



# Newsletter July 2019

## Furniture Laws & Regulations

### Anti-dumping Tariffs Chinese Mattresses

The U.S. Department of Commerce (DOC) along with the U.S. International Trade Commission (ITC) initiated an investigation in October of 2018 on imports of mattresses from China to impose antidumping duties (AD) for selling mattresses in the U.S. at less than fair value creating material injury to domestic mattress manufacturers and also to

impose countervailing duties(CVD) to counter the subsidies provided by the Chinese government helping Chinese manufacturers/exporters.

The original petition filed by nine mattress manufacturers in the United States was issued on September 18,2018 and since then there have been stages of preliminary investigations and a determination by Commerce(DOC) and the U.S. International Trade Commission(ITC).These two agencies work together and will issue final

determinations of injury on a schedule with tentative ruling date of July 5,2019.

However on June 25, 2019 a ruling was issued by Commerce to retroactively issue duties for entries after March 6,2019 and CBP(Customs and Border Patrol) will retroactively suspend liquidation and impose AD duty cash deposit requirements as this March 6,2019 date.

The anti-dumping Duty rates established are generally from 258.74% to 1731.75 % except for a list of 35 producers who have a separate rate determined by the DOC, after their examination procedures.These

35 producer/exporter companies are to be issued a weighted average calculation of duty of 74.65%.The other China wide duty rate is 1731.75%.There were two other Chinese suppliers that were excluded in the examination process by the DOC, after responding to questionnaires in their examination process in this investigation; Healthcare Co.Ltd. received a duty rate of 38.56% and Zinus(Xiamen)Inc. received a duty rate of 84.64% and these two companies suspension of liquidation and cash

deposits requirements will be in effect as of June 4,2019.

The total quantity in 2017 of imported mattresses was 4,606,453 units with a value of \$436,530,303.00 million dollars.Similar statistics are valid for 2018 and part of 2019.

### Furniture Tariff on Sofabed/Sleepers

Included in the above investigation for mattresses are sofabed/sleepers imported from China containing a mattress as defined by the attached FACT SHEET.In these cases only the mattress

part of the sofa bed will be affected by the tariff. Specifically these mattress items are defined as :convertible sofa beds,corner groups,day-beds,roll-away, high risers,trundle beds,crib and “sofa bed mattresses imported with sofa bed mechanisms” and “parts of a set with a mattress foundation,the base or support for a mattress such as box springs which can be static,foldable or adjustable”

Excluded from the scope of the investigation for Antidumping are:Futon mattresses,airbeds(inflatables),

waterbeds,air or liquid filled Bladders and mattress toppers.

The classifications subject to this antidumping investigation are currently under the following HTS Harmonized Tariff Schedule numbers:

- 9404.21.0010      9401.40.0000
- 9404.21.0013      9401.90.5081
- 9404.29.1005      9401.61.6011
- 9404.29.1013      9401.71.0011
- 9404.29.9085
- 9404.29.9087
- 9404.21.0095

- 9404.29.1095
- 9404.29.9095

## SUBSIDIES By CHINESE GOVERNMENT

In order to avoid the tariffs on imports from China there have been various methods used to compensate and keep these tariffed goods competitive including,by the Chinese state-backed currency manipulations weakening the Yuan.Other incentives and subsidies include changes in the value-added tax,consumption tax and customs duties to help Chinese businesses profitability as well as protection by instituting retaliatory



tariffs on \$110 billion of goods imported from the United States.

Shipping goods by changing the country of origin ,in effect, is seen by the latest quarterly statistics showing dramatic increases in certain categories of goods from the other Southeast Asian nations; Vietnam,Indonesia,Malaysia,Thailand and also from Taiwan and Mexico.

Some Chinese exporters have fraudulently labeled Vietnam as the country of origin and changed the labeling before certificates of origin could be processed.This could lead to potential

action by U.S.Customs who have recently uncovered a case of Chinese plywood being shipped to the U.S. with fake Vietnam country of origin labeling.Senior economist at a Singapore research group Chua Hak Bin states that “given the high tariff rates and huge potential profits ASEAN governments will likely crackdown on such re-routing and false labeling for fear of being seen as a backdoor from China” and severe punishments by the U.S. for allowing this trade related fraud.Vietnam faces growing pressure to stop the illicit exports

and circumventing tactics to avoid the possibility of new tariffs from the U.S. on their exports.

Vietnam already faces scrutiny from the U.S.Treasury department which has added Vietnam to a watchlist for currency manipulations.

Some goods made in China are being re-routed through other countries as intermediaries before arriving in United States ports with less duty liability.Recent official data shows that exports of specific items from China to the US declined by 16% or \$12.2 billion but these same

specific items increased by similar percentages from Vietnam, Taiwan and Mexico during the same time period. The history of these same specific items show a dramatic new recent export increase from these other countries as the supply chain continues to evolve away from China.

While imports from China have declined in the first quarter of 2019 even with the tariffs not yet in full effect they will continue to decline in the second quarter and the prospects for a shift to other countries will continue and probably

accelerate as additional tariffs are put in effect on the 200 billion of Chinese goods. Even without the tariffs the change to alternative countries to supply these goods has now continued and hastened the slow inexorable move to other countries and will probably not return to China as the supply chain becomes more entrenched as the factors of time, investments, infrastructure, labor, transportation, efficiencies and quality control evolve.

**CPSC Tip-Over now Mandatory Standard.**

The Consumer Product Safety Commission on February 27,2019 issued an announcement stating that “clothing storage units”, bedroom chests and dressers etc. that do not meet ASTM F2057-17 furniture Tip-Over standard,are posing a “substantial product hazard” and the existing voluntary standard effectively is now a mandatory standard. This change was addressed in a letter from the CPSC executive director informing all “Manufacturers,Importers,distributors and Retailers of Clothing Storage Units” of

this new requirement. The use of the words “substantial product hazard” could follow with actions by the CPSC to evaluate products through; port of entry inspections, direct inquiry to manufacturers, importers, and the use of market surveillance including possible recalls of existing non-compliant products. In addition penalties for offending companies in possible civil proceedings for the “failure to report” their furniture items as non-compliant to ASTM-F2057-17.

ASTM F2057-17 requires documentation reporting of tip-over testing at certified labs, permanent warning labels on the item to be visible for consumers to read before purchase and permanent warning labeling with a pictorial of the tip over hazard for any storage unit over 30 inches in height and other weight and drawer specifications. The Furniture item is defined as “Items intended for the storage of clothing typical of bedroom furniture” including chests of drawers, bureaus, dressers, armoires, ward robes, portable closets and clothing



storage lockers. Not included are bookcases,shelves,cabinets,entertainment furniture office furniture and jewelry armoires.

The letter to Manufacturers,Importers and Retailers states “Children face an unreasonable risk of serious injury or death from clothing storage units that fall within the scope of the ASTM F2057-17 standard but do not meet its requirements. Accordingly,the CPSC’s Office of Compliance and Field Operations staff will regard such products as having a defect which could

present a substantial product hazard under Section 15(a) of the CPSA(Consumer Product Safety Act),15 USC 2064(a).Should we encounter such products,we shall initiate an *Investigation* and will seek the corrective action we believe is appropriate”.

The CPSC urges furniture companies to “review your product line immediately and ensure that all clothing storage units that you manufacturer,import,distribute,or sell in the United States comply with ASTM-F2057-2017 standard where applicable”.

This new mandatory standard is a result of the many injuries and eight deaths that have occurred to children from entrapment under bedroom dressers, high chests and similar clothing storage units over the past decade.

As part of Compliance to ASTM F2057-17 there are two stability tests required and the new labeling requirement on the item and in store signage. All clothing units must also include an approved tip-over restraint by ASTM standard F3096-14 and instructions for installing these restraints.

There are also some new regulations by individual states like “Harper’s Law” passed on May 30,2019 for New York which prohibits retailers from selling clothing storage furniture that are not compliant to voluntary standard ASTM-F2057-17, unless the retailer provides a restraint and consumer warning.This has now caused confusion since the US CPSC Federal standard which was voluntary until the recent announcement by the CPSC making it **EFFECTIVELY** mandatory as explained above.

So we agree with the AHFA(American Home Furniture Alliance) as Mr.Bill Perdue states “AHFA has long maintained that ‘Voluntary’ does not mean ‘optional’ when it comes to the stability standard”.The CPSC should now define ASTM F2057-17 as Mandatory by definition as The Federal Stability Standard and avoid the confusion when individual states enact their own overlapping regulations.

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

This communication contains information that may be confidential and privileged. It is intended only for the use of the individual or entity to whom it is addressed. You are hereby notified that any dissemination, distribution, printing or copying of such communication by anyone other than the intended recipient is strictly prohibited. If you have received this communication in error please immediately notify the sender by reply email and delete the communication.