



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

A-570-928
Scope Ruling
Public Document
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May 31, 2011

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

THROUGH: James C. Doyle
Director, Office 9
Antidumping and Countervailing Duty Operations

FROM: Toni Dach
International Trade Analyst
AD/CVD Enforcement, Office 9

RE: Uncovered Innerspring Units from the People's Republic of China:
Wickline Bedding Enterprises Final Scope Ruling

Summary

On February 9, 2011, the Department of Commerce ("Department") received a submission from Wickline Bedding Enterprises ("Wickline") requesting a scope clarification¹ on whether the two models of unfinished mattresses it imports from the People's Republic of China ("PRC") are outside the scope of the antidumping duty order on uncovered innerspring units ("innersprings") from the PRC. *See Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 7661 (February 19, 2009) ("Order").

Pursuant to an analysis under 19 CFR 351.225(k)(1), we recommend that the Department determine that the unfinished mattresses described in the Wickline Submission are outside the scope of the *Order* on innersprings from the PRC.

Background

On February 9, 2011, Wickline submitted a scope request for its standard and premium unfinished mattresses that Wickline imports from the PRC. Wickline requested that the Department consider the products in question as outside the scope of the *Order* on innersprings from the PRC.² On February 28, 2011, Leggett and Platt, Incorporated ("Petitioner") submitted

¹ See Letter from Wickline Bedding Enterprises, to Secretary of Commerce, regarding Scope Inquiry by Wickline Bedding Enterprises: Uncovered Innerspring Mattresses from the People's Republic of China, dated February 9, 2011 ("Wickline Submission"); see Letter from Wickline Bedding Enterprises, to Secretary of Commerce, regarding Scope Inquiry in Uncovered Innerspring Units from the People's Republic of China ("PRC"): Wickline Bedding Enterprises' Response to Supplemental Questionnaire, dated March 8, 2011 ("Wickline March 8 Submission").

² See Wickline Submission at 1.



comments on Wickline's scope request.³ On March 8, 2011, Wickline provided the Department with additional information and documentation regarding its unfinished mattress products, including the Harmonized Tariff Schedule ("HTS") heading relevant to its scope request.⁴ On March 15, 2011, Petitioner submitted additional comments on Wickline's scope request.⁵

The products in question are pocketed innerspring units covered on the top and bottom with a non-woven fabric to keep the springs aligned, as well as multiple layers of foam and fabric and a top layer of quilted panels. These components complete Wickline's "standard" unfinished mattress model. However, Wickline's "premium" unfinished mattress model also contains an additional layer of foam encasing the perimeter of the innerspring unit.⁶

Scope of the Order

The merchandise subject to this order is uncovered innerspring units composed of a series of individual metal springs joined together in sizes corresponding to the sizes of adult mattresses (e.g., twin, twin long, full, full long, queen, California king, and king) and units used in smaller constructions, such as crib and youth mattresses. All uncovered innerspring units are included in this scope regardless of width and length. Included within this definition are innersprings typically ranging from 30.5 inches to 76 inches in width and 68 inches to 84 inches in length. Innersprings for crib mattresses typically range from 25 inches to 27 inches in width and 50 inches to 52 inches in length.

Uncovered innerspring units are suitable for use as the innerspring component in the manufacture of innerspring mattresses, including mattresses that incorporate a foam encasement around the innerspring.

Pocketed and non-pocketed innerspring units are included in this definition. Non-pocketed innersprings are typically joined together with helical wire and border rods. Non-pocketed innersprings are included in this definition regardless of whether they have border rods attached to the perimeter of the innerspring. Pocketed innersprings are individual coils covered by a "pocket" or "sock" of a nonwoven synthetic material or woven material and then glued together in a linear fashion.

Uncovered innersprings are classified under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 7326.20.0070, 7320.20.5010, or 7320.90.5010 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.

³ See Letter from Leggett and Platt, Incorporated to Secretary of Commerce, regarding Antidumping Duty Order on Uncovered Innerspring Units from the People's Republic of China: Request for Scope Inquiry, dated February 28, 2011 ("Petitioner's February 28 Submission").

⁴ See Wickline March 8 Submission.

⁵ See Letter from Leggett and Platt, Incorporated to Secretary of Commerce, regarding Antidumping Duty Order on Uncovered Innerspring Units from the People's Republic of China: Comments on Wickline's Supplemental Questionnaire Response, dated March 15, 2011 ("Petitioner's March 15 Submission").

⁶ See Wickline Submission at 3-4 and Exhibits B and C. See also Wickline March 8 Submission at Exhibit 2.

Parties' Arguments

Wickline argues that its unfinished mattresses are outside the scope of the *Order* because they differ substantially from the merchandise contemplated in the Petition. Specifically, Wickline states that it does not sell innerspring units to mattress manufacturers, the main concern of the Petition. Moreover, Wickline argues that the multiple layers of foam, fabric, and quilting contained in its unfinished mattresses make its products materially dissimilar from the uncovered innerspring units pictured in the Petition. *See* Wickline Submission at 4-5, and Exhibits B, C, and E.

Petitioner stated that Wickline's February 9 Submission was deficient in several key respects. Petitioner argues that Wickline provided insufficient documentation for both its assertion that its products were "95% complete" at the time of importation and its description of the finishing processes completed in the United States. Petitioner requested that the Department seek additional information from Wickline, including the HTS heading under which its unfinished mattresses entered the United States, a breakdown of the production processes conducted in China and the United States, information regarding Wickline's U.S. manufacturing facilities, sales documentation, import quantity and value for Wickline's unfinished mattresses, and information regarding the channels of trade and ultimate purchasers of the merchandise at issue. *See* Petitioner's February 28 Submission.

In its March 8 Submission, Wickline provided a chart showing the inputs included in its mattress kits, where the production and assembly of these inputs takes place, and additional photographs of its products and processes. *See* Wickline March 8 Submission at Exhibit 2. Wickline explained that the manufacturing conducted in the United States consisted of attaching a mattress border and mattress gusset to the mattress kit assembled in and imported from the PRC. Wickline also provided the HTS number under which its products enter, 9404.29.9091.⁷ *See* Wickline March 8 Submission.

Petitioner stated that Wickline's documentation was still incomplete after its March 8 Submission. Petitioner requested that the Department seek additional information regarding Wickline's affiliations and additional sales documentation. *See* Petitioner's March 15 Submission.

Legal Framework

The Department examines scope requests in accordance with the Department's scope regulations. *See* 19 CFR 351.225. On matters concerning the scope of an antidumping duty order, the Department first examines the descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the United States International Trade Commission ("ITC"). *See* 19 CFR 351.225(k)(1). This determination may take place with or without a formal inquiry.

⁷ Mattresses, other materials.

Where the descriptions of the merchandise above are not dispositive, the Department will consider the five additional factors set forth at 19 CFR 351.225(k)(2). These criteria are: 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. *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 evidence before the Department.

Analysis

For this inquiry, the Department evaluated Wickline's request in accordance with 19 CFR 351.225(k)(1) and finds that the description of the product contained in the petition, the initial investigation, and the determinations by the Secretary (including prior scope determinations) and the ITC are dispositive with respect to Wickline's unfinished mattresses. Therefore, the Department finds it unnecessary to consider the additional factors in 19 CFR 351.225(k)(2).

As described in the submissions, Wickline's standard and premium unfinished mattresses are covered with the inputs of finished mattresses upon importation, including foam, padding, and quilted topping. Accordingly, as the scope of the *Order* specifically describes *uncovered* innerspring units, we find that Wickline's unfinished mattresses are in essence *covered* innerspring units that have been assembled into unfinished mattresses, and they are therefore outside the scope of the *Order*. Because Wickline's unfinished mattress kits contain an innerspring unit assembled with and covered by the inputs of a finished mattress (*i.e.*, foam, padding, and quilting), the unfinished mattresses are no longer uncovered innerspring units. Moreover, the scope of the *Order* clearly states that "uncovered innerspring units are suitable for use as the innerspring component in the manufacture of innerspring mattresses, including mattresses that incorporate a foam encasement around the innerspring." Wickline's standard and premium mattress kits use an uncovered innerspring unit as the innerspring component of a mattress product containing foam, padding, and quilted topping. Its premium mattress kit also contains the "foam encasement around the innerspring" described in the scope. Therefore, Wickline's unfinished mattresses are further manufactured products that incorporate an innerspring unit as one of their inputs.

In addition, the ITC final report on innersprings notes under the "Domestic Like Product" description that unfinished mattresses were not within the scope of the ITC's investigation. The ITC final report explains that it may be difficult to distinguish an unfinished mattress from subject merchandise at the tariff line level, but nonetheless establishes unfinished mattresses as a separate class of product from uncovered innerspring units.⁸

⁸ *See Uncovered Innerspring Units from South Africa and Vietnam*, US International Trade Commission Publication 4051 (December 2008) at I-6 (adopted in its entirety by *Uncovered Innerspring Units from China*, US International Trade Commission Publication 4061 (February 2009)).

The scope language of the *Order* is clear in its coverage of uncovered innerspring units and its description of the merchandise produced from uncovered innerspring units as mattresses, including those with foam-encased innerspring units. The ITC report establishes unfinished mattresses as a type of product separate from the subject uncovered innerspring units. Therefore, we find, pursuant to 19 CFR 351.225(k)(1), that Wickline's unfinished mattresses are outside the scope of the innersprings *Order*.

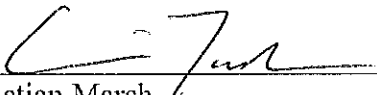
Recommendation

Based upon the foregoing analysis under 19 CFR 351.225(k)(1), we recommend finding that Wickline's premium and standard unfinished mattresses are outside the scope of the *Order* on innersprings from the PRC.

✓

Agree

Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

5/31/11

Date