



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

A-570-890

Scope Ruling

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December 13, 2006

MEMORANDUM TO: Stephen J. Claeys
Acting Deputy Assistant Secretary
for Import Administration

THROUGH: Wendy J. Frankel *wjf*
Director
AD/CVD Enforcement, Office 8

FROM: Eugene Degnan *ED*
Case Analyst
AD/CVD Enforcement, Office 8

RE: Antidumping Investigation: Wooden Bedroom Furniture from the
People's Republic of China

SUBJECT: Final Scope Ruling: American Signature Inc.

Summary

On June 2, 2006, the Department of Commerce ("the Department") received a request from American Signature Inc. ("ASI") for a scope ruling to determine whether certain furniture, specifically mirrored chest and mirror sets, and mirrored lingerie chests (collectively "mirrored chests") and leather or microfiber-upholstered beds ("upholstered beds"), are covered by the antidumping order on wooden bedroom furniture 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"); see also Notice of Final Determination of Sales at Less Than Fair Value in the Investigation of Wooden Bedroom Furniture from the People's Republic of China, 69 FR 67313 (November 17, 2004) ("Final Determination"). On July 12, 2006, the Department issued a letter to ASI, Petitioners¹ and interested parties stating that the Department required additional time beyond the regulatory 45-day limit due to the complexity of the scope ruling, and

¹ The petitioners in this case are the American Furniture Manufacturers Committee for Legal Trade and its individual members the Cabinet Makers, Millmen, and Industrial Carpenters Local 721, UBC Southern Council of Industrial Worker's Local Union 2305, United Steel Workers of American Local 193U, Carpenters Industrial Union Local 2093, and Teamsters, Chauffeurs, Warehousemen and Helper Local 991.



extending the time period for issuing our scope ruling or initiating a formal scope inquiry by 35 days, until August 21, 2006. On August 14, 2006, Petitioners submitted comments regarding ASI's scope ruling request. On August 16, 2006, we issued another letter further extending the time period for issuing our scope ruling or initiating a formal scope inquiry by 14 days, until September 4, 2006. On August 25, 2006, ASI submitted comments rebutting the Petitioners' comments. On September 5, 2006, we further extended by 29 days, until October 4, 2006. On October 4, 2006, we further extended to November 17, 2006, and on November 17, 2006, we further extended by 21 days to December 8, 2006. On October 26, 2006, Petitioners requested that the Department initiate a changed circumstances review and revoke the antidumping duty order on wooden bedroom furniture, in part, with respect to certain upholstered beds. See Petitioner's Letter dated October 26, 2006, Petitioners' Request for a Changed Circumstances Review and Revocation of the Order, in Part, as to Certain Upholstered Beds. Because the Department is considering a request for a changed circumstances review regarding the upholstered beds discussed in the scope ruling request, we do not address the issue of the upholstered beds in this memorandum.

In accordance with 19 CFR 351.225(k)(1), we recommend that the Department determine that the mirrored chests described in this memorandum are within the scope of the Order.

Background

The Department defined the scope of the investigation in its notice of initiation. The scope language was modified to exclude jewelry armoires, cheval mirrors,² and 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.³ Thus, the scope of the Order stated:

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

² See Issues and Decision Memorandum Concerning Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom furniture from the People's Republic of China, to Laurie Parkhill, Office Director, from Robert Bolling, Program Manager, dated August 31, 2004.

³ See Issues and Decision Memorandum Concerning Mirrors in the Antidumping Duty Investigation of Wooden Bedroom furniture from the People's Republic of China, to Laurie Parkhill, Office Director, from Robert Bolling, Program Manager, dated September 29, 2004.

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, bureaux, 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-chests⁴, highboys⁵, lowboys⁶, chests of drawers⁷, chests⁸, door chests⁹, chiffoniers¹⁰, hutches¹¹ and armoires¹²; (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.

⁴ 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.

⁵ 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).

⁶ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

⁷ A chest of drawers is typically a case containing drawers for storing clothing.

⁸ 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.

⁹ 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.

¹⁰ A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

¹¹ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

¹² 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.

The scope of the Petition 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 predominate¹³; (9) jewelry armories¹⁴; (10) cheval mirrors¹⁵ (11) certain metal parts¹⁶ (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.

Imports of subject merchandise are classified under statistical category 9403.50.9040 of the HTSUS as "wooden...beds" and under statistical category 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 statistical category 9403.50.9040 of the HTSUS as "parts of wood" and framed glass mirrors may also be entered under statistical category 7009.92.5000 of the HTSUS as "glass mirrors...framed." This investigation covers all wooden bedroom furniture meeting the above description, regardless of tariff

¹³ 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.

¹⁴ 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 lined with felt or felt-like material, with necklace hangers, and a flip-top lid with inset mirror. See Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, Issues and Decision Memorandum 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.

¹⁵ Cheval mirrors, i.e., any framed, tiltable mirror with a height in excess of 50" that is mounted on a floor-standing, hinged base.

¹⁶ 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 in subheading 9403.90.7000, HTSUS.

classification. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

See Initiation of Antidumping Duty Investigation: Wooden Bedroom Furniture from the PRC, 68 FR 70228 (December 17, 2003); Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Wooden Bedroom Furniture from the People's Republic of China, 69 FR 35312 (June 24, 2004) ("Preliminary Determination"); Final Determination of Sales at Less Than Fair Value: Wooden Bedroom Furniture from the People's Republic of China, 69 FR 67313 (November 17, 2004) ("Final Determination"); 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); see also Memorandum to the File from Laurel LaCivita, Analyst, to Laurie Parkhill, Office Director, Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China: Summary on Comments to the Scope (June 17, 2004); Memorandum to Laurie Parkhill, Office Director, from Erol Yesin, Case Analyst, Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China: Summary on the Scope of the Investigation (November 8, 2004).

ASI's Scope Request¹⁷

ASI's Description of the Merchandise

ASI describes the "mirrored chest" as a dresser and mirror set. ASI states that the dresser is in the form of a case containing drawers with the visible surface covered in glass mirrors. ASI states that the mirror attaches to the dresser and its inner frame, i.e. the area closest to the mirror, is covered with rectangular-shaped pieces of glass. ASI states that the rest of the mirror's frame is exposed wood covered with a metallic paint or stain. ASI describes the "lingerie chest" as a tall chest of drawers with visible surfaces covered in mirrored glass.

Summary of ASI's Arguments

ASI argues that mirrored chests are not bedroom furniture because they are not generally used in the bedroom. ASI contends that these mirrored chests are accent pieces, used in other rooms, such as foyers and living rooms. ASI argues that, therefore, mirrored chests are explicitly excluded from the scope as "other non-bedroom furniture."

¹⁷ Because the Department finds that the descriptions of the product contained in the petition, the investigation, the Order, and the ITC determination are dispositive and that it is unnecessary to evaluate the merchandise under the additional factors set forth at 19 CFR 351.225(k)(2), we have not summarized the parties' comments that pertain solely to 19 CFR 351.225(k)(2).

ASI argues that mirrored chests are not within the scope of the Order because they are not substantially made of wood. ASI argues that to be considered substantially made of wood, the chests would have to be largely or mostly made of wood. ASI contends that mirrored chests are instead substantially made of mirrored glass. ASI states that the surface area covered by mirrors is more than three to four times that covered by wood. ASI argues that it is the mirrored glass and not the “unseen wooden frame” that imparts to the mirrored chests their essential character.

ASI argues that the scope language is dispositive in excluding these mirrored chests because it refers only to bedroom furniture with components or trim made of glass. ASI argues that because the mirrored chests are substantially made of glass, they cannot be considered wooden furniture with glass components or trim.

Petitioners’ Comments

Petitioners argue that mirrored chests are expressly covered by the language of the scope of the Order. Petitioners note that the merchandise at issue is, as characterized by ASI, “dressers,” “mirror and dresser sets” and “lingerie chests.” Petitioners note that these types of furniture are explicitly referenced in the scope of the Order.

Also, Petitioners note that the scope language specifically references furniture that is made substantially of wood products, with or without components of glass. Additionally, Petitioners aver that this language clearly contemplates the type of merchandise at issue. Petitioners argue further that these mirrored chests are substantially made of wood because they are wooden case pieces with wooden drawers and with only thin sheets of glass on their exteriors.

ASI Rebuttal Comments

ASI states that the language of the scope refers only to wooden bedroom furniture covered with components or trim of glass. ASI argues that this does not apply to its mirrored chests because the mirrors of its chest are the main material, not merely components or trim. ASI further argues that its mirrored chests are substantially made of mirror, not wood, and therefore are not referred to in the scope of the Order. ASI avers that the same logic that Petitioners apply in agreeing that upholstered beds are outside the scope of the Order, *i.e.*, because the beds are covered with fabric or leather, would dictate the conclusion that mirrored chests covered with mirrors are outside the scope of the Order. Finally, ASI claims that mirrored chests are not used in the bedroom and are therefore not bedroom furniture.

Legal Framework

The Department examines scope requests in accordance with the Department’s scope regulations. See 19 CFR 351.225 (2002). On matters concerning the scope of an antidumping duty order, 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”). 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. 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.

In the instant case, the Department has evaluated ASI’s request in accordance with 19 CFR 351.225(k)(1), and the Department finds that the descriptions of the product contained in the petition, the initial investigation, the Order, and the ITC determinations are, in fact, dispositive. Therefore, the Department finds it unnecessary to consider the additional factors set forth at 19 CFR 351.225(k)(2).

Analysis

Bedroom Furniture

The language of the scope of the Order specifically includes “lingerie chests” and “dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser.” See Order at 332. ASI’s mirrored chests are, by ASI’s own description, “lingerie chest{s}” and “mirror and dresser set{s}” in which the “mirror attaches to the dresser.” See Scope Request at 2. The language of the scope of the Order specifically identifies the mirrored chests as the type of merchandise covered by the scope of the Order. Thus, by ASI’s own description of its merchandise, its mirrored chests are covered by the scope of the Order.

Although ASI argues that these mirrored chests are “accent pieces” not generally found in the bedroom, the evidence to which ASI cites in support of this contention does not indicate that these pieces are not bedroom furniture. See ASI’s June 12, 2006 Scope Ruling Request at 4 and Attachment I.

Substantially Made of Wood

The scope language of the Order identifies wooden bedroom furniture as “merchandise ... made substantially of wood products ... with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic.” See Order at 332. ASI’s Exhibit 1 describes the lingerie chest as “{h}ardwood chest with silver/gold


burnished finish on frame {with} mirrored veneers.”¹⁸ See Scope Request at Exhibit 1. The breakdown of area with mirrored veneer versus area with exposed wood of the mirrored chests, submitted in Exhibit 4 of the Scope Request, shows that the top, front, and sides of the mirrored chests all have exposed wood, albeit in smaller percentages than the area covered by mirrors (an average of 8, 30, and 19 percent, respectively).

Further, ASI’s description of its mirrored chests indicates that they are chests constructed of hardwood, with surfaces of exposed hardwood and mirror veneers. Accordingly, the mirrored chests described by ASI meet the description of merchandise that is “made substantially of wood ... with ... non-wood components such as ... glass ...” See Order at 332. As such, we find that these mirrored chests are substantially made of wood, with components of glass, and therefore clearly meet the description of merchandise covered by the scope of the Order.

Recommendation

Based on the preceding analysis, we recommend that the Department determine that the mirrored chests described in this memo meet the description of merchandise within the scope of the Order and, therefore, are subject to the Order on wooden bedroom furniture from the PRC.

AGREE ✓ DISAGREE _____


Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

12/13/08
Date

¹⁸ There is no corresponding description provided in Exhibit 1 for the mirrored dresser.