

**Authority:** 42 U.S.C. 5121–5207; 44 CFR part 206.

**David J. Kaufman,**

*Director, Office of Policy and Program Analysis, Federal Emergency Management Agency.*

[FR Doc. 2011–14867 Filed 6–14–11; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### Notice of Issuance of Final Determination Concerning the Country of Origin of Certain Office Chairs

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of final determination.

**SUMMARY:** This document provides notice that U.S. Customs and Border Protection (“CBP”) has issued a final determination concerning the country of origin of certain office chairs. Based upon the facts presented, CBP has concluded in the final determination that the U.S. is the country of origin of the office chairs for purposes of U.S. government procurement.

**DATES:** The final determination was issued on June 9, 2011. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination on or before July 15, 2011.

**FOR FURTHER INFORMATION CONTACT:** Elif Eroglu, Valuation and Special Programs Branch: (202) 325–0277.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that on June 9, 2011, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of the SAYL task chair and the SAYL side chair which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, Headquarters Ruling Letter (“HQ”) H154135, was issued at the request of Herman Miller, Inc. under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP has concluded that, based upon the facts presented, the assembly of the SAYL task chair and the SAYL side chair in the U.S., from parts made in China, Canada, and the U.S., constitutes a substantial transformation, such that the U.S. is the country of

origin of the finished articles for purposes of U.S. government procurement.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: June 9, 2011.

**Sandra L. Bell,**

*Executive Director, Regulations and Rulings, Office of International Trade.*

#### Attachment

**HQ H154135**

**June 9, 2011**

**OT:RR:CTF:VS H154135 EE**

**CATEGORY:** Marking

Lisa A. Crosby  
Sidley Austin, LLP  
1501 K Street, NW  
Washington, D.C. 20005

**RE:** U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. § 2511); Subpart B, Part 177, CBP Regulations; Office Chairs

Dear Ms. Crosby:

This is in response to your correspondence of March 4, 2011, requesting a final determination on behalf of Herman Miller, Inc. (“Herman Miller”), pursuant to subpart B of part 177, U.S. Customs and Border Protection (“CBP”) Regulations (19 C.F.R. § 177.21 et seq.). Under the pertinent regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of the SAYL task chair and the SAYL side chair (collectively, the SAYL office chairs). We note that Herman Miller is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

#### FACTS:

Herman Miller is a U.S. supplier of furniture products and accessories for home, office, healthcare and learning environments. The merchandise at issue is the Herman Miller SAYL task chair and the SAYL side chair. You state that Herman Miller engineered and designed the office chairs wholly within the U.S. The assembly of the office chairs, from U.S. and imported components, occurs in the U.S.

The SAYL task chair is intended for the principal occupant in an office and it swivels and has casters. The SAYL side chair is intended to serve as a guest chair in an office; it does not swivel, although it can be equipped with casters. Both SAYL office chairs have a variety of ergonomic features. For example, the SAYL task chair provides pelvic stabilization and the height may be adjusted and tilted to allow the body to naturally pivot at the ankles, knees, and hips. The seat depth adjusts. Two back support options are available to improve posture and lower back comfort. Three arm choices are also available—fixed, height-adjustable and fully-adjustable (i.e., pivot, fore/aft slide, in/out slide).

The SAYL chairs are offered in several aesthetic configurations: 1) upholstered back, 2) single surface elastomeric thermo-plastic urethane (“TPU”) (i.e., mesh) back, and 3) an injection molded hard plastic back (not the subject of this final determination request). All configurations offer two leg options: a four-leg base and a cantilever base.

The SAYL task chair, depending on its specific configuration, comprises approximately 35 components (excluding fasteners). The SAYL side chair, depending on its specific configuration, comprises approximately 15 components (excluding fasteners). All of the components are of U.S., Chinese, or Canadian origin.

You submitted the costed bills of materials for the SAYL task chair and the SAYL side chair. Each bill of material represents a different aesthetic configuration. The two types of SAYL office chairs share many of the same components. The components from China of the SAYL chairs include: casters, tilt assembly, cylinder, arm supports, and plastic back (including the TPU mesh). The component from Canada is a five-star base subassembly. The components from the U.S. include: foam seat assembly, crossing, seat pan, spine, pelvis, mid-back foam assembly, leg base, glides, back frame, arms, and back assembly.

You state that the manufacture of both types of SAYL office chairs involves similar processes. The production in the U.S. involves approximately 35 individual steps to convert the components into a finished chair. From start to finish, including quality testing and packaging, it takes approximately 19 minutes to manufacture the TPU mesh configuration and 17 minutes to manufacture the upholstered configuration.

#### TPU Mesh Configuration

You state that the production of both types of SAYL chairs with the TPU mesh configuration begins with Herman Miller receiving a sheet of Chinese-origin TPU mesh from its supplier in the exact size and shape requested by Herman Miller. The TPU mesh is placed in a custom-made machine, which is designed to stretch the mesh into the required shape.

Two arrow hangers are then added to the two top points of the TPU mesh. Using a special fixture, the hangers are pressed into place and the TPU mesh is stretched into a secure position in each hanger. Next, two strips of plastic featuring a dozen tabs are placed at the bottom of the TPU mesh, with

one strip on each side of the mesh. Using a special hand tool, each tab is bent upward in order to attach each strip of plastic to the TPU mesh. The TPU mesh is then ready for assembly with the spine and back. The Y-shaped spine is placed on top of the TPU mesh. The pelvis is then inserted into the Y-shaped spine. Next, the TPU mesh is stretched horizontally using a special tool. Arm sleeves are affixed to the TPU mesh. Using the stretcher fixture, the TPU mesh is stretched over the Y-shaped spine so that the two hangers at the top of the mesh fit over the spine. The TPU mesh is stretched until it snaps into place.

The next step is to prepare the seat subassembly to which the TPU mesh-spine-pelvis subassembly is attached. Each seat consists of a foam base that is upholstered. The foam base is assembled with a plastic frame in advance. The seat upholstery is also cut and sewn into shape in advance. The upholstery is placed tightly over the foam base and is stapled into place. Then, the bottom frame and seat subassembly are secured into place by hand-driven screws.

Next, the legs are prepared for insertion into the bottom frame. The five-star base subassembly is fitted with a top. Two adjustment levers, which permit the chair to tilt, are inserted into the top of the five-star subassembly. A mechanical subassembly, which houses the tilting mechanism and other aspects of the chair's ergonomic features, is fitted onto the top. The mechanical subassembly, top and five-star base subassembly are then joined with the seat.

Next, the arm pads are inserted into the arms and secured with hand-driven screws. The arms are fitted into the arm sleeves. The components are pressed together until they snap into place.

#### *Upholstered Configuration*

The first step in the production of both types of SAYL chairs with the upholstered configuration is to sew the cover of the chair back from U.S.-origin fabric. Depending on the fabric chosen, a liner may be sewn into the back side of the cover. A button hole also is sewn into the back side of the cover.

Next, the foam base for the chair back is upholstered with the cover. A plug or control handle which controls the adjustability of the seat back is inserted into the buttonhole on the backside of the cover. A "doghouse," or half circle, is then aligned inside the center back of the foam base. Using the doghouse as a guide, the fabric in the interior of the doghouse is cut, folded over and stapled in place.

Next, the joints for attaching the spine are affixed to the chair back. A Y-shaped spine is then prepared for attachment to the pivot joints by inserting tabs into the spine. The top of the spine is then forced down onto the pivot joints until they click into place. The bottom of the spine fits into the opening created by the doghouse operation previously described. Then, nut plates are installed on either side of the chair. Arm sleeves are affixed to the nut plates using hand-driven screws.

Next, the pelvis is assembled with the chair back. The pelvis and chair back then

are joined with the seat. The seat is assembled in a manner similar to the chair back. Fabric is cut and sewn into a cover, which is fitted over a foam base. The cover is stretched tight over the foam base. Then, the seat handle is installed.

Next, the arm pads are inserted into the arms and secured with hand-driven screws. The arms are then fitted into the arm sleeves. The components are pressed together until they snap into place.

You provided a copy of the product brochure for the SAYL office chairs. Additionally, you submitted an example of Herman Miller's research in the field of ergonomics; sample job instructions which explain each step involved in the manufacturing process of the SAYL office chairs; and a DVD which depicts the assembly procedures for the SAYL office chairs. You also provided a list of patents applicable to the SAYL office chairs.

#### **ISSUE:**

What is the country of origin of the SAYL task chair and the SAYL side chair for the purpose of U.S. government procurement?

#### **LAW AND ANALYSIS:**

Pursuant to subpart B of part 177, 19 C.F.R. § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also, 19 C.F.R. § 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. government procurement, CBP applies the provisions of subpart B of part 177 consistent with the Federal Acquisition Regulations. See 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. See 48 C.F.R. § 25.403(c)(1). The Federal Acquisition Regulations define "U.S.-made end product" as:

\* \* \* an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

48 C.F.R. § 25.003.

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, extent and nature of post-assembly inspection and testing procedures, and the degree of skill required during the actual manufacturing process may be relevant when determining whether a substantial transformation has occurred. No one factor is determinative.

In *Carlson Furniture Industries v. United States*, 65 Cust. Ct. 474 (1970), the U.S. Customs Court ruled that U.S. operations on imported chair parts constituted a substantial transformation, resulting in the creation of a new article of commerce. After importation, the importer assembled, fitted, and glued the wooden parts together, inserted steel pins into the key joints, cut the legs to length and leveled them, and in some instances, upholstered the chairs and fitted the legs with glides and casters. The court determined that the importer had to perform additional work on the imported chair parts and add materials to create a functional article of commerce. The court found that the operations were substantial in nature, and more than the mere assembly of the parts together.

In Headquarters Ruling Letter ("HQ") W563456, dated July 31, 2006, CBP held that certain office chairs assembled in the U.S. were a product of the U.S. for purposes of U.S. government procurement. The office chairs were assembled from over 70 U.S. and foreign components. In finding that the imported parts were substantially transformed in the U.S., CBP stated that the assembly processing that occurred in the U.S. was complex and meaningful, required the assembly of a large number of components, and rendered a new and distinct article of commerce that possessed a new name, character, and use. CBP noted that the U.S.-origin seat and back frame assemblies, which were made with the importer's trademark fabric, together with the tilt assembly, were of U.S. origin and gave the chair its unique design profile and essential character.

In this case, the SAYL task chair comprises approximately 35 components and the SAYL side chair has approximately 15 components, which are assembled in the U.S. We note that some of the major components of the office chairs such as the spine, seat pan, and glides are of U.S. origin. You state that as in HQ W563456, the U.S.-origin fabric and the Chinese-origin TPU mesh, used in most aesthetic configurations of the SAYL office chairs, impart the essential identity of the chairs and that the backs were designed by Herman Miller in the U.S. and are trademarked. We note the Chinese-origin TPU mesh is extensively processed in the U.S. by stretching and fitting it into the

required shape using special tools. Other U.S.-sourced components of the SAYL chairs include the foam seat assembly, crossing, seat pan, spine, pelvis, mid-back foam assembly, leg base, glides, back frame, arms, and back assembly. It takes approximately 19 minutes to manufacture the TPU mesh configuration of the office chairs and 17 minutes to manufacture the upholstered configuration. Under the described assembly process, we find that the foreign components lose their individual identities and become an integral part of a new article, the SAYL task chair or the SAYL side chair, possessing a new name, character and use. Based upon the information before us, we find that the imported components that are used to manufacture the SAYL task chair and the SAYL side chair, when combined with the U.S. origin components, are substantially transformed as a result of the assembly operations performed in the U.S., and that the country of origin of the SAYL task chair and the SAYL side chair for government procurement purposes will be the U.S.

**HOLDING:**

The imported components that are used to manufacture the SAYL task chair and SAYL side chair are substantially transformed as a result of the assembly operations performed in the U.S. Therefore, we find that the country of origin of the SAYL task chair and SAYL side chair for government procurement purposes is the U.S.

Notice of this final determination will be given in the Federal Register, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days after publication of the Federal Register notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

**Sandra L. Bell**  
*Executive Director*  
*Regulations and Rulings*  
*Office of International Trade*  
 [FR Doc. 2011-14842 Filed 6-14-11; 8:45 am]  
**BILLING CODE P**

**DEPARTMENT OF THE INTERIOR**

**Office of the Secretary**

**Tribal Consultation on Implementation of Indian Land Consolidation Program Under Cobell Settlement**

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Notice of Tribal consultation meeting.

**SUMMARY:** The Office of the Secretary is announcing that it will conduct a series of consultation meetings with Indian Tribes to obtain oral and written comments concerning the implementation of the Indian Land Consolidation Program (ILCP) under the terms of the *Cobell* Settlement. The first Regional consultation meeting will take place in July in Billings, Montana for the Rocky Mountain and Great Plains Regions. There will be five additional consultations in other Regions. See the **SUPPLEMENTARY INFORMATION** section of this notice for details.

**DATES:** The first Regional Tribal consultation meeting will take place on Friday, July 15, 2011, in Billings, Montana. Comments must be received by September 16, 2011.

**ADDRESSES:** Michele F. Singer, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs,

1001 Indian School Road, NW., Suite 312, Albuquerque, NM 87104.

**FOR FURTHER INFORMATION CONTACT:** Michele F. Singer, telephone (505) 563-3805; fax (505) 563-3811.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Bureau of Indian Affairs' ILCP purchases fractionated interests of individually owned trust or restricted fee lands and transfers those consolidated interests into Tribal ownership pursuant to the Indian Land Consolidation Act, 25 U.S.C. 2201 *et seq.* The Indian Claims Resolution Act of 2010, Public Law 111-291, makes available \$1.9 billion, the majority of which will be used by the Secretary to operate the ILCP with the purpose of addressing the problem of fractionation. The Act requires consultation with Indian Tribes to identify fractional interests within the respective jurisdictions of the Indian Tribes that the Department may want to consider purchasing.

Information and statistics regarding the issue of land fractionation will be distributed to the Federally-recognized Indian Tribes prior to the consultations. The information will also be made available to attendees on the day of each consultation. The Cobell Settlement must be approved by the Federal District Court, and a fairness hearing before the Court is scheduled for June 20, 2011, in Washington, DC.

**II. Meeting Details**

The Office of the Secretary will hold the first of a series of Tribal consultation meetings on the following schedule:

Date	Time	Location
Friday, July 15, 2011 .....	9 a.m.–4 p.m. ....	Holiday Inn Grand Montana Hotel & Convention Center, 5500 Midland Road, Billings, Montana 59101, (406) 248-7701 <a href="http://www.billingsholidayinn.com">http://www.billingsholidayinn.com</a> .

We will announce additional Tribal consultation meetings by future publication in the **Federal Register**. Written comments will be accepted through September 16, 2011, and may be sent to the official listed in the **ADDRESSES** section above.

Dated: June 9, 2011.

**David J. Hayes,**  
*Deputy Secretary of the Interior.*

[FR Doc. 2011-14923 Filed 6-13-11; 11:15 am]

**BILLING CODE 4310-W7-P**

**DEPARTMENT OF THE INTERIOR**

**National Park Service**

[5130-0400-NZM]

**Draft Oil and Gas Management Plan/ Environmental Impact Statement for Big South Fork National River and Recreation Area and Obed Wild and Scenic River**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of Availability of a Draft Oil and Gas Management Plan/ Environmental Impact Statement for Big South Fork National River and

Recreation Area and Obed Wild and Scenic River.

**SUMMARY:** Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), and the Council on Environmental Quality regulations (40 CFR part 1500-1508), the National Park Service (NPS), Department of the Interior, announces the availability of the draft oil and gas management plan/ environmental impact statement (OGMP/DEIS) for the proposed Big South Fork National River and Recreation Area (BISO) and Obed Wild and Scenic River (OBRI). This OGMP/ DEIS will guide the various actions that could be implemented for current and