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International Trade Administration
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PUBLIC FILE

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Scope Ruling
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March 24, 2009

MEMORANDUM TO: John M. Andersen
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

THROUGH: Wendy J. Frankel
Director, Office 8
Antidumping and Countervailing Duty Operations

FROM: Lori E. Apodaca
Case Analyst, Office 8
Antidumping and Countervailing Duty Operations

RE: Wooden Bedroom Furniture from the People's Republic of China:
Zinus Inc. & Zinus (Xiamen), Inc. Final Scope Ruling on
Smartboxes.

Summary

On January 22, 2008, Zinus Inc. & Zinus (Xiamen), Inc. ("Xiamen") (collectively, "Zinus") filed a request for a scope determination¹ on whether its "Smartbox" is within the scope of the antidumping duty order on wooden bedroom furniture ("WBF") from the People's Republic of China ("PRC"). 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) ("Order").

In accordance with 19 CFR 351.225(k)(1), we recommend the Department of Commerce ("the Department") determine that the Smartboxes Zinus imports are not within the scope of the Order.

Background

On January 22, 2008, Zinus submitted a request seeking a determination whether the Smartbox it imports is outside the scope of the Order. Pursuant to the requirements of 19 CFR 351.225, Zinus provided illustrations and a detailed description of its Smartbox and why it believes it is outside the scope of the Order. Petitioners have not submitted comments regarding Zinus' Scope Request.

¹ See Scope Ruling Request Zinus, Inc. and Zinus (Xiamen), Inc., dated January 22, 2008 ("Zinus Request").



Zinus states that the technical characteristics of the Smartbox are a foldable/knock-down version of a box spring and/or mattress support upon which a mattress can be placed. See Zinus Request at 2. Zinus states that the Smartbox is comprised of a main wooden frame, bolts and wing nut, cardboard sheets with velcro straps, fabric cover with a zipper and velcro straps, and a shipping carton. See Zinus Request at 2.

Scope of the Order

The product covered by the order is wooden bedroom furniture. Wooden bedroom furniture 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, oriented 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,² highboys,³ lowboys,⁴ chests of drawers,⁵ chests,⁶ door chests,⁷ chiffoniers,⁸ hutches,⁹ and armoires;¹⁰ (6) desks, computer stands, filing cabinets,

² 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.

³ 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).

⁴ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

⁵ A chest of drawers is typically a case containing drawers for storing clothing.

⁶ 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.

⁷ 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.

⁸ A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

⁹ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

¹⁰ 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.

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;¹¹ (9) jewelry armoires;¹² (10) cheval mirrors;¹³ (11) certain metal parts;¹⁴ (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;¹⁵ and (14) toy boxes.¹⁶ Imports of subject

¹¹ 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.

¹² 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: Notice of Final Results of Changed Circumstances Review and Revocation in Part, 71 FR 38621 (July 7, 2006).

¹³ 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 lined 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 Results of Changed Circumstances Review and Determination To Revoke Order in Part, 72 FR 948 (January 9, 2007).

¹⁴ 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.

¹⁵ 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).

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.” This order covers all wooden bedroom furniture 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 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, the determinations of the Secretary (including prior scope determinations) and the International Trade Commission (“ITC”). See 19 CFR 351.225(k)(1). This determination may take place with or without a formal inquiry. If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling as to whether or not the subject merchandise is covered by the order. See 19 CFR 351.225(d).

Where the descriptions of the merchandise 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.

For this inquiry, the Department evaluated Zinus’ 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, the determinations by the Secretary (including prior scope determinations) and the ITC are, in fact, dispositive with respect to Zinus’ Smartbox. Therefore, the Department finds it unnecessary to consider the additional factors in 19 CFR 351.225(k)(2).

Analysis

Zinus argues that the Smartbox it imports is not covered by the scope of the WBF order because the Smartbox is solely used with a mattress as a mattress support and the language of the scope

¹⁶ To be excluded the toy box must: 1) be wider than it is tall; (2) have dimensions within 16 - 27 inches in height, 15 - 18 inches in depth, and 21 - 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.

excludes seats, chairs, benches, couches, sofas, sofa beds, stools and other seating furniture; and mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames. See Zinus Request at 3. Furthermore, Zinus argues that the Smartbox alone does not provide any function for any usage without a mattress. See Zinus Request at 3.

The Department agrees with Zinus that the language of the scope of the Order is clear in its exclusion of "mattresses and mattress supports (including box springs)." Photographs submitted in Exhibit B of Zinus' Request show that the Smartbox is a collapsible mattress support. Further, schematics in Exhibit B of Zinus' Request show that the Smartbox, when fully assembled, is solely a mattress support. Additionally, because we find that the Smartbox is not bedroom furniture as described by the Scope, the fact that it is composed of wood is not relevant to this analysis.

Accordingly, as the scope language of the Order is clear in its exclusion of mattress supports, such as the Smartbox, and because the Smartbox does not otherwise meet the description of subject merchandise, we find pursuant to 351.225(k)(1) of the Department's regulations that Zinus' Smartbox does not meet the description of merchandise within the scope of the order and is therefore not covered by the Order on WBF from the PRC.

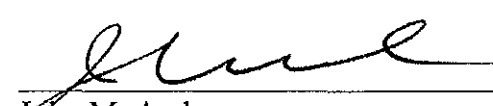
Recommendation

Based upon the foregoing analysis, we recommend finding that Zinus' imported Smartbox is outside the scope of the Order covering wooden bedroom furniture from the PRC.



Agree

Disagree



John M. Andersen
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

3/24/09

Date