United States, 6 CIT 155, 162-63 (1983).

scope inquiry is made on a case-by-case basis after consideration of all evidence before the Department.

For this inquiry, the Department evaluated Delta's scope request in accordance with 19 CFR 351.225(k)(1) because the descriptions of the product contained in the WBF Order and the prior determinations of the ITC are dispositive with respect to Delta's Crib Combo. Therefore, we find it unnecessary to consider the additional factors found in 19 CFR 351.225(k)(2).

### **Statement of Position**

#### **Whether the Crib Combo Should be Excluded from the WBF Order Pursuant to 19 CFR 225(k)(1)**

Delta contends that the descriptions of WBF contained in the Petition<sup>24</sup>, the initial investigation and the determinations of the Department and the ITC support a finding that the Crib Combo is outside the scope of the WBF Order. Delta notes that, at the initiation of the WBF antidumping duty investigation, the Department stated that the scope of the Petition specifically excluded infant cribs.<sup>25</sup> Delta further notes that the ITC also echoed this language in its preliminary determination of material injury.<sup>26</sup> Delta notes that this language remained unchanged in the ITC's final determination<sup>27</sup> and the final scope of the order.<sup>28</sup>

Delta argues that a plain reading of the language of the scope supports a finding that the Crib Combo is outside the scope of the WBF Order. In support of its argument, Delta states that the Department carefully crafted exemplars of categories of furniture excluded from the scope (e.g., types of office furniture) but did not provide such detailed information for excluded cribs.<sup>29</sup> Accordingly, Delta claims, the scope of the order should be interpreted as indicating the Department's intent to exclude anything within the universe of infant cribs, without elaboration or qualification.<sup>30</sup>

Delta avers that the Crib Combo should be covered by the WBF scope's specific exclusion of cribs because it is, in fact, a crib, rather than another piece of furniture covered by the scope of the WBF Order. According to Delta, the WBF scope language indicates that subsidiary furniture pieces attached or incorporated in the subject merchandise take the character of that merchandise which is the good of primary importance for the purposes of determining whether a piece is subject to the scope of the order.<sup>31</sup> Delta argues that the attachment of a subsidiary component to a non-subject piece of furniture would not bring an otherwise excluded product within the scope

<sup>24</sup> See Petition for the Imposition of Antidumping Duties Against WBF from the PRC, October 31, 2003(Petition).

<sup>25</sup> See Initiation of Antidumping Duty Investigation: Wooden Bedroom Furniture from the People's Republic of China, 68 FR 70228 (December 17, 2003).

<sup>26</sup> See USITC Pub. 3667, Inv. No. 731-TA-1058 (January 2004.)

<sup>27</sup> See USITC Pub 3743, Inv. No. 731-TA-1058 (December 2004).

<sup>28</sup> See WBF Order.

<sup>29</sup> See Scope Ruling Request at 5.

<sup>30</sup> See id.

<sup>31</sup> See id.

of the order. Delta claims that the crib is the predominant component of the Crib Combo.<sup>32</sup> Furthermore, Delta states that U.S. Customs and Border Protection (CBP) has held that for articles like the Crib Combo, the essential character of the article is imparted by the crib.<sup>33</sup>

Delta further argues that prior scope determinations issued by the Department favor exclusion of the Crib Combo.<sup>34</sup> Delta acknowledges that the Department has not yet issued a ruling on an item identical to the Crib Combo, but argues that the Department's determination that convertible cribs are excluded from the scope of the WBF Order supports a finding that the Crib Combo is also excluded from the order.<sup>35</sup> Delta also acknowledges that the Department has ruled that changing tables with drawers or doors are covered by the scope of the WBF Order, but argues that for some pieces of furniture (e.g., filing cabinets, bookcases), the presence of drawers or doors or similar storage features do not appear to be a significant factor in determining whether an item is covered by the scope of the WBF Order.<sup>36</sup> Delta notes that many pieces of furniture that necessarily feature drawers or similar storage, such as filing cabinets and bookcases, are excluded from the scope of the WBF Order.<sup>37</sup>

In the alternative, Delta argues that a Diversified Products analysis supports a finding that the Crib Combo is outside of the scope of the WBF Order because it is not of the same class or kind of merchandise within the scope.<sup>38</sup>

### Analysis

As explained above, when determining whether a specific product is within the scope of an antidumping and/or countervailing duty order under 19 CFR 351.225(k)(1), the Department reviews the descriptions of the subject merchandise contained in the Petition, the investigation, and the determinations of the Secretary (such as prior scope rulings) and the ITC.<sup>39</sup> While the descriptions of the subject merchandise contained in these documents are useful, in discussing the interpretive process that the Department should follow in making scope rulings pursuant to 19 CFR 351.225(k)(1), the Court of Appeals for the Federal Circuit (CAFC) stated:

The critical question is not whether the petition covered the merchandise or whether it was at some point within the scope of the investigation. The purpose of the petition is to propose an investigation.... A purpose of the investigation is to determine what merchandise should be included in the final order. Commerce's final determination reflects the decision that has been made as to which merchandise is within the final scope of the investigation and is subject to

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<sup>32</sup> See id.

<sup>33</sup> See id.

<sup>34</sup> See id. at 7.

<sup>35</sup> See id.

<sup>36</sup> See id.

<sup>37</sup> See id.

<sup>38</sup> See id. at 7-10.

<sup>39</sup> See 19 CFR 351.225(k)(1).

the order.... Thus, the question is whether the {final scope of the order} included the subject merchandise.<sup>40</sup>

The CAFC also stated that “a predicate for the interpretative process {in a scope inquiry} is language in the order that is subject to interpretation.”<sup>41</sup> Through these statements, the CAFC found that the appropriate place to begin the analysis as to whether a product is within the scope of an antidumping duty order is to review the scope language of the antidumping duty order itself.

In accordance with 19 CFR 351.225(k)(1) and Duferco, the Department first examined the language of the scope of the WBF Order, including any exclusions, to determine whether Delta’s products are within the scope of the order. As noted above, the scope of the WBF Order specifically excludes infant cribs.<sup>42</sup> We further note that the scope of the WBF Order does not define or describe the physical characteristics of cribs.

The Department then evaluated the physical characteristics of the Crib Combo to determine whether it is, in fact, a crib. Significantly, the record indicates the Crib Combo meets all applicable government and safety standards for cribs.<sup>43</sup> Additionally, based upon the size of the crib relative to the changing table component of the product, we agree with Delta’s assertion that the predominant component of the Crib Combo is the infant crib.

With respect to the changing table component of the Crib Combo, as noted by Delta, certain changing tables are covered by the scope of the WBF Order. However, we agree with Delta that the Crib Combo’s integrated changing table does not demonstrate that the product is something other than an excluded infant crib. The Department has determined in the past that additional features that do not change the primary nature of an “in-scope” product do not serve to move that product outside of the scope of the order.<sup>44</sup> It follows, therefore, that the additional features that do not change the primary nature of an “out-of-scope” product do not serve to move that product within the scope of the order. Moreover, we note that there is no indication that the integrated changing table with drawers can be detached from the Crib Combo to serve as a stand-alone piece which could be considered similar to a dresser (dressers are covered by the scope of the WBF Order). For the foregoing reasons, we consider Delta’s Crib Combo to be a crib and, therefore, excluded from the scope of the WBF Order.

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<sup>40</sup> See Duferco Steel, Inc. v. United States, 296 F.3d 1087, 1096 (Fed. Cir. 2002) (Duferco).

<sup>41</sup> See id. at 1097.

<sup>42</sup> See WBF Order.

<sup>43</sup> See Scope Ruling Request at 2.

<sup>44</sup> See Color Television Receivers from Taiwan: Notice of Final Scope Ruling Coach Master International Corporation, 63 FR 805, 806 (January 7, 1998).





