



Newsletter September 2019

Furniture Laws & Regulations

TARIFF MITIGATION STRATEGIES EVOLVE

With the continued escalation of Tariffs on Chinese Furniture imports companies are now reacting with more aggressive actions now and with future strategies.

An example is William-Sonoma, including their brands West Elm and Pottery Barn, whose imports of furniture, kitchen and home goods had relied on China as a reliable source but now has instituted new revised future plans.

On August 29, CFO Julie Whalen stated “We are continuing to pull forward as much inventory as possible, which appears to be a good idea in light

of the most recent tariff announcement” effective on September 1,2019 and on December 15,2019,the 10% tariff on some Chinese goods and recently increased by another 5%.The new aggressive plan will include the following:

a)-Cost reductions from Chinese vendors and sub-suppliers re-negotiated

b)-Moving production out of China

c)-Cutting costs in all areas of their business model

d)-Some price increases at retail

e)-Announcing that it would cut sourcing from China by 50% by 2020.

The company is countering tariffs with sourcing shifts said CEO Laura Alber, she expects pressure through the end of 2019 with gross margins now lower for the second quarter because of shipping

costs associated with a higher mix of furniture sales. But operating margins grew by 10% in the same period. A reduction in promotions and SKU's for the balance of the year will continue to bolster margins.

Can this shift in sourcing be accomplished without interrupting the well entrenched supply chain?

William-Sonoma has engineered some products and processes to other tariff classifications but more importantly has expanded its U.S. manufacturing operations by hiring 500 additional workers for its Tupelo Mississippi factories. While other production has already shifted from China to Vietnam, Indonesia, Thailand and Cambodia.

At retail they have introduced some lower margin items with lower price points to offset any needed

price increases from the current and future anticipated tariffs.

This one example is not what now offers solutions our general furniture industry. The various size and distribution of companies requires individual solutions. Pure retail organizations, multi-store chains, combined manufacturing and distributor companies, and the smaller furniture retailers all must develop different tools to best create a plan to survive.

Just simply raising prices to compensate for these tariffs is not enough...so how do we proceed?

Tariffs are a two way street both exporters and importers of Chinese furniture are pressured for their survival. So negotiating is the tactic to use in the scheme of strategic policies for importers.

Many Chinese exporters are counting on a continued depreciation of the Yuan to effectively lower prices and hoping it will help to cushion the blow as tariffs are implemented and exporters are being asked to absorb these additional tariffs.

In the Pearl River Delta and the Yangtze River Delta the centers of furniture manufacturing companies, statements by factory owners that the increase in tariffs to 30% will go beyond the limit of what they can absorb, since they now operate on margins that are barely sustainable. With U.S. buyers for furniture demanding that factories lower their prices or risk losing their market share needed for their survival these Chinese factories are now depending on currency manipulations and other subsidies from the Chinese government or they will be forced to cease exports to the U.S.

The Chinese yuan has been depreciating rapidly since March, now at a rate of 7.14 to the US Dollar and all predictions are for a rate of 7.51 by December or 7.80 by the end of the year. This will certainly lessen the effect of the ongoing tariffs but extreme pressure still persists on both the Chinese producers to hold on to market share and for U.S. retailers to keep price increases to a minimum.

An increasing number of exporting manufacturers of consumer goods including upholstered furniture have now accepted that the tariffs are unlikely to be reversed. In Haining City in Zhejiang Province where hundreds of furniture factories make furniture goods for export, Mr. Xie Jun states a dire prediction that “In the medium to high-end furniture even without the addition of tariffs it is still impossible to find substitute markets worldwide

for our products. The 30% tariff is already beyond our limit to absorb, if U.S. buyers do not pay for this round of tax increases, we have no choice but to give up on the U.S. market”.

Besides currency manipulations the Chinese government “state owned” raw material suppliers are starting to offer cheaper prices to exporters in the furniture sector to help sell their furniture to other new emerging markets worldwide and to increase their growing domestic furniture businesses.

Another cost consideration is to evaluate freight rates from China to west coast ports. Freightos.com indicates latest spot rates have been sliding lower since November of 2018 when a 40’ box was at \$2528 then by May 2019 down to \$1548 now in September at \$1283. Those

furniture companies depending on their volume and existing contracts are using these latest quotes to mitigate landed costs to some degree against the increased tariffs.

Target is another example of retail pushing back on suppliers, they announced on August 27,2019 in letters to their suppliers worldwide, that they will have to bear the costs of the new import tariffs by absorbing the increased costs of material they import from China.

Mark Tritton EVP stated that “Target will not accept any new cost increases related to tariffs on goods from China” and “Our expectation is that you will develop the appropriate contingency plans so that we will not have to pass price increases along to our guests” so suppliers who

manufacturer goods for Target and source their materials from China will have to absorb the tariff increases to maintain their business with the giant retailer.

Another example is in the food sector where a Malaysian manufacturer imports oranges from China and processes them into canned oranges and then re-exports them to the United States to avoid the tariff by this processing loophole. Is this type of circumventing possible for furniture?

Perhaps, but the cost of the movement of goods, to alternative countries of unfinished furniture for additional processing and finishing and then to change the country of origin might be viewed as a circumvention practice by government authorities in China and by the U.S. Department of Commerce along with the International Trade Commission.

So in conclusion negotiations are the key points of discussions with each side having to make concessions to keep the current furniture supply chain from shifting or vanishing altogether as decisions now and aggressive planning over time concerning costs, supply and quality of finished furniture goods are eventually resolved.

ASSEMBLY BILL #2998 IN EFFECT January 1,2020

The California Bureau of Home Furnishings under AB 2998 prohibits the sale and distribution of “covered products” commonly referred to as juvenile products, upholstered furniture, newly reupholstered furniture and foam used in mattresses that contain specified flame retardant (FR) chemicals at levels above 1000 parts per million. The definition of “Juvenile products”

includes a product designed for residential use by infants and children under 12 years of age including bassinets, booster seats, changing pad, floor play mat, highchair/and pad, (infant bouncer, carrier, seat, swing and walker) nursing pad/pillow, playpen side pad, playard, hook on chair, stroller and children's nap mats. Juvenile bedding include; pillows, comforters, bed spreads etc. Juvenile mattresses (toddler, crib and all other infant sleep products).

Flame retardant chemical includes the following: halogenated, organophosphorus, organo nitrogen, or nanoscale chemicals.

The bill requires the Bureau to extend testing required by existing Senate Bill (SB 1019) to covered products (upholstered items) to determine

the presence of any FR chemicals above the limits stated.

The Bureau is required to post a **LIST** identifying covered products and their manufacturer/retailer that are found to be in violation of AB 2998 on its website. The bill authorizes the Bureau to issue a fine to any manufacturer, importer, wholesaler or retailer that continues to sell or distribute a covered product that the Bureau identifies as in violation of AB 2998 on its website. (www.bhgs.dca.ca.gov). The Bureau has recently changed its name to the “California Bureau of Household Goods and Services”.

The bill also requires the International Sleep Products Association (ISPA) to conduct a survey of all mattress producers to report materials and methods used to meet current flammability

standards(16CFR 1632 and 16CFR 1633).The ISPA must submit survey results to the Bureau no later than January 31,2020 and every three years thereafter,including a list of mattress producers worldwide that fail to respond.

The California “Bureau of Household Goods and Services” now requires this newly changed name to be printed on all new Flammability (TB-117-2013) Notice labels and SB 1019 Flame Retardant Chemical Statement labels to reflect the new bureau name.Companies can use existing labels until December 31,2019.The required labeling determination is based on the “manufactured date” of the item,those produced after January 1,2020 must have the new label with the new agency name(Bureau of Household Goods and Services).Contact Mr. Rick Pritchard at American

Law Label for more information at (Americanlaw label.com) 888-529-5223.

ASTM F2057-19 for TIP-OVER UPDATED

On August 27,2019 the stability standard for free standing clothing units was updated to include the following:

a)-Revision in height from 30 inches to 27 inches

b)-Defined as “units with drawers and/or hinged doors”(units without drawers and/or hinged doors are excluded)

c)-Includes as specific clothing storage examples; chests,chest of drawers, drawer chests,armoires,chifferobes,bureaus,door chests and dressers.

d)-Warning labels must now contain a pictorial of a crossed-out TV,relaying the risk of TV tip-over

e)-Specifically citing that the back of a unit placed against a wall as unaccsptable and a non-conspicuous warning label

f)-Items excluded are shelving units,bookcases,entertainment furniture,office furniture, dining room furniture,jewelry armoires,underbed drawer storage units,occasional/accent furniture not intended for bedroom use,laundry storage/sorting units,nightstands,or built-in units intended to be permanently attached to the building.

g)-The test weight remains at 50 LBS.

The standard is now effectively Mandatory since the CPSC has deemed these units as a “substantial product hazard” if not compliant to ASTM F2057-19

and issued letters to all manufacturers, importers and retailers of their enforcement intensions.

The AHFA(American Home Furnishings Alliance) has petitioned the CPSC to allow manufacturers 180 days to implement required changes and complete testing and labeling requirements.

The U.S.Congress is also taking up the(Sturdy Act) H.R.2211 for revision to the current tip-over standard F2057-17/19 with possible new provisions in its final version still to be passed and promulgated into federal law in the coming months.

RECALL OF DRESSERS TIP-OVER VIOLATION

On August 28,2019 a recall of 3000 dressers was initiated by the CPSC against Kirkland Stores nationwide for non-compliance to ASTM F2057-17

for instability causing tip-over and resultant entrapment hazards. These two models of five and six drawer dressers were imported by The Design House of Nashville, Tennessee as part of their Crestview Mirrored collection dresser and the Camille dresser.

Consumers should immediately stop using the dressers and keep them away from children. They can return the dressers for a full refund or contact Kirkland stores to receive a free tip-over restraint kit and schedule a one-time free in home installation of the kit to attach the dresser safely to a wall.

Also the CPSC will require Kirkland to perform testing compliance to ASTM F2057-19 to continue to market these dressers and will be monitored by

the CPSC into the future to ensure their compliance.

RECALLS ARE THE BUYER'S RESPONSIBILITY

Ultimately the initial decision to purchase an item of furniture in most companies starts with the buyer, compliance and merchandising departments decision making processes. There are many variables to consider including: price, design, quality, competition, safety and full regulatory compliance.

An Example of a failure to adequately address these variables is a recall initiated on August 29, 2019 by the Rite Aid company for 18,800 folding patio chairs sold from February 2019 through June

2019 for a retail price of \$30.00. Injuries reported include some bodily injury and a laceration incidence. These metal frame chairs were reported as “bending unexpectedly”. There are no indication yet if these chairs were tested for stability which could be conducted at any certified lab in China where these chairs were produced.

So why risk the possibility of claims for these 18,800 dangerous chairs exposing consumers to possible injuries for chairs that can bend unexpectedly?

The chairs retail at \$30 so what is the landed cost of these items, probably keystone or \$15 or much less knowing from experience the quantity discounts involved. The risk of lawsuits and the company’s good name are at stake here as the full

facts of this recall will be conducted by the CPSC going forward.

This Risk vs. Reward again goes back to management decisions... sell to a high quality standard with products properly tested or rush to gain quick seasonal profits with questionable merchandise to increase the bottom line.

A competent buyer would in my opinion have recognized the poor quality of these chairs with an initial personal inspection and have not proceeded with the purchase.

So "Let the furniture BUYER be AWARE" and keep our industry at a higher level standard keeping consumers well being in the decision making process.

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:

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