

**Notification Regarding APO**

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/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 sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: October 14, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-25027 Filed 10-20-08; 8:45 am]

BILLING CODE 3510-DS-S

**DEPARTMENT OF COMMERCE****International Trade Administration**

A-791-821

**Notice of Final Determination of Sales at Less Than Fair Value: Uncovered Innerspring Units from South Africa**

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

**EFFECTIVE DATE:** October 21, 2008.

**SUMMARY:** The Department of Commerce determines that imports of uncovered innerspring units from South Africa are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final weighted-average dumping margins are listed below in the section entitled "Final Determination of Investigation."

**FOR FURTHER INFORMATION CONTACT:** Dmitry Vladimirov or Mino Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0665 or (202) 482-1690, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On August 6, 2008, the Department of Commerce (the Department) published the preliminary determination of sales at less than fair value (LTFV) in the antidumping investigation of uncovered innerspring units from South Africa. See *Notice of Preliminary Determination of Sales at Less Than Fair Value:*

*Uncovered Innerspring Units from South Africa*, 73 FR 45741 (August 6, 2008) (*Preliminary Determination*). We invited parties to comment on the *Preliminary Determination*. We did not receive any case or rebuttal briefs from any interested parties.

**Period of Investigation**

The period of investigation (POI) is October 1, 2006, through September 30, 2007.

**Scope of Investigation**

The merchandise covered by this investigation is uncovered innerspring units composed of a series of individual metal springs joined together in sizes corresponding to the sizes of adult mattresses (e.g., twin, twin long, full, full long, queen, California king, and king) and units used in smaller constructions, such as crib and youth mattresses. All uncovered innerspring units are included in this scope regardless of width and length. Included within this definition are innersprings typically ranging from 30.5 inches to 76 inches in width and 68 inches to 84 inches in length. Innersprings for crib mattresses typically range from 25 inches to 27 inches in width and 50 inches to 52 inches in length.

Uncovered innerspring units are suitable for use as the innerspring component in the manufacture of innerspring mattresses, including mattresses that incorporate a foam encasement around the innerspring.

Pocketed and non-pocketed innerspring units are included in this definition. Non-pocketed innersprings are typically joined together with helical wire and border rods. Non-pocketed innersprings are included in this definition regardless of whether they have border rods attached to the perimeter of the innerspring. Pocketed innersprings are individual coils covered by a "pocket" or "sock" of a nonwoven synthetic material or woven material and then glued together in a linear fashion.

Uncovered innersprings are classified under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 7326.20.00.70, 7320.20.5010, or 7320.90.5010 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this proceeding is dispositive.

**Scope-Clarification Request**

Caye Home Furnishings LLC (Caye Furnishings), a U.S. manufacturer of living room furniture, requested that we

clarify the scope language of the antidumping duty investigations on uncovered innerspring units from the People's Republic of China, South Africa, and the Socialist Republic of Vietnam.<sup>1</sup> Specifically, Caye Furnishings requested that we modify the scope of the investigations to exclude springs and individually wrapped pocket coils for upholstery seating that are not suitable for mattresses or mattress supports.

Caye Furnishings asserted that the reference to mattresses in the scope language makes clear that the petitioner intended to cover innersprings that are used in the manufacture of innerspring mattresses and did not intend to cover innersprings that are not suitable for use in mattresses or mattress supports. Caye Furnishings asserted that innersprings and individually wrapped pocket coils that it imports for use in upholstery seating in the manufacture of living room furniture are not suitable for mattresses or mattress supports. Caye Furnishings also explained that, although the products it imports are normally classified under subheading 7320.20.5020 of the HTSUS, which is not one of the HTSUS subheadings covered by the scope of the investigations, the scope description as written could result in the treatment of its imports as subject merchandise.

In its September 11, 2008, comments on the issue, the petitioner stated that it believes the scope language is clear and that the merchandise described by Caye Furnishings is outside the scope of the investigations. The petitioner stated, however, that it does not object to the clarification of the scope for the reasons Caye Furnishings cited. In its September 17, 2008, comments, in response to the alternative versions of the scope-clarification language that we proposed,<sup>2</sup> the petitioner stated that it does not object to amending the scope description of the investigations by excluding individual springs and individually wrapped pocket coils for upholstery seating (the petitioner stated that it objects to the proposed language which excludes any mention of end-use of the merchandise).

We have considered the various alternatives on the record for modifications of the scope language. In addition to the difficulties associated with administering antidumping duty orders with end-use as a basis for whether certain products may be considered subject merchandise, we

<sup>1</sup> See August 25, 2008, letter from Caye Furnishings.

<sup>2</sup> See Memorandum to the File, dated September 16, 2008.

agree with the petitioner that the merchandise Caye Furnishings described in its request is not within the scope of the investigations. Therefore, we have not modified the scope language as suggested by any of the parties.

**Adverse Facts Available**

For the final determination, we continue to find that, by failing to provide information we requested, Bedding Component Manufacturers (Pty) Ltd. (BCM), the mandatory respondent in this investigation, did not act to the best of its ability. Thus, the Department continues to find that the use of adverse facts available is warranted for this company under sections 776(a)(2) and (b) of the Act. See *Preliminary Determination*, 73 FR at 45743.

As we explained in the Preliminary Determination, the rate of 121.39 percent we selected as the adverse facts-available rate for BCM is the single margin alleged in the petition (see *Petitions on Uncovered Innerspring Units from China, South Africa, and Vietnam*, dated December 31, 2007 (*Petition*), and January 11, 2008, supplement to the Petition filed on behalf of Leggett and Platt, Incorporated, (the petitioner)), as recalculated in the January 22, 2008, *Antidumping Investigation Initiation Checklist: Uncovered Innerspring Units from South Africa*, on file in Import Administration's Central Records Unit, Room 1117, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. See, also, *Uncovered Innerspring Units From the People's Republic of China, South Africa, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 73 FR 4822 (January 28, 2008). Further, as discussed in the Preliminary Determination, we corroborated the adverse facts-available rate pursuant to section 776(c) of the Act. See Preliminary Determination, 73 FR at 45743, 45744.

**All-Others Rate**

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* margins or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. This provision contemplates that, if the data do not permit weight-averaging margins other

than the zero, *de minimis*, or total facts-available margins, the Department may use any other reasonable method. See also *Statement of Administrative Action* accompanying the Uruguay Round Agreements Act, H. Doc. No. 103-316, at 873 (1994).

As discussed above, BCM is the sole respondent in this investigation and has been assigned a margin based on total adverse facts available. Because the petition contained only one estimated dumping margin and because there are no other respondents in this investigation, there are no additional estimated margins available for purposes of establishing an all-others rate. See *Notice of Final Determination of Sales at Less Than Fair Value: Ferrovandium from the Republic of South Africa*, 67 FR 71136 (November 29, 2002). Therefore, with this final determination we are establishing 121.39 percent as the all-others rate.

**Final Determination of Investigation**

We determine that the following weighted-average dumping margins exist for the period October 1, 2006, through September 30, 2007:

Manufacturer or Exporter	Margin (percent)
Bedding Component Manufacturers (Pty) Ltd. ....	121.39
All Others .....	121.39

**Continuation of Suspension of Liquidation**

Pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.211(b)(1), we will instruct CBP to continue to suspend liquidation of all entries of subject merchandise from South Africa entered, or withdrawn from warehouse, for consumption on or after August 6, 2008, the date of publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin as follows: (1) the rate for BCM will be 121.39 percent; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 121.39 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

**International Trade Commission Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in

accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

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Dated: October 14, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-25028 Filed 10-20-08; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XK73**

**Atlantic Highly Migratory Species; Advisory Panel**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice.

**SUMMARY:** NMFS solicits nominations for the Atlantic Highly Migratory Species (HMS) Advisory Panel (AP). NMFS consults with and considers the comments and views of the AP when preparing and implementing Fishery Management Plans (FMPs) or FMP