



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

A-570-890
Scope Inquiry
IA / Office 8: TT
Public Document

March 4, 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

Robert A. Bolling
Program Manager, Office 8
Antidumping and Countervailing Duty Operations

FROM: Trisha Tran
Analyst
China/NME Group, Office 8

RE: Wooden Bedroom Furniture from the People's Republic of China:
Final Scope Ruling on Armel's Children's Playroom and Accent
Furniture

BACKGROUND

On September 24, 2007, Armel Enterprises Inc. ("Armel") requested a ruling by the Department of Commerce ("Department") that four types of furniture that deem to be children's playroom and accent furniture imported by Armel are outside the scope of the order on wooden bedroom furniture ("WBF") from the People's Republic of China ("PRC").¹

- Model No. 31912 consists of 7 drawers with flower prints on the drawers and stripes on the sides. It measures 31.5 inches high and 9.5 inches wide. The top base of the item measures 10.5 inches wide by 12.5 inches long.²

¹ See Armel's September 6, 2007, submission at 3; see also 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 "Order").

² See Armel's September 6, 2007, submission at 3.



- Model No. 36913 consists of 4 drawers with flower prints on the drawers. It measures 36 inches high and 9.5 inches wide. The top base of the item measures 10.5 inches wide by 13 inches long.³
- Model No. 34791 consists of 7 drawers. It measures 34.5 inches high, 9 inches long, and 7.25 inches wide.⁴
- Model No. 24111 consists of a drawer and a door. It measures 24 inches high, 14 inches wide and 17.5 inches long. The height of the door measures 11.75 inches and the height of the drawer measures 4.75 inches.⁵

Armél argues that these items are outside the scope of the Order because they do not fall under the criteria set forth under 19 CFR 351.225(k). Specifically, Armél states: (1) the furniture is sold as open stock in individual pieces as opposed to within coordinated or matching sets; (2) the expectations of the ultimate purchaser are to display a decorative piece of furniture to brighten up a child's playroom or bathroom, rather than a bedroom; and (3) the products in question are made using similar production processes and materials as jewelry boxes which are excluded from the scope of the Order.⁶

On January 3, 2008, American Furniture Manufacturers Committee for Legal Trade ("Petitioners") filed a response objecting to Armél's scope request. Petitioner contends that Armél inappropriately proceeded to apply the factors addressed in 19 CFR 351.225(k)(2) without first determining whether the language of the scope is dispositive, in accordance with 19 CFR 351.225(k)(1).⁷ Under 19 CFR 351.225(k)(1), Petitioners argue that the four pieces of furniture imported by Armél are expressly covered by the scope of the Order because they are types of wooden chests. As such, the plain language of the scope of the Order makes clear that an analysis under 19 CFR 351.225(k)(2) is unnecessary.⁸

Based upon the arguments raised, and in accordance with 19 CFR 351.225(k)(1), we recommend that the Department determine that the children's playroom and accent furniture imported by Armél, as identified above, are within the scope of the Order because they meet the description of chests set forth in the Order. Because we find that the description of the merchandise in the Order is dispositive, an analysis under 19 CFR 351.225(k)(2) is unnecessary.

SCOPE

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

³ See Armél's September 6, 2007, submission at 3.

⁴ See Armél's September 6, 2007, submission at 3.

⁵ See Armél's September 6, 2007, submission at 3.

⁶ See Armél's September 6, 2007, submission at 3.

⁷ See Petitioner's January 3, 2008, submission at 2.

⁸ See Petitioner's January 3, 2008, submission at 2.

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,⁹ highboys,¹⁰ lowboys,¹¹ chests of drawers,¹² chests,¹³ door chests,¹⁴ chiffoniers,¹⁵ hutches,¹⁶ and armoires;¹⁷ (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

⁹ 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.

¹⁰ 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).

¹¹ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

¹² A chest of drawers is typically a case containing drawers for storing clothing.

¹³ 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.

¹⁴ 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.

¹⁵ A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

¹⁶ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

¹⁷ 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;¹⁸ (9) jewelry armoires;¹⁹ (10) cheval mirrors;²⁰ (11) certain metal parts;²¹ (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;²² and (14) toy boxes.²³

¹⁸ 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.

¹⁹ 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).

²⁰ 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).

²¹ 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.

²² 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).

²³ To be excluded the toy box must: 1) be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 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.

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 or 7009.92.1000 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 our regulations at 19 CFR 351.225. Under 19 CFR 351.225(k)(1), 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. If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling as to whether the merchandise is covered by the order.²⁴

Where the descriptions of the merchandise are not dispositive, the Department will consider the following factors, as provided under section 351.225(k)(2) of the Department’s regulations: 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, we find that the descriptions of the product contained in the Order and prior scope rulings are, in fact, dispositive. Therefore, the Department finds it unnecessary to consider the additional factors set forth at section 351.225(k)(2) of the Department’s regulations, and we have analyzed Armel’s Scope Request under section 351.225(k)(1).

ANALYSIS

Model No. 31912, Model No. 36913, and Model No. 3479 of Armel’s Scope Request

According to 19 CFR 351.225(k)(1), to determine whether merchandise falls within the scope of the Order, the Department’s practice is to first examine the description of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations). Under the Order, a chest is described as “typically a case

²⁴ See 19 CFR 351.225(d).

piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing.” Model No. 31912, Model No. 36913, and Model No. 3479 fit under the scope of the Order under 19 CFR 351.225(k)(1) because they are taller than they are wide and feature a series of four drawers. Specifically, Model 31912 measures 31.5 inches in height and 9.5 inches in width, and features four drawers. Model 36913 measures 36 inches high and 9.5 inches wide, and consists of four drawers. Model 34791 measures 34.5 inches high and 7.25 inches wide, and features seven drawers.

Model No. 24111 of Armel’s Scope Request

We applied the same analysis to determine whether Model No. 24111 is included within the scope of the Order. The Order states that “a door chest is *typically* a chest with hinged doors to store clothing, whether or not containing drawers.” Model 24111 fits under the scope of the Order under 19 CFR 351.22(k)(1) because it meets the general description of a chest. Specifically, Model 24111 has a hinged door and a drawer. Although the Order uses the word “typically,” we find that a door chest does not require more than one door to fall within the scope.

RECOMMENDATION

We recommend the Department determine that Model No. 31912, Model No. 36913, and Model No. 34791, are within the scope of the Order under 19 CFR 351.225(k)(1) because they each meet the description of chests under the scope of the Order, as discussed above. In addition, we recommend that the Department determine that Model No. 24111 is within the scope of the Order under 19 CFR 351.225(k)(1) because it meets the description of a door chest. Accordingly, we find it unnecessary to consider additional factors set forth at 19 CFR 351.225(k)(2).



Agree

Disagree



John M. Andersen

Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations



Date