



A-570-092
New Shipper Review
POR: 6/4/2019 - 5/31/2020
Public Document
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February 18, 2021

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

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Intent to Rescind the
2020 Antidumping Duty New Shipper Review of Mattresses from
the People's Republic of China

I. SUMMARY

The Department of Commerce (Commerce) preliminary determines that Shanghai Sunbeauty Trading Co., Ltd. (Sunbeauty) did not make a *bona fide* sale during the period of review (POR) of June 4, 2019, through May 31, 2020. As such, Commerce preliminarily determines to rescind this new shipper review (NSR).

Interested parties are invited to comment on the preliminary intent to rescind this NSR. We intend to issue the final results of the review no later than 90 days from the date the preliminary results are issued, pursuant to section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

In response to a request from Sunbeauty, Commerce initiated an NSR of the antidumping duty order on mattresses from the People's Republic of China (China) covering the period June 4, 2019, through May 31, 2020.¹ Commerce issued an antidumping duty questionnaire to Sunbeauty, to which the company responded in a timely manner. Commerce also issued two supplemental questionnaires to which Sunbeauty timely responded. Commerce received

¹ See *Mattresses from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review*, 85 FR 46069 (July 31, 2020).



comments on Sunbeauty’s questionnaire and supplemental questionnaire responses from the petitioners,² including comments regarding the *bona fides* of the sale during the POR.

The deadline for the preliminary results of this review is February 24, 2021.

III. SCOPE OF THE ORDER

The products covered by this order are all types of youth and adult mattresses. The term “mattress” denotes an assembly of materials that at a minimum includes a “core,” which provides the main support system of the mattress, and may consist of innersprings, foam, other resilient filling, or a combination of these materials. Mattresses may also contain (1) “upholstery,” the material between the core and the top panel of the ticking on a single-sided mattress, or between the core and the top and bottom panel of the ticking on a double-sided mattress; and/or (2) “ticking,” the outermost layer of fabric or other material (*e.g.*, vinyl) that encloses the core and any upholstery, also known as a cover.

The scope of this order is restricted to only “adult mattresses” and “youth mattresses.” “Adult mattresses” have a width exceeding 35 inches, a length exceeding 72 inches, and a depth exceeding 3 inches on a nominal basis. Such mattresses are frequently described as “twin,” “extra-long twin,” “full,” “queen,” “king,” or “California king” mattresses. “Youth mattresses” have a width exceeding 27 inches, a length exceeding 51 inches, and a depth exceeding 1 inch (crib mattresses have a depth of 6 inches or less from edge to edge) on a nominal basis. Such mattresses are typically described as “crib,” “toddler,” or “youth” mattresses. All adult and youth mattresses are included regardless of actual size description.

The scope encompasses all types of “innerspring mattresses,” “non-innerspring mattresses,” and “hybrid mattresses.” “Innerspring mattresses” contain innersprings, a series of metal springs joined together in sizes that correspond to the dimensions of mattresses. Mattresses that contain innersprings are referred to as “innerspring mattresses” or “hybrid mattresses.” “Hybrid mattresses” contain two or more support systems as the core, such as layers of both memory foam and innerspring units.

“Non-innerspring mattresses” are those that do not contain any innerspring units. They are generally produced from foams (*e.g.*, polyurethane, memory (viscoelastic), latex foam, gel-infused viscoelastic (gel foam), thermobonded polyester, polyethylene) or other resilient filling.

Mattresses covered by the scope of this order may be imported independently, as part of furniture or furniture mechanisms (*e.g.*, convertible sofa bed mattresses, sofa bed mattresses imported with sofa bed mechanisms, corner group mattresses, day-bed mattresses, roll-away bed mattresses, high risers, trundle bed mattresses, crib mattresses), or as part of a set in combination with a “mattress foundation.” “Mattress foundations” are any base or support for a mattress. Mattress foundations are commonly referred to as “foundations,” “boxsprings,” “platforms,” and/or “bases.” Bases can be static, foldable, or adjustable. Only the mattress is covered by the scope if

² The petitioners are Corsicana Mattress Company; Elite Comfort Solutions; Future Foam Inc.; FXI, Inc.; Innocor, Inc.; Kolcraft Enterprises Inc.; Leggett & Platt, Incorporated; Serta Simmons Bedding, LLC; and Tempur Sealy International, Inc.

imported as part of furniture, with furniture mechanisms, or as part of a set in combination with a mattress foundation.

Excluded from the scope of this order are “futon” mattresses. A “futon” is a bi-fold frame made of wood, metal, or plastic material, or any combination thereof, that functions as both seating furniture (such as a couch, love seat, or sofa) and a bed. A “futon mattress” is a tufted mattress, where the top covering is secured to the bottom with thread that goes completely through the mattress from the top through to the bottom, and it does not contain innersprings or foam. A futon mattress is both the bed and seating surface for the futon.

Also excluded from the scope are airbeds (including inflatable mattresses) and waterbeds, which consist of air- or liquid-filled bladders as the core or main support system of the mattress.

Also excluded is certain multifunctional furniture that is convertible from seating to sleeping, regardless of filler material or components, where that filler material or components are integrated into the design and construction of, and inseparable from, the furniture framing. Such furniture may, and without limitation, be commonly referred to as “convertible sofas,” “sofa beds,” “sofa chaise sleepers,” “futons,” “ottoman sleepers” or a like description.

Further, also excluded from the scope of this order are any products covered by the existing antidumping duty order on uncovered innerspring units. *See Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 7661 (February 19, 2009).

Additionally, also excluded from the scope of this order are “mattress toppers.” A “mattress topper” is a removable bedding accessory that supplements a mattress by providing an additional layer that is placed on top of a mattress. Excluded mattress toppers have a height of four inches or less.

The products subject to this order are currently properly classifiable under Harmonized Tariff Schedule for the United States (HTSUS) subheadings: 9404.21.0010, 9404.21.0013, 9404.29.1005, 9404.29.1013, 9404.29.9085, and 9404.29.9087. Products subject to this order may also enter under HTSUS subheadings: 9404.21.0095, 9404.29.1095, 9404.29.9095, 9401.40.0000, and 9401.90.5081. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this investigation is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

Pursuant to section 751(a)(2)(B)(iv) of the Act and its practice,³ Commerce examines the *bona fides* of sales in NSRs to ensure that a respondent does not unfairly benefit from an atypical sale and obtain a lower dumping margin than the respondent’s usual commercial practice would

³ See, e.g., *Honey from the People's Republic of China: Rescission and Final Results of Antidumping Duty New Shipper Reviews*, 71 FR 58579 (October 4, 2006), and accompanying Issues and Decision Memorandum at Comments 1, 1a, and 1b.

dictate.⁴ When examining the *bona fides* of sales in NSRs, Commerce considers the factors laid out in section 751(a)(2)(B)(iv) of the Act, namely: (I) the price of the sale; (II) whether the sale was made in commercial quantities; (III) the timing of the sale; (IV) the expenses arising from the transaction; (V) whether the goods were resold at a profit; (VI) whether the transaction was made on an arm's-length basis; and (VII) any other factor that Commerce considers to be relevant to whether the sale at issue is "likely to be typical of those the exporter or producer will make after the completion of the review."⁵ Where Commerce finds that a sale is not *bona fide*, Commerce will exclude the sale from its dumping margin calculations,⁶ and if it is the only sale under review, Commerce will rescind the review.⁷

Based on the totality of the circumstances, we preliminarily determine that Sunbeauty did not make a *bona fide* sale, for antidumping duty purposes, during the POR. In particular, we preliminarily determine that a number of factors, including, but not limited to, the price and quantity, indicate that Sunbeauty made a U.S. sale of subject merchandise that is atypical of the sales likely to be made in the future by Sunbeauty. Because our analysis involves the discussion of business proprietary information, we have included a full discussion of our preliminary analysis in a separate *bona fide* sale memorandum.⁸

Because we preliminarily find that Sunbeauty did not make a *bona fide* sale during the POR, we cannot rely on the sales information submitted by Sunbeauty to calculate a dumping margin in this NSR. Given the determination that there was no *bona fide* sale during the POR, there is no sale upon which we can base this review and, therefore, Commerce is preliminarily rescinding this review.

⁴ See *Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1344 (CIT 2005).

⁵ See section 751(a)(2)(B)(iv) of the Act; see also *Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1249-50 (CIT 2005) (*Tianjin Tiancheng*).

⁶ See *Tianjin Tiancheng*, 366 F. Supp. 2d at 1249.

⁷ See, e.g., *Honey from the People's Republic of China: Preliminary Rescission of the Administrative Review*, 77 FR 7901 (January 3, 2012), unchanged in *Honey From the People's Republic of China: Final Rescission of the Administrative Review*, 77 FR 34343 (June 11, 2012)).

⁸ See Memorandum, "2020 Antidumping Duty New Shipper Review of Mattresses from the People's Republic of China: Preliminary *Bona Fide* Sales Analysis for Shanghai Sunbeauty Trading Co., Ltd.," dated concurrently with this notice.

V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results of review.

Agree

Disagree

2/18/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance