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International Trade Administration
Washington, D.C. 20230

A-570-890
Scope Inquiry
IA / Office 4: MZ
Public Document

February 24, 2011

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: Magd Zalok *MZ*
International Trade Compliance Analyst
AD/CVD Operations, Office 4

RE: Wooden Bedroom Furniture from the People's Republic of China;
Final Scope Ruling on Certain Infant Changing Tables

Background

On July 6, 2010, Stork Craft Manufacturing Inc. (Stork Craft) requested a ruling by the Department of Commerce (Department) on whether two models of infant changing tables (hereinafter, Aspen and Lennox Tables) are outside the scope of the order on wooden bedroom furniture (WBF) from the People's Republic of China (PRC).¹ On August 20, 2010, the Department concluded that it could not determine, in accordance with 19 CFR 351.225(k)(1), whether the Aspen and Lennox Tables were covered by the scope of the WBF Order based solely on the descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Department and the International Trade Commission (ITC).² The Department initiated a formal scope ruling pursuant to 19 CFR 351.225(e) on August 20, 2010.³

¹ See Stork Craft's July 6, 2010, scope ruling request (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) (WBF Order).

² See Letter to all interested parties from Abdelali Elouaradia, Director, Office of AD/CVD Operations IV, concerning, Wooden Bedroom Furniture from the People's Republic of China (A-570-890), Initiation of Scope Inquiry.

³ See *id.*



On December 13, 2010, the Department, in accordance with 19 CFR 351.225, preliminarily determined that the Aspen and Lennox Tables are not within the scope of the order on WBF from the PRC. See Memorandum to Christian Marsh from Drew Jackson "Wooden Bedroom Furniture from the People's Republic of China: Preliminary Scope Ruling on Certain Infant Changing Tables," dated December 13, 2010 ("Preliminary Scope Ruling").

On December 17, 2010, the Department provided the interested parties in this segment of the proceeding with the opportunity to comment on the Preliminary Scope Ruling. However, the Department received no comments from any interested parties, including the petitioners and Stork Craft.

Description of the Merchandise

Stork Craft describes the products subject to its Scope Request as two specific models of changing tables having the names Aspen and Lennox. Each of these models is a three-tier infant changing table designed to support and protect an infant child while it is being cleaned and having its diaper changed. The specific features are a safety guard or barrier that surrounds the entire table top surface, a safety strap that ensures that the infant will remain safely on the table during the changing process, and a waterproof changing pad. In addition, each model has two lower shelves, and only a single drawer located directly below the table top surface, which is intended for storing articles necessary for cleaning and diapering an infant.⁴ The single drawer on the Aspen and Lennox Tables measures 32" x 17" x 3.25", with the outside face of the drawer measuring 34" x 4.25".⁵

Each model is made of solid wood and is imported and sold in the United States unassembled. When fully assembled by the ultimate purchaser, the Aspen measures 39.25" x 19.5" x 37.75", and the Lennox measures 36.5" x 24.5" x 38".⁶ The Aspen and Lennox Tables share the same basic design features and are differentiated only by certain stylistic differences.

The Aspen and Lennox Tables are currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheading number 9403.50.9080 (Other furniture and parts thereof: Wooden furniture of a kind used in the bedroom: Other: Other).⁷

Scope of the Order

The product covered by the order is WBF. WBF 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

⁴ See Scope Request at 2-3.

⁵ See Stork Craft's November 8, 2010, submission at 2.

⁶ See Scope Request at 2-3.

⁷ See id.

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,⁸ highboys,⁹ lowboys,¹⁰ chests of drawers,¹¹ chests,¹² door chests,¹³ chiffoniers,¹⁴ hutches,¹⁵ and armoires;¹⁶ (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

⁸ 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.

⁹ 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).

¹⁰ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

¹¹ A chest of drawers is typically a case containing drawers for storing clothing.

¹² 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.

¹³ 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.

¹⁴ A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

¹⁵ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

¹⁶ 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.

rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate;¹⁷ (9) jewelry armories;¹⁸ (10) cheval mirrors;¹⁹ (11) certain metal parts;²⁰ (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 beds²¹ and (14) toy boxes.²²

¹⁷ 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 CBP's Headquarters Ruling Letter 043859, dated May 17, 1976.

¹⁸ Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches 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).

¹⁹ Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches 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).

²⁰ 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 HTSUS subheadings 9403.90.7005, 9403.90.7010, or 9403.90.7080.

²¹ 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).

²² 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.

Imports of subject merchandise are classified under subheadings 9403.50.9042 and 9403.50.9045²³ of the U.S. Harmonized Tariff Schedule ("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 9403.50.9042 or 9403.50.9045 of the HTSUS as "parts of wood." Subject merchandise may also be entered under subheadings 9403.50.9041 or 9403.60.8081.²⁴ Further, framed glass mirrors may be entered under subheading 7009.92.1000²⁵ or 7009.92.5000 of the HTSUS as "glass mirrors . . . framed." This 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.

Department's Position

In the Department's Preliminary Scope Ruling, we found the scope of the WBF Order does not define "dressers," which are explicitly covered by the scope of the order, or "changing tables," some of which the Department has determined are outside the scope of the order. In the absence of such definitions, the Department concluded that an analysis under 19 CFR 351.225(k)(2) was warranted for the Aspen and Lennox Tables.

Section 351.225(k)(2) of the Department's regulations requires the Department to consider five factors. The first of these factors is the physical characteristics of the product. The Department determined that the single, small drawer on the Aspen and Lennox Tables, while suitable for holding the paraphernalia associated with changing an infant (such as lotion and baby wipes), did not provide adequate storage space for clothing and, thus, lacked the essential physical characteristics of dressers and similar items of WBF. For three other factors, the Department found as well that the Aspen and Lennox Tables could be distinguished from the subject merchandise: (1) the ultimate purchasers of the Aspen and Lennox Tables would not share the same expectations as the ultimate purchasers of dressers or similar pieces of WBF; (2) the ultimate use of the Aspen and Lennox Tables is consistent with a single purpose changing table as opposed to a multi-purpose item that could be used as WBF; and (3) the Aspen and Lennox Tables are sufficiently differentiated from dressers and other pieces of WBF in terms of advertising and marketing. For the factor involving the channels of trade in which the product is sold, however, the Department could not distinguish Aspen and Lennox Tables from subject merchandise on this basis. Nonetheless, based on a consideration of the totality of the factors set forth in 19 CFR 351.225(k)(2), we found the Aspen and Lennox Tables to be changing tables that are outside of the scope of the WBF Order.

²³ These HTSUS numbers, as well as the numbers in footnote 20, reflect the HTSUS numbers currently in effect. These numbers differ from those used in the last completed antidumping duty administrative review of WBF from the PRC because the HTSUS has been revised.

²⁴ These HTSUS numbers have been added to the scope in a recent segment of the proceeding.

²⁵ *Id.*

The petitioners and Stork Craft did not provide comments opposing the Department's Preliminary Scope Ruling. For this final scope ruling, we continue to find that the Aspen and Lennox Tables are changing tables that are outside of the scope of the order on WBF from the PRC.

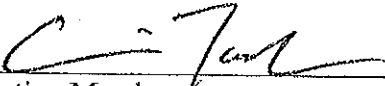
Recommendation

Consistent with the Preliminary Scope Ruling, we recommend finding that the furniture subject to this request is not covered by the scope of the order and, therefore, is not subject to the antidumping duty order on WBF from the PRC.



Agree

Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

Date

2/29/11