

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-890]

Initiation of Antidumping Duty Investigation: Wooden Bedroom Furniture from the People's Republic of China

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

EFFECTIVE DATE: December 17, 2003.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva or Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3208 and (202) 482-3434, respectively.

SUPPLEMENTARY INFORMATION:**INITIATION OF INVESTIGATION****The Petition**

On October 31, 2003, the Department of Commerce ("Department") received a Petition on imports of wooden bedroom furniture from the People's Republic of China ("China") ("Petition") filed in proper form by the American Furniture Manufacturers Committee for Legal Trade ("Committee") and its individual members and the Cabinet Makers, Millmen, and Industrial Carpenters Local 721 (collectively, "the Petitioners") on behalf of the domestic industry and workers producing wooden bedroom furniture. On November 6, 2003 and November 10, 2003, the Department requested clarification of certain areas of the Petition and received responses to both requests on November 12, 2003. On November 12, 2003, Markor International Furniture (Tianjin) Manufacturing Co., ("Markor") and Lacquer Craft Manufacturing Company, Ltd., ("Lacquer") submitted comments regarding the industry support for the Petition. On November 13, 2003, the Department received comments from Furniture Brands International, Inc. ("FBI"). On November 20, 2003, the Petitioners amended the Petition to include an additional margin estimate for a product within the scope of the investigation. On November 24, 2003, the Department published a notice in the **Federal Register** extending the twenty-day initiation determination deadline and requesting information from domestic producers of wooden bedroom furniture. See *Notice of Request for Information and Extension of Time: Wooden Bedroom Furniture from the People's Republic of China* ("Extension

Notice") 68 FR 65875 (November 24, 2003). On November 24, 2003, the Department requested from the Petitioners that certain business proprietary information be made public. On November 28, 2003, the Department received the public version of the business proprietary information requested on November 24, 2003. On December 2, 2003, the Department received additional comments regarding industry support from Markor and Lacquer. Additionally, on December 2, 2003, the Department received comments from the Petitioners regarding opposition to the Petition. On December 3, 2003, the Department received rebuttal comments to Markor's and Lacquer's December 2, 2003 comments from the Petitioners. On December 3, 2003, the Department received comments from the Petitioners regarding the calculation of industry support. On December 4, 2003, the Petitioners amended the Petition adding four certified labor unions as Petitioners. Additionally, on December 4, 2003, FBI submitted comments regarding the calculation of industry support. On December 5, 2003, the Department received comments from Markor and Lacquer. On December 8, 2003, the Department received comments from FBI and Markor and Lacquer. On December 9, 2003 the Department received comments from the Petitioners. Additionally, on December 9, 2003, the Department received a request from the Petitioners that the Department reject numerous submissions submitted earlier in this proceeding in accordance with Section 732(b)(3)(B) of the Tariff Act of 1930, as amended ("the Act"). On December 9, 2003, the Department returned FBI's comments of December 8, 2003. See *Memorandum to the File from Lisa Shishido, Case Analyst, Regarding Wooden Bedroom Furniture from the People's Republic of China*, dated December 9, 2003. We note that in FBI's November 13, 2003 comments and Markor and Lacquer's December 8, 2003 comments, both parties included comments on issues other than industry support, we did not reject those submission because they contained information regarding industry support. See *Memo to the File from Alex Villanueva, Senior Case Analyst, Regarding Wooden Bedroom Furniture from the People's Republic of China: FBI's November 13, 2003 Comments and Markor and Lacquer's December 8, 2003 Comments*, dated December 9, 2003. However, we did not consider FBI's December 8, 2003 comments and Markor and Lacquer's December 8, 2003

comments that were not on industry support. See *Import Administration: Antidumping Duty Investigation Initiation Checklist of Wooden Bedroom Furniture from China* ("Initiation Checklist"), dated December 10, 2003 at Attachment III. December 10, 2003, FBI revised their comments from December 8, 2003.

In accordance with section 732(b) of the Act, the Petitioners allege that imports of wooden bedroom furniture from China are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring and threaten to injury and industry in the United States.

Scope of Investigation

For purposes of this investigation, the product covered is wooden bedroom furniture (*i.e.*, subject merchandise). 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 are 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 (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-chests¹, highboys²,

¹ 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.

² 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).

lowboys³, chests of drawers⁴, chests⁵, door chests⁶, chiffoniers⁷, hutches⁸, and armoires⁹; (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 Petition excludes (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, cocktails 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; and (8) bedroom furniture in which bentwood parts predominate.¹⁰

Imports of subject merchandise are classified under statistical category 9403.50.9040 of the Harmonized Tariff Schedule of the United States ("HTSUS") as "wooden * * * beds" and under statistical category 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 statistical category 9403.50.9040 of the HTSUS as "parts of wood" and framed glass mirrors may also be entered under statistical category 7009.92.5000 of the HTSUS as "glass mirrors...framed." This investigation 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.

During our review of the Petition, we discussed the scope with the Petitioners to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27295, 27323 (1997). The Department encourages all interested parties to submit such comments within 20 calendar days of publication of this notice.

Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with interested parties prior to the issuance of the preliminary determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a Petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the Petition. A Petition meets this requirement if the domestic producers or workers who support the Petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the Petition does not establish support of domestic producers or workers accounting for

more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the Petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether a Petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 642-44 (Ct. Int'l Trade 1988).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition.

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted in the Petition we have determined there is a single domestic like product, wooden bedroom furniture, which is defined further in the "Scope of the Investigations" section above, and we have analyzed industry support in terms of that domestic like product.

Based on information provided in the Petition, the share of total estimated U.S. production of the domestic like product in calendar year 2002

³ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

⁴ A chest of drawers is typically a case containing drawers for storing clothing

⁵ 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.

⁶ 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.

⁷ A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

⁸ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

⁹ 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.

¹⁰ 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.

represented by the Petitioners and the supporting domestic producers equal over 25 percent of total domestic production but less than 50 percent of production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. *See Extension Notice*. Therefore, in accordance with 732(c)(4)(D) of the Act, we polled the industry.

On November 13, 2003, November 17, 2003 and November 19, 2003, we issued polling questionnaires to all known producers of wooden bedroom furniture identified in the Petition, listed on the *Thomas Register* and found on the internet by the Department. The combined list contained 264 companies. *See Memorandum to the File from Michael Holton, Case Analyst, Regarding the Addresses for All Parties the Department of Commerce Sent the Polling Questionnaire to on November 13, 2003 ("Addresses Memo")*, dated November 14, 2003. The addresses attached to the *Addresses Memo* were also used when sending the revised questionnaires dated November 17, 2003 and November 19, 2003. *See Memorandum to the File from Alex Villanueva, Case Analyst, Regarding the Addresses for All Parties the Department of Commerce Sent the Polling Questionnaire on November 17, 2003 and November 19, 2003*, dated December 3, 2003. The questionnaires are on file in the Central Records Unit ("CRU") in room B-099 of the main Department of Commerce building. Additionally, the final questionnaire dated November 19, 2003 was available on the Import Administration website. As noted earlier, the Department also published a notice in the **Federal Register** extending the twenty-day initiation determination deadline and requesting information from domestic producers of wooden bedroom furniture. *See Extension Notice* at 65877, 65878. We requested that each company complete the polling questionnaire and certify their responses and requested that all companies respond no later than November 26, 2003 by faxing their responses to the Department at (202) 482-9089.

By the deadline of November 26, 2003, the Department received a total of 104 responses. *See Memorandum to the File from Alex Villanueva, Case Analysts through Robert A. Bolling, Program Manager and Edward C. Yang, Office Director, Regarding the Calculation of Industry Support ("Memo on Industry Support")*, dated December 10, 2003 at Attachment II of the *Initiation Checklist*. Any responses

received after this date were not included in our analysis. *See Extension Notice* at 65876 and *Initiation Checklist* at Attachment II. The Department will be returning all polling questionnaire responses not received by November 26, 2003. Pursuant to section 351.104 of the Department's regulations, the Department has relied upon the responses to this questionnaire and follow-up phone calls to clarify certain responses to determine industry support. For a log of the phone calls made by the Department, please see the *Memorandum to the File from Lisa Shishido, Case Analyst, Regarding the Telephone Call Log Clarifying Information Received by the Department*, dated December 10, 2003. For a detailed discussion of the responses received please see the *Initiation Checklist* at Attachment II. For a discussion on the comments received from interested parties, please see the *Initiation Checklist* at Attachment III. For a detailed discussion of the comments received by workers, please see the *Initiation Checklist* at Attachment II. Our analysis of the data indicates that the domestic producers of wooden bedroom furniture who support the Petition account for more than 57 percent of the production (by U.S. dollar sales value) of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. *See Initiation Checklist* at Attachment II.

Accordingly, the Department determines that the industry support requirements of section 732(c)(4)(A) of the Act have been met.

Export Price and Normal Value

The following is a description of the allegation of sales at less than fair value ("LTFV") upon which the Department based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to the U.S. price and the factors of production are also discussed in the *Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determination, we may reexamine the information and revise the margin calculations, if appropriate.

Export Price

The Petitioners identified approximately one-hundred thirty five Chinese companies as major producers and exporters of wooden bedroom furniture in China. *See Petition* at Exhibit 6.

The Petitioners calculated an export price ("EP"). To calculate export prices

for wooden bedroom furniture from China, Petitioners used invoices for wooden bedroom furniture produced by Chinese producers that were purchased during the period of investigation ("POI"). Given the sales terms on the invoice, the Petitioners have used free on board ("FOB") prices as the basis for the U.S. price and, conservatively, have not deducted foreign inland freight from the factory to the port, brokerage and handling fees, or port charges at the port of exportation. However, to obtain ex-factory prices, the Petitioners deducted a percentage of the selling price (price listed on the invoice) to account for an agent markup for sales made from the agent to the U.S. customer in the United States. *See Initiation Checklist* for further information.

Normal Value

China is a non-market economy country and no determination to the contrary has yet been made by the Department. *See Initiation Checklist* at 4-5. Accordingly, the Petitioners provided a dumping margin calculation using the Department's NME methodology as required by 19 C.F.R. §351.202(b)(7)(i)(C) of the Department's regulations.

For the normal value ("NV") calculation, the Petitioners based the factors of production, as defined by section 773(c)(3) of the Act (raw materials, labor and energy), for wooden bedroom furniture using the factors of production used to make the wooden bedroom furniture on the invoices used in their calculation of export price above. In order to accurately calculate the usage of materials used in the production of the imported furniture, the Petitioners disassembled each piece of furniture and identified, weighed, and measured each component part. The items selected by the Petitioners for deconstruction and ultimately used for the normal value calculation, provide a broad selection of items within the wooden bedroom furniture like product category. According to the Petitioners, the dumping margins in the Petition represent "each of the products in a standard bedroom suite because subject imports are typically sold in suites, collections, or groups" and are "representative of the prices for imports" of wooden bedroom furniture from China during the POI. *See Petitioners' November 12, 2003 Submission* at 8. However, the amount of labor hours and energy needed to produce the wooden bedroom furniture items analyzed were based on the experience of the Petitioners. *See Initiation Checklist*.

The Petitioners selected India as their surrogate country. The Petitioners argued that pursuant to section 773(c)(4) of the Act, India is an appropriate surrogate because it is a market-economy country that is at a comparable level of economic development to the NME and is a significant producer of comparable merchandise. Based on the information provided by the Petitioners, we believe that the Petitioners' use of India as a surrogate country is appropriate for purposes of initiating this investigation. *See Initiation Checklist.*

In accordance with section 773(c)(4) of the Act, the Petitioners valued factors of production, where possible, on reasonably available, public surrogate country data. To value certain raw materials, the Petitioners used official Indian government import statistics, excluding those values from countries previously determined by the Department to be NME countries and imports into India from Indonesia, Korea and Thailand, in light of the prevalence of export subsidies in those countries. *See Notice of Final Determination of Sales at Less Than Fair Value: Ferrovandium from the People's Republic of China* 67 FR 71137, 71139 (November 20, 2002). For inputs valued in Indian Rupees and not contemporaneous with the POI (*i.e.*, April 2003-September 2003), the Petitioners used information from the wholesale price indices ("WPI") in India as published in the *International Financial Statistics* of the International Monetary Fund to determine the appropriate adjustments for inflation. In addition, the Petitioners made currency conversions, where necessary, based on the average rupee/U.S. dollar exchange rate for the POI. *See Petition* at Exhibit 11.

To value the raw materials, (lumber (*e.g.*, ash, birch, maple, oak, pine, poplar, tupelo), other wood items (*e.g.*, cherry wood veneer, fiberboard, hardboard, okoume plywood, lauan plywood, particle board, poplar veneer, oak veneer, wood pulls and okoume veneer), fasteners (*e.g.*, brad & nails, staples, dowels, screws, washers, brass hinges, nuts, brass bolts and hex key), paints and stains (non-water based stains, sealers and lacquers), other miscellaneous items (*e.g.*, printed labels, printed tags, printed paper, glues, plastic furniture fittings, metal drawer pulls & parts, drawer guide brackets, felt and mirrors), packing materials (*e.g.*, polyethylene foam, styrofoam, corrugated cardboard, tape, poly bags, poly straps, plywood, and shrink wrap)), the Petitioners calculated surrogate values from the Indian import

statistics. *See Petition* at Exhibits 12 & 13.

To value electricity, the Petitioners calculated surrogate values using prices paid by industrial electrical users in India from *Key World Energy Statistics* published by the International Energy Agency in 2003. However, the price listed in *Key World Energy Statistics* is for electricity prices from 2000. Therefore, this price was adjusted for inflation using the WPI from the *International Financial Statistics*. *See Petition* at Exhibits 12 and 15.

Pursuant to 19 C.F.R. §351.408(c)(3) of the Department's regulations, the Department calculates and publishes the surrogate values for labor to be used in non-market economy cases. Therefore, the Petitioners used the labor rate of \$0.83 per hour listed on the Department's website. *See Petition* at Exhibit 14.

The Petitioners calculated surrogate financial ratios (factory overhead, selling, general and administrative expenses (SG&A) and profit) using the publicly available financial statements from India Furniture Products, Ltd., an Indian producer of wooden bedroom furniture for the period (March 1, 2002-March 31, 2003), the most recently available financial period.

Based on comparisons of EP to NV, calculated in accordance with section 773(c) of the Act, the estimated recalculated dumping margin for wooden bedroom furniture ranges from 158.74 percent to 440.96 percent.

Fair Value Comparisons

Based on the data provided by the Petitioners, there is reason to believe that imports of wooden bedroom furniture from China are being, or are likely to be, sold in the United States at less than fair value.

Allegations and Evidence of Material Injury and Causation

The Petition alleges that the U.S. industry producing the domestic like product is being materially injured and is threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. The Petitioners contend that the industry's injured condition is evident in: (1) increasing imports' market share and apparent domestic consumption; (2) declining employment; (3) declining production and capacity utilization; (4) plant closures; and (5) lost sales and revenues. *See Initiation Checklist* at Attachment V (Injury).

The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations

are supported by accurate and adequate evidence and meet the statutory requirements for initiation.

Initiation of Antidumping Investigation

Based upon our examination of the Petition on wooden bedroom furniture from China, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of wooden bedroom furniture from China are being, or are likely to be, sold in the United States at less than fair value. Unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the Petition has been provided to the government representatives of China.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, no later than mid-January, whether there is a reasonable indication that imports of wooden bedroom furniture from China are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in this investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

Dated: December 10, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

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BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application to amend an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, U.S. Department of Commerce, has