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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-890

Wooden Bedroom Furniture from the People's Republic of China: Final Rescission of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On January 10, 2012, the Department of Commerce (the "Department") published the preliminary rescission of the new shipper review ("NSR") of wooden bedroom furniture ("WBF") from the People's Republic of China ("PRC") covering the period of review ("POR") January 1, 2011, through June 30, 2011.[1] After analyzing the comments submitted by parties with respect to Marvin Furniture (Shanghai) Co., Ltd. ("Marvin Furniture"), the Department continues to find that Marvin Furniture failed to satisfy the requirements for an NSR. Therefore, the Department is rescinding Marvin Furniture's NSR.

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Patrick O'Connor, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC, 20230; telephone: (202) 482-0989.

[1] See Wooden Bedroom Furniture From the People's Republic of China: Preliminary Rescission of Antidumping Duty New Shipper Review, 77 FR 1456 (January 10, 2012) ("Preliminary Rescission").

SUPPLEMENTARY INFORMATION:

Background

On January 10, 2012, the Department published the Preliminary Rescission of this NSR.[2] On February 9, 2012, we received case briefs and a request for a hearing from Marvin Furniture. On February 16, 2012, the Department rejected Marvin Furniture's case brief because it contained untimely factual information. The Department informed Marvin Furniture that it could re-file its case brief by February 17, 2012, after removing the untimely factual information in the brief. On February 17, 2012, Marvin Furniture re-filed its case brief after removing the information at issue but protested the finding that its case brief contained untimely factual information. On February 17, 2012, we received rebuttal briefs from the American Furniture Manufacturers Committee for Legal Trade and Vaughan-Basset Furniture Company, Inc. (collectively, "Petitioners"). On March 7, 2012, the Department held a closed hearing.

Analysis of the Comments Received

All issues raised in the case and rebuttal briefs submitted by parties in this review are addressed in the memorandum from Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the Final Rescission of the New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China for Marvin Furniture (Shanghai) Co., Ltd." ("I&D Memorandum"), which is dated concurrently with this notice and which is hereby adopted by this notice. The issue which parties raised, and to which we respond, in the I&D Memorandum is whether to rescind the NSR for Marvin Furniture. The I&D Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Services System ("IA ACCESS").

[2] See Preliminary Rescission.

Access to IA ACCESS is available in the Central Records Unit of the main Commerce Building, Room 7046. In addition, a complete version of the I&D Memorandum is accessible on the Department's web site at http://www.trade.gov/ia/. The paper copy and electronic versions of the I&D Memorandum are identical in content.

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,[3] highboys,[4] lowboys,[5]

[3] 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.

[4] A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and

chests of drawers,[6] chests,[7] door chests,[8] chiffoniers,[9] hutches,[10] and armoires;[11] (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 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;[12] (9) jewelry armories;[13] (10) cheval mirrors;[14]

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supported on four legs or a small chest (often 15 inches or more in height).

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

[6] A chest of drawers is typically a case containing drawers for storing clothing.

[7] 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.

[8] 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.

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

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

[11] 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.

[12] 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 U.S. Customs and Border Protection's ("CBP's) Headquarters Ruling Letter 043859, dated May 17, 1976.

[13] 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 (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

(11) certain metal parts;[15] (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[16] and (14) toy boxes.[17]

Imports of subject merchandise are classified under subheadings 9403.50.9042 and 9403.50.9045 of the U.S. Harmonized Tariff Schedule ("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 9403.50.9042 or 9403.50.9045 of the HTSUS as "parts of wood." Subject merchandise may also

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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).

[14] 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).

[15] 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 HTSUS subheadings 9403.90.7005, 9403.90.7010, or 9403.90.7080.

[16] 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).

[17] 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.

be entered under subheadings 9403.50.9041, 9403.60.8081, 9403.20.0018, or 9403.90.8041.[18] 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.

Final Rescission of the Antidumping New Shipper Review of Marvin Furniture

In the Preliminary Rescission, the Department determined to rescind the NSR of Marvin Furniture because Marvin Furniture's subject merchandise was entered into the United States for consumption prior to the POR and it did not report this fact to the Department in its request for an NSR. The Department continues to find that Marvin Furniture's request for an NSR does not meet the requirements for an NSR under 19 CFR 351.214(b)(2)(iv)(A) and (B). Specifically, Marvin Furniture's request for an NSR did not contain documentation establishing the date on which its subject merchandise was first entered into the United States for consumption and the volume of that first entry. For further discussion of this issue, see the I&D Memorandum.

Assessment Rates

Because the Department is rescinding Marvin Furniture's NSR, the assessment rate to which Marvin Furniture's shipments will be subject will not be affected by this review. The assessment rate, however, could change because the Department is currently conducting an administrative review of the antidumping duty order on WBF from the PRC covering the period

[18] On October 27, 2011, CBP provided notification that HTSUS number 9403.90.8041 should be added to the scope of the order, as certain articles under this number may fall within the scope. See Memorandum from Patrick O'Connor to the File, "Request for Customs and Border Protection to Update AD/CVD Module for Wooden Bedroom Furniture from the People's Republic of China," dated January 4, 2012.

of January 1, 2011, through December 31, 2011.[19] Effective upon publication of this notice, the Department will instruct CBP to continue to suspend entries during the period January 1, 2011, through December 31, 2011, of subject merchandise exported by Marvin Furniture until CBP receives instructions relating to the administrative review of the WBF order covering the period January 1, 2011, through December 31, 2011.

Cash Deposit Requirements

Effective upon publication of this notice of final rescission of the NSR of Marvin Furniture, the Department will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise exported by Marvin Furniture. Cash deposits will continue to be required for exports of subject merchandise by Marvin Furniture entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice at the PRC-wide rate, 216.01 percent.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Return or Destruction of Proprietary Information

This notice serves as a reminder to parties subject to the administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3) which continues to govern

[19] See Wooden Bedroom Furniture from the People's Republic of China: Initiation of Administrative Review, 77 FR 12235 (February 29, 2012).

business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(2)(B) and 777(i) of the Tariff Act of 1930, as amended and 19 CFR 351.214(f).

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Paul Piquado
Assistant Secretary
for Import Administration

____April 3, 2012_____
Date

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