



A-570-890
Administrative Review
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DATE: May 21, 2019

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Deputy Assistant Director
for Antidumping and Countervailing Duty Operations

SUBJECT: Issue and Decision Memorandum for the Final Results of the 2017
Administrative Review of Wooden Bedroom Furniture from the
People's Republic of China

I. SUMMARY

The Department of Commerce (Commerce) analyzed the one comment submitted regarding the *Preliminary Results*¹ in this 2017 administrative review of the antidumping duty order on wooden bedroom furniture from the People's Republic of China (China). Following our analysis of the comment received, we have made no changes to the *Preliminary Results*. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum.

Comment: Commerce Should Assign the Mandatory Respondent Decca a Rate Based on Total Adverse Facts Available

II. BACKGROUND

Commerce published the *Preliminary Results* in the *Federal Register* on December 12, 2018. On January 10, 2019, the American Furniture Manufacturers Committee for Legal Trade and

¹ See *Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2017*, 83 FR 63829 (December 12, 2018) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum, "Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review: Wooden Bedroom Furniture from the People's Republic of China," dated December 3, 2018 (PDM).

Vaughan-Bassett Furniture Company, Inc. (collectively, the petitioners) filed a case brief.² No rebuttal briefs were filed. Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.³ The revised deadline for the final results of this review is now May 21, 2019.

III. 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, 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,⁴ highboys,⁵ lowboys,⁶ chests of drawers,⁷ chests,⁸ door chests,⁹ chiffoniers,¹⁰ hutches,¹¹ and armoires;¹² (6) desks, computer stands, filing cabinets,

² See Petitioners' Letter, "Wooden Bedroom Furniture from the People's Republic of China: Petitioners' Case Brief," dated January 10, 2019 (Petitioners' Case Brief).

³ See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

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

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;¹³ (9) jewelry armories;¹⁴ (10) cheval mirrors;¹⁵ (11) certain metal parts;¹⁶ (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

apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

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* CBP's 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 inches in width, 18 inches in depth, and 49 inches in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door or one front 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* Memorandum, "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: Final Changed Circumstances Review, and Determination To Revoke Order in Part*, 71 FR 38621 (July 7, 2006).

¹⁵ Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches 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 line 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 Changed Circumstances Review and Determination To Revoke Order in Part*, 72 FR 948 (January 9, 2007).

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.

dresser-mirror set; (13) upholstered beds;¹⁷ (14) toy boxes;¹⁸ (15) certain enclosable wall bed units;¹⁹ (16) certain shoe cabinets;²⁰ and (17) certain bed bases.²¹

Imports of subject merchandise are classified under subheadings 9403.50.9042 and 9403.50.9045 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 be entered under subheadings 9403.90.7005 or 9403.90.7080 of the HTSUS. Subject merchandise may also be entered under subheadings 9403.50.9041, 9403.60.8081, 9403.20.0018, or 9403.90.8041. Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as “glass mirrors . . . framed.” The 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.

¹⁷ 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).

¹⁸ 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. *See Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling memorandum “Wooden Bedroom Furniture from the People’s Republic of China: Scope Ruling on a White Toy Box,” dated July 6, 2009, the dimensional ranges used to identify the toy boxes that are excluded from the wooden bedroom furniture order apply to the box itself rather than the lid.

¹⁹ Excluded from the scope are certain enclosable wall bed units, also referred to as murphy beds, which are composed of the following three major sections: (1) a metal wall frame, which attaches to the wall and uses coils or pistons to support the metal mattress frame; (2) a metal frame, which has euro slats for supporting a mattress and two legs that pivot; and (3) wood panels, which attach to the metal wall frame and/or the metal mattress frame to form a cabinet to enclose the wall bed when not in use. Excluded enclosable wall bed units are imported in ready-to-assemble format with all parts necessary for assembly. Enclosable wall bed units do not include a mattress. Wood panels of enclosable wall bed units, when imported separately, remain subject to the order.

²⁰ Excluded from the scope are certain shoe cabinets 31.5-33.5 inches wide by 15.5-17.5 inches deep by 34.5-36.5 inches high. They are designed strictly to store shoes, which are intended to be aligned in rows perpendicular to the wall along which the cabinet is positioned. Shoe cabinets do not have drawers, rods, or other indicia for the storage of clothing other than shoes. The cabinets are not designed, manufactured, or offered for sale in coordinated groups or sets and are made substantially of wood, have two to four shelves inside them, and are covered by doors. The doors often have blinds that are designed to allow air circulation and release of bad odors. The doors themselves may be made of wood or glass. The depth of the shelves does not exceed 14 inches. Each shoe cabinet has doors, adjustable shelving, and ventilation holes.

²¹ Excluded from the scope are certain bed bases consisting of: 1) a wooden box frame, 2) three wooden cross beams and one perpendicular center wooden support beam, and 3) wooden slats over the beams. These bed bases are constructed without inner springs and/or coils and do not include a headboard, footboard, side rails, or mattress. The bed bases are imported unassembled.

IV. DISCUSSION OF THE ISSUES

Comment: Commerce Should Assign the Mandatory Respondent Decca a Rate Based on Total Adverse Facts Available

The Petitioners' Comments

- In the *Preliminary Results*, Commerce determined that Decca Furniture Ltd. (Decca), the sole mandatory respondent in the review, did not establish its entitlement to a separate rate, and thus the company is part of the China-wide entity (which is subject to a rate of 216.01 percent).
- For the final results, pursuant to 19 U.S.C. 1677e(b), Commerce should instead assign Decca an *individual* rate of 216.01 percent, based on total adverse facts available (AFA), because Decca stopped cooperating in this review after submitting its separate rate application. After Decca was selected as a mandatory respondent, Decca did not respond to Commerce's antidumping questionnaire. Thus, the use of total AFA is appropriate.

Commerce's Position:

In these final results of review, we continue to determine that Decca is ineligible for a separate rate and, thus, is part of the China-wide entity. In the *Initiation Notice*, we informed parties that all firms for which the review was initiated that wished to qualify for separate rate status must complete, as appropriate, either a separate rate application or certification.²² We also informed parties that exporters and producers who submit a separate rate status application or certification and subsequently are selected as mandatory respondents would no longer be eligible for separate rate status unless they responded to all parts of the questionnaire as mandatory respondents.²³

Although Decca filed a separate rate application and was selected as a mandatory respondent, it did not respond to the antidumping duty questionnaire.²⁴ Thus, the record is incomplete with respect to Decca. Without a complete record, Commerce was not able to conduct a full analysis of Decca's sales and production activities, including information necessary for deciding whether to grant Decca a separate rate. Because Decca did not respond to Commerce's request for information, it did not demonstrate that it is eligible for a separate rate, as provided in the *Initiation Notice*.

Because Commerce determined not to grant Decca a separate rate, it would be inappropriate for Commerce to assign Decca an individual rate based on AFA, as the petitioners suggest. As the CIT explained in *Advanced Technology*:

Commerce did not apply adverse facts available to {respondent} AT&M,
Commerce rather found that AT&M had not rebutted the presumption of state

²² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 11685, 11686-11687 (March 16, 2018) (*Initiation Notice*).

²³ *Id.* at 83 FR 11687.

²⁴ *Preliminary Results* PDM at 6.

control and assigned it the PRC-wide rate. These are two distinct legal concepts: a separate AFA rate applies to a respondent who has received a separate rate but has otherwise failed to cooperate fully whereas the PRC-wide rate applies to a respondent who has not received a separate rate.²⁵

Here, Commerce is not applying AFA to Decca individually, but rather has found that Decca has failed to rebut the presumption of government control.²⁶ Decca's failure to respond to the antidumping questionnaire prevented Commerce from conducting a comprehensive analysis of its activities during the period of review (POR). Thus, because Commerce was unable to analyze Decca's activities during the POR, we consider the separate rate information provided by Decca to be unreliable. Therefore, we continue to find that Decca has not demonstrated its eligibility for separate rate status, and as a result, we have not assigned Decca an *individual* AFA rate as advocated by the petitioners. Rather, Commerce is treating Decca as part of the China-wide entity.²⁷

²⁵ See *Advanced Technology & Materials Co., Ltd. v. United States*, 938 F. Supp. 2d 1342, 1351 (CIT 2013) (internal citations and quotations omitted); see also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, and Rescission of New Shipper Review; 2015-2016*, 83 FR 1238 (January 10, 2018), and accompanying Issues and Decision Memorandum (IDM), at 10.

²⁶ *Preliminary Results PDM* at 6.

²⁷ See *Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the Second Antidumping Duty Administrative Review*, 76 FR 66903, 66906 (October 28, 2011) (where Commerce assigned certain unresponsive mandatory respondents to the PRC-wide entity because they failed to demonstrate their separate rate eligibility) unchanged in *Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Second Antidumping Duty Administrative Review*, 77 FR 12553 (March 1, 2012).

V. Recommendation

Based on our analysis of the comment received, we recommend adopting the above position. If this recommendation is accepted, we will publish the final results of this review in the *Federal Register*.

Agree

Disagree

5/21/2019

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance