



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

A-570-868  
Scope Inquiry  
Meco Pedestal Tables  
Public Document  
AD/CVD O4: ZP

May 19, 2011

**MEMORANDUM FOR:** Gary Taverman  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

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

Charles Riggle  
Program Manager, Office 4  
AD/CVD Operations

**FROM:** Zev Primor  
Sr. International Trade Compliance Analyst  
AD/CVD Operations, Office 4

**SUBJECT:** Final Scope Ruling on the Antidumping Duty Order on Folding  
Metal Tables and Chairs from the People's Republic of China:  
Request by Meco Corporation

**Summary**

On February 28, 2011, the Department of Commerce ("the Department") received a scope ruling request from Meco Corporation ("Meco"), a U.S. importer, a domestic producer of like product and the petitioner in the original investigation, requesting a determination on whether three models of pedestal tables, imported by Meco, are covered by the antidumping duty order on certain folding metal tables and chairs from the People's Republic of China ("PRC").<sup>1</sup> No other interested party commented on Meco's request. In accordance with 19 CFR 351.225(d) and 351.225(k)(1), we recommend that the Department determine that the tables imported by Meco that are subject to this inquiry are outside of the scope of the antidumping duty order on folding metal tables and chairs from the PRC.

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<sup>1</sup> See Antidumping Duty Order: Folding Metal Tables and Chairs from the People's Republic of China, 67 FR 43277 (June 27, 2002) ("Folding Metal Tables and Chairs Order").



## Legal Framework

The regulations governing the Department's antidumping scope determinations can be found at 19 CFR 351.225. On matters concerning the scope of an order, the Department's initial basis for determining whether a product is included within the scope of an order is the description of the product contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the International Trade Commission ("ITC"). See 19 CFR 351.225(d) and 351.225(k)(1). If the Department determines that these descriptions are dispositive of the matter, it will issue a final scope ruling as to whether or not the merchandise in question is covered by the order. See 19 CFR 351.225(d).

Conversely, where these descriptions of the merchandise are not dispositive, the Department will consider the five additional factors set forth in section 351.225(k)(2). These criteria are: (i) the physical characteristics of the product; (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. See 19 CFR 351.225(k)(2). 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 record evidence before the Department in a proceeding.

For this proceeding, the Department evaluated Mecos request in accordance with 19 CFR 351.225(k)(1) and finds that the description of the products contained in the petition, the initial investigation, the determinations by the Secretary (including prior scope determinations) and the ITC are, in fact, dispositive with respect to Mecos tables. Therefore, we find it unnecessary to consider the additional factors found in 19 CFR 351.225(k)(2).

## Scope of the Order

The products covered by this order<sup>2</sup> consist of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:  
1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal (folding metal tables). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of the order regarding folding metal tables are the following:

- Lawn furniture;
- Trays commonly referred to as "TV trays;"
- Side tables;
- Child-sized tables;
- Portable counter sets consisting of rectangular tables 36" high and matching stools; and,
- Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28" to 36" wide by 48" to 96" long and with a set of folding legs

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<sup>2</sup> See Folding Metal Tables and Chairs Order, 67 FR at 43277-78.

at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal (folding metal chairs). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of the order regarding folding metal chairs are the following:

- Folding metal chairs with a wooden back or seat, or both;
- Lawn furniture;
- Stools;
- Chairs with arms; and
- Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401.71.0010, 9401.71.011, 9401.71.0030, 9401.71.0031, 9401.79.0045, 9401.79.0046, 9401.79.0050, 9403.20.0018, 9403.20.015, 9403.20.0030, 9403.60.8040, 9403.70.8015, 9403.70.8020, and 9403.70.8031 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheadings are provided for convenience and customs purposes, the Department’s written description of the merchandise is dispositive.

Based on a request by RPA International Pty., Ltd. and RPS, LLC (collectively, “RPA”), the Department ruled on January 13, 2003, that RPA’s poly-fold metal folding chairs are within the scope of the Folding Metal Tables and Chairs Order because they are identical in all material respects to the merchandise described in the petition, the initial investigation, and the determinations of the Secretary.

On May 5, 2003, in response to a request by Staples, the Office Superstore Inc. (“Staples”), the Department issued a scope ruling that the chair component of Staples’ “Complete Office-To-Go,” a folding chair with a tubular steel frame and a seat and back of plastic, with measurements of: height: 32.5 inches; width: 18.5 inches; and depth: 21.5 inches, is covered by the scope of the Folding Metal Tables and Chairs Order because it is identical in all material respects to the scope description in the Folding Metal Tables and Chairs Order, but that the table component, with measurements of: width (table top): 43 inches; depth (table top): 27.375 inches; and height: 34.875 inches, has legs that fold as a unit and meets the requirements for an exemption from the scope of the Folding Metal Tables and Chairs Order.

On September 7, 2004, the Department found that table styles 4600 and 4606 produced by Lifetime Plastic Products Ltd. are within the scope of the Folding Metal Tables and Chairs Order because these products have all of the components that constitute a folding metal table as described in the scope.

On July 13, 2005, the Department issued a scope ruling determining that “butterfly” chairs are not within the scope of the antidumping duty order because they do not meet the physical description of merchandise covered by the scope of the Folding Metal Tables and Chairs Order as they do not have cross braces affixed to the front and/or rear legs, and the seat and back is one piece of cloth that is not affixed to the frame with screws, rivets, welds, or any other type of fastener.

On July 13, 2005, the Department issued a scope ruling determining that folding metal chairs imported by Korhani of America Inc. are within the scope of the antidumping duty order because the imported chair has a wooden seat, which is padded with foam and covered with fabric or polyvinyl chloride, attached to the tubular steel seat frame with screws, and has cross braces affixed to its legs.

On May 1, 2006, the Department issued a scope ruling determining that “moon chairs” are not included within the scope of the antidumping duty order because moon chairs have different physical characteristics, different uses, and are advertised differently than chairs covered by the scope of the Folding Metal Tables and Chairs Order.

On October 4, 2007, the Department issued a scope ruling determining that International E-Z Up Inc.’s (“E-Z Up”) Instant Work Bench is not included within the scope of the antidumping duty order because its legs and weight do not match the description of the folding metal tables in the scope of the Folding Metal Tables and Chairs Order.

On April 18, 2008, the Department issued a scope ruling determining that the VIKA Twofold 2-in-1 Workbench/Scaffold (“Twofold Workbench/Scaffold”) imported by Ignite USA, LLC from the PRC is not included within the scope of the antidumping duty order because its rotating leg mechanism differs from the folding metal tables subject to the Folding Metal Tables and Chairs Order, and its weight is twice as much as the expected maximum weight for folding metal tables within the scope of the Folding Metal Tables and Chairs Order.

On May 6, 2009, the Department issued a final determination of circumvention, determining that imports from the PRC of folding metal tables with legs connected by cross-bars, so that the legs fold in sets, and otherwise meeting the description of in-scope merchandise, are circumventing the Folding Metal Tables and Chairs Order and are properly considered to be within the class or kind of merchandise subject to the Folding Metal Tables and Chairs Order.

On May 22, 2009, the Department issued a scope ruling determining that folding metal chairs that have legs that are not connected with cross-bars are within the scope of the antidumping duty order on folding metal tables and chairs from the PRC.

On October 27, 2009, the Department issued a scope ruling that Lifetime Products, Inc.’s fold-in-half adjustable height tables are not included within the scope of the antidumping duty order because Lifetime’s tables essentially share the physical characteristics of banquet tables, which are expressly excluded from the scope of the Folding Metal Tables and Chairs Order and, therefore, are outside the scope of the Folding Metal Tables and Chairs Order.

On July 27, 2010, the Department issued a scope ruling determining that the bistro set imported by Academy Sports & Outdoors, consisting of two chairs and a table, are outside the scope of the antidumping duty order because they constitute lawn furniture, which is expressly excluded from the scope of the Folding Metal Tables and Chairs Order.

On February 17, 2011, the Department issued a scope ruling that Lifetime Products, Inc.'s 6- and 8-foot fold-in-half tables are not included within the scope of the antidumping duty order because these tables meet the description of merchandise specifically excluded from the scope of the Folding Metal Tables and Chairs Order.

On February 17, 2011, the Department issued a scope ruling that Lifetime Products, Inc.'s 4-foot folding tables are not included within the scope of the antidumping duty order because they essentially share the physical characteristics of banquet tables, which are expressly excluded from the scope of the order and do not otherwise meet the description of merchandise covered by the scope of the Folding Metal Tables and Chairs Order.

On May 2, 2011, the Department issued a scope ruling determining that Lifetime Products, Inc.'s, three round folding metal tables that have legs that are connected with crossbars at the top and bottom of the legs are outside the scope of the Folding Metal Tables and Chairs Order.

### **Interested Party Comments**

Meco describes its pedestal tables as part of the Innobella/Destiny Collection line. There are three tables that are the subject of the scope inquiry: models WST1, WST2 and WST3.<sup>3</sup> The first model, WST1, has a 38 inch diameter circular top, is 30 inches tall and weighs 32.2 lbs.; the second model, WST2, has a 36-inch square top, is 30 inches tall and weighs 38.5 lbs.; and the third model, WST3, has a 32-inch circular top, is 40 inches tall and weighs 25.5 lbs.<sup>4</sup> Each table consists of a medium density fiberboard top with a hardwood laminate, cut to the appropriate size and then fastened to a welded steel frame to form the table top assembly. The four legs are made of steel formed into non-circular tubes. The legs are assembled into a single unit by means of a decorative bolt that runs through the mid-point hinge plate secured by a nut. The bolt acts as a hinge, permitting the four legs to stand at right angles to one another when the table is being used and to rest together when the table is folded and not in use.<sup>5</sup>

According to Meco, all three tables require a one-time simple assembly of the two sets of legs. Each set of legs contains one leg attached to the table frame and the other leg which can be rotated to a position of ninety degrees from the attached leg, locked into position by means of a plastic locking ramp that is screwed to the underside of the table top. Once assembled, Meco claims that all four legs of a table fold as a single unit and not independently or in pairs.

Additionally, Meco discusses the history of the language of the scope of the Folding Metal Tables and Chairs Order by citing to the petition, the notice of initiation, the final less-than-fair-value investigation and the report of the International Trade Commission, and concludes that the

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<sup>3</sup> See Letter from Meco to the Department, entitled, "Folding Metal Tables and Chairs from the People's Republic of China: Request for Scope Ruling," dated February 28, 2011 ("Meco's Scope Request") at 1-2.

<sup>4</sup> *Id.* at 3.

<sup>5</sup> See Meco's Scope Request at 2-3 and Exhibit 2.

current scope includes only those table with legs that fold independently and not tables such as its pedestal tables, where the legs fold as a unit.<sup>6</sup>

Meco argues that in two prior scope rulings, the Department has determined that certain tables were outside the scope of the Folding Metal Tables and Chairs Order because the tables in question contained “legs that folded as a unit” as opposed to the in-scope tables that have “legs that mechanically fold independently of one another.”<sup>7</sup> Specifically, Meco states that the Department ruled that the chair component of Staples’ “Complete Office-To-Go” is covered by the scope of the Folding Metal Tables and Chairs Order, but that the table component, which contained legs that folded as a unit, is not covered by the scope.<sup>8</sup> In addition, Meco notes that on July 27, 2010, the Department determined that a bistro set consisting of a table and two chairs is excluded from the Folding Metal Tables and Chairs Order.<sup>9</sup> According to Meco, of particular significance is the fact that no parties contested that the table component of the bistro set, which contains legs that are “folded in pairs, connected by crossbars at the top and bottom of the legs and a hinge approximately halfway between the table and the base of the legs,” is not within the scope.<sup>10</sup> According to Meco, all the parties agreed that the physical characteristics of the table component of the bistro set plainly demonstrated that it was outside the scope of the Folding Metal Tables and Chairs Order, and the Department also determined that the bistro set is outside the scope of the Folding Metal Tables and Chairs Order.<sup>11</sup> As a result, Meco requests that the Department find that its tables subject to this inquiry are not within the scope of the Folding Metal Tables and Chairs Order.

## 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 scope of the order, the petition, the investigation, and the determinations of the Secretary (such as prior scope rulings) and the ITC.<sup>12</sup>

The Department first examined the language of the scope of the Folding Metal Tables and Chairs Order.<sup>13</sup> The scope section of the Folding Metal Tables and Chairs Order expressly includes only those tables with legs that fold independently:

Assembled and unassembled folding tables made primarily or exclusively from steel or other metal (folding metal tables). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal

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<sup>6</sup> See id. at 7.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> See id. at 8.

<sup>10</sup> Id. at 8.

<sup>11</sup> Id.

<sup>12</sup> See 19 CFR 351.225(k)(1).

<sup>13</sup> See Duferco Steel Inc. v. United States, 296 F.3d 1087, 1097-98 (Fed. Cir. 2002) (holding that the language of the scope of the order governs the Department’s interpretation of it).

tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table.<sup>14</sup>

The scope of the Folding Metal Tables and Chairs Order clearly excludes tables with legs that do not fold independently. Because the legs of Meco's pedestal tables do not fold independently, we find that the three tables which are the subject of this scope inquiry are excluded from the language of the scope of the Folding Metal Tables and Chairs Order.

Next, we reviewed prior scope rulings of the Department. On May 4, 2003, in response to a request from Staples, the Department issued a scope ruling concerning a table/chairs set, where the table component of the table/chairs had legs that folded as a unit. The Department found that the table component was excluded from the scope of the Folding Metal Tables and Chairs Order because the table legs did not fold independently from one another, as specified by the scope of the Folding Metal Tables and Chairs Order.<sup>15</sup> Like the table component of the table/chairs set at issue in that ruling, here, Meco's tables do not contain legs that operate in an independent manner. Rather, they open and close as one single unit.

Additionally, on May 2, 2011, the Department issued a scope ruling excluding Lifetime Products, Inc.'s round tables from the scope of the Folding Metal Tables and Chairs Order because, *inter alia*, the "{tables} had legs that folded in pairs."<sup>16</sup> Similarly to the round tables that were at issue in that ruling, Meco's pedestal tables do not fold independently. In fact, Meco's pedestal tables do not even fold in pairs, but rather as a single unit.

Based on our analysis of the evidence on the record, we find that the descriptions of the merchandise in the scope of the Folding Metal Tables and Chairs Order and prior scope determinations of the Department are dispositive. Therefore, pursuant to 19 CFR 351.225(k)(1), the pedestal tables subject to this scope request, specifically Meco's pedestal tables, models WST1, WST2 and WST3, are outside the scope of the Folding Metal Tables and Chairs Order.

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<sup>14</sup> See Folding Metal Tables and Chairs Order, 67 FR at 43277 (emphasis added).

<sup>15</sup> See Memorandum from Richard Weible to Barbara Tillman "Final Scope Ruling on Whether Staples, the Office Superstore, Incorporated's "Complete Office-To-Go" is Excluded from the Scope of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People's Republic of China," dated May 5, 2003 at 5.

<sup>16</sup> See Memorandum from Abdelali Elouaradia to Gary Taverman "Final Scope Ruling on the Antidumping Duty Order on Folding Metal Tables and Chairs from the People's Republic of China: Request by Lifetime Products, Inc. ("Lifetime")," dated May 2, 2011 at 6.

