



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

A-570-890

Scope Inquiry
IA / Office 8: LA
Public Document

May 28, 2008

RE: Wooden Bedroom Furniture from the PRC: Preliminary Scope Ruling Determination
(A-570-890) - Dutailier

To All Interested Parties:

On September 21, 2007, the Department of Commerce ("Department") received a request from Dutailier Group, Inc. ("Dutailier") for a scope clarification on whether certain convertible cribs imported by Dutailier are included within the scope of the antidumping duty order ("order") on wooden bedroom furniture ("WBF") from the People's Republic of China ("PRC") ("Scope Request").

On May 27, 2008, in accordance with 19 C.F.R. 351.225, the Department preliminarily determined that certain convertible cribs covered by Dutailier's Scope Request are not within the scope of the order on WBF from PRC.

Interested parties have until close-of-business ("c.o.b.") June 4, 2008 to submit comments to the Department on the preliminary decision in this scope inquiry and thereafter have until c.o.b. June 11, 2008 in which to provide rebuttal comments to the Department. The Department intends to issue its final decision in this scope inquiry by June 24, 2008.

Enclosed is the memorandum of the preliminary decision in the above-referenced scope inquiry. If you have any questions, please contact Robert A. Bolling at 202-482-3434 or Lori E. Apodaca at 202-482-4551.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert A. Bolling".

Wendy Frankel
Director
Office 8
Import Administration

Enclosure



FOR PUBLIC FILE



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May 27, 2008

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

THROUGH: Wendy J. Frankel
Director
AD/CVD Operations, Office 8

Robert A. Bolling
Program Manager
AD/CVD Operations, Office 8

FROM: Lori E. Apodaca
Analyst
China/NME Group, Office 8

RE: Wooden Bedroom Furniture from the People's Republic of China:
Preliminary Scope Ruling on Convertible Cribs

BACKGROUND

On September 21, 2007, Dutailier Group, Inc. ("Dutailier") filed a submission with the Department of Commerce ("Department") requesting a scope clarification on whether convertible infant cribs it imports are included within the scope of the antidumping duty order ("order") on wooden bedroom furniture ("WBF") from the People's Republic of China ("PRC") ("Scope Request").

In accordance with 19 C.F.R. 351.225(k)(1), we recommend that the Department preliminarily determine that convertible cribs covered by Dutailier's Scope Request are not within the scope of the order on WBF from the PRC.

SCOPE

The Department published the order covering WBF from the PRC on January 4, 2005.¹ Since that date, certain clarifications to the WBF Order have been made, so that the current scope of the order language is as follows:

¹ See 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).



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, 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-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, 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

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.

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 armories;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; and (13) upholstered beds.¹⁵

Imports of subject 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.

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).

DUTAILIER'S SCOPE REQUEST

On September 21, 2007, Dutailier filed its Scope Request, which states that the infant cribs are explicitly excluded from the scope of the order. Dutailier states that infant cribs are explicitly excluded from the scope of the order. Dutailier points out that its convertible crib is sold as an infant crib that can be converted to a toddler bed, also explicitly excluded from scope of the order, and can further convert to a "sofa" or full/double bed. As part of its Scope Request, Dutailier provided physical dimensions of its convertible cribs (i.e., dimensions, model numbers, written descriptions and pictures of the merchandise). See Scope Request at 2.

Dutailier argues that the Scope Request covers wooden infant cribs that can be converted to toddler beds designed to use standard crib mattresses. In their condition, as imported into the United States, Dutailier's convertible infant cribs can only be converted from an infant crib to a toddler bed. Each convertible crib consists of two long bedsides described by Dutailier as the "headboard" and "footboard", along with two bedsides, a mattress support, two crossbars, four scissor-assembly bars and associated hardware (screws, bolts, nuts, assembling inserts, and Allen key). No other configuration is possible unless conversion kits are purchased. One type of conversion kit enables the crib to convert to a "sofa" which is similar to a daybed. The kit consists of a front crossbar, a back crossbar and associated hardware. The other type of kit enables the crib to convert to a full/double bed. The kit consists of mattress support planks, side rails, and associated hardware. The longer sides of the crib, with the addition of a full/double mattress and the correct conversion kit, convert to either a full/double bed or sofa. Dutailier argues that in their condition as imported, its convertible cribs are merchandise that is expressly excluded by the scope of the order. Furthermore, in their condition as imported, these convertible cribs can only be converted to toddler beds—merchandise that is also excluded from the scope of the order. Dutailier also points to Parkdale International v. United States, 475 F.3d 1375, 1376 (Fed. Cir. 2007), which ruled that the Department must analyze the merchandise in its condition at the time of importation.

On February 25, 2008, the Department initiated a formal scope inquiry to determine whether Dutailier's convertible cribs are excluded from the scope of the WBF order. We initiated Dutailier's scope ruling based on 19 C.F.R. 351.225(e)

On March 11, 2008, Petitioners¹⁶ stated that they do not oppose Dutailier's request. However, Petitioners stated that they do not agree with Dutailier's assertion that the form of the product at importation determines whether it is included within the scope.

LEGAL FRAMEWORK

The Department examines scope requests in accordance with our regulations at 19 C.F.R. 351.225. Under 19 C.F.R. 351.225, 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. See 19 C.F.R. 351.225(k)(1). This determination may take place with or without a formal inquiry. If

¹⁶ Petitioners are the American Furniture Manufacturers Committee for Legal Trade.

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 merchandise is covered by the order. See 19 C.F.R. 351.225(d).

Where the descriptions of the merchandise are not dispositive, the Department will consider the following factors, as provided under 19 C.F.R. 351.225(k)(2): 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, although the Department initiated a formal scope inquiry under 19 C.F.R. 351.225(e), upon further examination, evaluation, and analysis of Dutailier's request and product information submitted, we find that the descriptions of the product contained in the petition, the initial investigation, and the order are, in fact, dispositive. Therefore, the Department finds it unnecessary to consider the additional factors set forth at 19 C.F.R. 351.225(k)(2), and we have analyzed Dutailier's Scope Request under 19 C.F.R. 351.225(k)(1).

ANALYSIS

The scope language explicitly excludes infant cribs from the WBF from the PRC order.¹⁷ The Department has examined the record in this case and determined that Dutailier's product titled "convertible infant crib" does, in fact, qualify as an infant crib. We based our determination on record evidence showing that Dutailier's convertible infant crib utilizes a standard crib mattress with the dimensions of 51 5/8 inches in length by 27 1/4 inches in width and conforms to ASTM F 1821-97. Therefore, we find that the merchandise, as Dutailier has described in its submission(s), constitutes an infant crib. Also, in our Dorel Asia SrL ("Dorel") scope ruling dated August 11, 2006, we stated that "toddler beds designed to use a standard crib mattress having dimensions of 51 5/8 inches in length by 27 1/4 inches in width and conforming to ASTM F 1821-97 do not meet the description of merchandise within the scope of the order." In addition, on May 1, 2008, the Department determined that certain convertible cribs that AP Industries imports are not within the scope of the order on WBF from the PRC.¹⁸ We find that determining Dutailier's infant crib is not within the scope of the order based on mattress size is consistent with those decisions. Because Dutailier's convertible crib meets the requirements of an infant crib, and infant cribs are explicitly excluded from the scope of the order, we preliminarily find that Dutailier's convertible cribs at issue are outside the scope of the order covering WBF from the PRC.

¹⁷ See 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).

¹⁸ See Wooden Bedroom Furniture From the People's Republic of China: Final Scope Ruling Determination (A-570-890)—AP Industries, dated May 1, 2008.

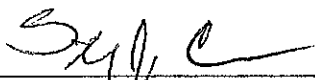
RECOMMENDATION

We recommend preliminarily finding that the convertible cribs imported by Dutailier are not within the scope of the order because the product at issue is an infant crib and, thus, satisfies the specific exclusionary requirement for infant cribs. This is consistent with our recent final ruling on convertible infant cribs imported by AP Industries.

✓

Agree

Disagree



Stephen J. Clacys
Deputy Assistant Secretary
for Import Administration

5/27/08

Date