



# Newsletter June 2019

## Furniture Laws & Regulations

### Import duties on Furniture from China

On May 23, 2019 the U.S. Department of Commerce issued a proposed ruling to impose countervailing duties on countries that act to *undervalue their currency* relative to the U.S. dollar, resulting in a subsidy to their exports. United States law defines a countervailing subsidy as a financial contribution from a government or public entity that is specific and that provides a benefit to a foreign producer or exporter.

In a statement from Commerce Secretary Wilber Ross “Foreign nations will no longer be able to use currency policies to the disadvantage of American workers and businesses”.

Separate from and in addition to the new proposed 25% tariffs on furniture imports from China there are the current antidumping(AD) and countervailing duty(CVD) duties enforcement by the U.S.Dept. of Commerce.

Commerce/ITC has initiated 164 new investigations, a substantial increase this year. Currently there are 481 existing antidumping(AD) and countervailing

duty(CVD) orders in progress by the Department of Commerce in conjunction with the International Trade Administration(ITC) in their Enforcement and Compliance units.

These orders for example include the recent actions this month in the furniture categories of Mattress and Vertical Metal File Cabinet imports from China. These investigations are for both the assessment of Antidumping duty(AD) and Countervailing duty(CVD).

The alleged Antidumping margins for Vertical metal File Cabinets range from 121.75 to 198.50 percent.

In 2018 Imports of vertical metal file cabinets from China were valued at \$45.2 million.

The Countervailing duty(CVD) is assessed to counter the alleged 20 subsidy programs,including; preferential lending programs,export subsidy programs,tax programs,grant programs,and various programs for the provision of goods or services for less than adequate remuneration.

The preliminary determination by the ITC of (AD) for file cabinets will be issued on or before June 14,2019.The Dept. of Commerce preliminary investigation for CVD is scheduled for July 24,2019.The final rulings in

these cases are the scheduled for October 7,2019 and December 23,2019.

The Investigation for Mattresses imported from China was determined by the Dept. of Commerce on May 29,2019 to be affirmative, finding that Chinese exporters have dumped mattresses in the U.S. at margins ranging from 38.56 to 1,731.75 percent.

In 2017 imports of mattresses from China were valued at an estimated \$436.5 million.Commerce is scheduled to issue a final determination for dumping(AD duties) on October 11,2019.If this determination is affirmative then the ITC will issue a final determination of AD duties to be assessed

along with the countervailing duties(CVD) for final injury determination to be issued by November 24,2019.

## **Furniture Production Shift from China**

There are efforts to move Chinese furniture manufacturing to other countries in southeast Asia and worldwide extending existing production capacity to new manufacturing plants in Malaysia,Thailand,Vietnam,Taiwan and India to avoid the current US-China trade war and the uncertainty of future tariff rates on furniture.

Helen Wong Pik-Kuen the chief executive at HSBC investments for China stated that “a

second production line now could act as a good 'plan-B' for manufacturers to shift their U.S. orders to be made outside of mainland China and this would allow many companies to still accept a lot of US orders while they do not need to worry about the tariffs". This would alleviate the current tariff situation of lower demand by dedicating more furniture production to the Chinese domestic market which is growing where Chinese consumers today can afford high quality furniture items. HSBC is assisting domestic companies in providing financing for this expansion of quality furniture to alternative production facilities worldwide.

The ability to change or move production from China to other countries has been developed for the past five to ten years but for American importers there were always difficult choices to make to keep the furniture designs consistent with current styles, designs, quality and regulations to continue a flow of goods of current inventory so changes could be minimized.

A Chinese owned factory making the same furniture items in other locations is the obvious solution for tariff avoidance. The question is how many Chinese companies can make this transition and invest in new factories to produce their current or similar collections elsewhere and make the smooth



transition necessary to avoid the tariffs and satisfy the American demand.

Today available production facilities existing in Vietnam are at capacity and the required infrastructures in Malaysia and Thailand are still being developed. Other issues like freight costs in movement of goods, local regulations, U.S. and California regulations, existing contracts and strict quality control standards are all of vital concerns to be resolved.

With total imports of residential furniture from China today over \$18 Billion other sources in Vietnam, India and Taiwan have been increasing their exports substantially but still

the ability to change sources and shift production is not easily available yet.

As the uncertainty of new Tariffs persist in the short term, the long term strategy to relocate production is the current goal for a portion of the enormous needs worldwide for our furniture sector and the investment required. We will follow these trends as the tariff situation continues to unfold.

## **OUTDOOR FURNITURE RECALLS by CPSC**

The CPSC has listed a significant proportion of product recalls on their website for outdoor furniture with instances of injuries by falls because of product collapse, fingertip

amputation, entrapment, lead paint, VOC violations, stability problems, warranty issues and lack of safety standard compliance.

In 2017 over 3000 people were admitted to emergency rooms for outdoor furniture related injuries a steadily increasing number.

According to U.L.(Underwriters Laboratories) in 2016 manufacturers paid nearly \$25 million to settle product warranty claims. UL's independent testing on more than 300 different outdoor furniture items revealed that 30-40 percent of the products tested failed to meet their expected durability and stability standards preventing tip-over instances leading to warranty claims.

Outdoor furniture containing harmful chemicals including lead, phthalates, wood preservatives and other metal surface coatings are also most common in inexpensive imported outdoor furniture generally with no available warranty or safety compliance documentation.

UL has developed standard #4041 testing for safety, stability and durability which can help manufacturers and retailers examine the types of product issues that lead to injuries and resultant recalls, which will cause a damaged reputation, loss of brand trust and costly recalls if the CPSC charges the retailer and manufacturer worldwide with negligence and possible lawsuits and other fines and

penalties deemed necessary to correct damages caused.

## **WASHINGTON STATE NEW SAFETY LAWS**

On June 1 ,2020 a list of priority chemicals will be designated by the Washington State Department of Ecology(WSDE).These dangerous chemical substances will be listed and identified as found in specific product categories including finished furniture.The WSDE will determine regulatory actions to be taken by June 1,2022 and then enact specific regulatory actions on these priority products and issue enforcement rules and penalties for non-compliance by June 1,2023.

The chemical/substance categories include:

a)-Perfluoroalkyl and polyfluoroalkyl substances(PFASs)

b)-Polychlorinated biphenyls(PCBs)

c)-Organohalogen flame retardants

d)-Certain other flame retardant chemicals used in some furniture items

e)-Phenolic compounds

As the regulations proceed we will outline which chemicals/substances are found in finished furniture goods or used in the manufacturing of furniture items.

New Foam developed to replace Styrofoam

Styrofoam or polystyrene foam has been used for many years in various products including; coffee cups, building materials, construction, insulation, transportation, and the packing industries, it is quite ubiquitous in consumer products. However its production is derived from petroleum and other toxic ingredients and it does not degrade naturally and creates pollution if burned.

Researchers at Washington State University have developed an environmentally friendly replacement material that is a new type of cellulose-based foam using acid hydrolysis and nanocrystals from wood pulp to produce a more resilient, more elastic foam. This new plant based foam has a uniform cell structure

and is a good insulator surpassing the insulation capabilities of Styrofoam. It is light weight and holds its shape and degrades well and burning does not produce polluting ash.

The potential uses for variations of high performance foams based on nanocrystalline cellulose are yet to be released as the research continues.

One obvious use might be for upholstered furniture where the current use of polyurethane foam a major part of components used since the 1960's is still used with the inherent dangers if the foam ignites causing levels of toxic fumes from the harmful



flame retardant chemicals used putting firefighters and consumers in danger.

A follow up to this developing story will be included in future issues of this newsletter.

## Mitigating China Tariffs

With the current uncertain future for our furniture industry regarding tariffs on goods from China there are many different actions being undertaken by retailers and manufacturers. These actions depend on a few basic factors, namely; the size of the retailer and its manufacturing partner ,the type and cost of the furniture product, the availability of other sources of supply

worldwide,the existing competitive market, contracts already agreed upon,and how the retailer presents the price increase of the furniture item to potential consumers.

Recently with the 10% tariff many manufacturers worked with individual retailers to help absorb the tariff by sharing the increases.However now with the 10% now becoming 25% this sharing is limited or non-existent on the manufacturing side with margins now cut to bare minimums.So now it is the retailer that is forced to take action.

To just arbitrarily increase all items offered for sale like some retailers plan to do simply can not be done,the items specifically from China

must each be evaluated and the additional total cost of landing the item must not include the tariff, it is not a price increase from the manufacturer or a freight increase but it is a tax by the U.S. Government.

So presenting this added tax to consumers by listing the tax on the invoice and at the point of sale on the price tag will at least be a transparent exercise to explain the reason for the new increase and not hide it from consumers.

By listing the current price by line item (with no increase or a small

price reduction) and adding each other applicable tax separately this can lessen the

impact and acknowledge that all furniture from China is affected by this new tax.

With price elasticity as a factor on demand, of course there will be resistance by consumers, so evaluating which items are key to staying competitive and which others can have a lower retail price margin before the tax is added is a required exercise for all retailers while the new tariffs are in effect. A lower retail price before the adding a higher universal tax, for all furniture from China in the marketplace is further evidence of honest transparent communication with your potential customers.

Best Regards,

Robert Schoenfeld

Schoenfeld Consulting is available for advice and personal discussions of all laws and regulations affecting our furniture industry. For more information about the inexpensive monthly fee for advice and research with 24/7 availability please contact us at:

Schoenfeld Consulting

Furniture            Laws            &            Regulations

20 Owl Ridge Ct. Novato, Ca. 94945

[schoenfeldrobert@comcast.net](mailto:schoenfeldrobert@comcast.net) 415-290-4144

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