
Hughes Hubbard & Reed

New Antidumping and Countervailing Duty Petitions on Imports of Mattresses from Eight Countries

Client Advisories

Hughes Hubbard & Reed LLP • A New York Limited Liability Partnership
One Battery Park Plaza • New York, New York 10004-1482 • +1 (212) 837-6000

Attorney advertising. Readers are advised that prior results do not guarantee a similar outcome. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. For information regarding the selection process of awards, please visit <https://www.hugheshubbard.com/legal-notices-methodologies>.

April 1, 2020 – On March 31, 2020, six domestic mattress manufacturers and two unions filed petitions with the U.S. Department of Commerce (“DOC”) and the U.S. International Trade Commission (“ITC”). The Petitioners include Brooklyn Bedding, Corsicana Mattress Company, Elite Comfort Solutions, FXI, Inc., Innocor, Inc., Kolcraft Enterprises, Inc., Leggett & Platt, Incorporated, the International Brotherhood of Teamsters, and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO. They seek antidumping (“AD”) duties on imports of mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam, as well as countervailing (“CVD”) duties on imports from China.

This case follows a 2018 petition involving mattresses from China that resulted in an AD order imposed December 2019. If successful, the latest petitions could result in additional duties on imports from China as well as new duties on imports from the other seven countries. As previously reported on [March 20, 2020](#) and [March 27, 2020](#), it has been a trend over the last couple of years for domestic industries to bring multiple petitions on similar products or expand coverage to imports from additional countries.

Under U.S. law, a domestic industry can petition the government to initiate an AD investigation into the pricing of an imported product to determine whether it is sold in the United States at less than fair value (i.e., “dumped”). A domestic industry can also petition the initiation of a CVD investigation of alleged subsidization of foreign producers by a foreign government. Additional duties can be imposed if DOC determines that imported goods are “dumped” and/or subsidized and if the ITC also determines that the domestic industry is materially injured or threatened with such injury by reason of subject imports.

If the ITC and DOC make preliminary affirmative determinations, U.S. importers will be required to post cash deposits in the amount of the AD and/or CVD duties for all entries on or after the date DOC’s preliminary

determination is published in the Federal Register. The preliminary AD/CVD rates can change in the final DOC determination, especially if foreign producers and their governments participate fully in the investigations.

Scope

The products covered by these petitions are all types of youth and adult mattresses. The term "mattress" denotes an assembly of materials that at a minimum includes a "core," which provides the main support system of the mattress, and may consist of innersprings, foam, other resilient filling, or a combination of these materials. Mattresses may also contain (1) "upholstery," the material between the core and the top panel of the ticking on a single-sided mattress, or between the core and the top and bottom panel of the ticking on a double-sided mattress; and/or (2) "ticking," the outermost layer of fabric or other material (e.g., vinyl) that encloses the core and any upholstery, also known as a cover.

The scope of these petitions is restricted to only "adult mattresses" and "youth mattresses." "Adult mattresses" are frequently described as "twin," "extra-long twin," "full," "queen," "king," or "California king" mattresses. "Youth mattresses" are typically described as "crib," "toddler," or "youth" mattresses. All adult and youth mattresses are included regardless of size or size description.

The scope encompasses all types of "innerspring mattresses," "non-innerspring mattresses," and "hybrid mattresses." "Innerspring mattresses" contain innersprings, a series of metal springs joined together in sizes that correspond to the dimensions of mattresses. Mattresses that contain innersprings are referred to as "innerspring mattresses" or "hybrid mattresses." "Hybrid mattresses" contain two or more support systems as the core, such as layers of both memory foam and innerspring units.

"Non-innerspring mattresses" are those that do not contain any innerspring units. They are generally produced from foams (e.g., polyurethane, memory (viscoelastic), latex foam, gel-infused viscoelastic (gel foam), thermobonded polyester, polyethylene) or other resilient filling.

Mattresses covered by the scope of these petitions may be imported independently, as part of furniture or furniture mechanisms (e.g., convertible sofa bed mattresses, sofa bed mattresses imported with sofa bed mechanisms, corner group mattresses, day-bed mattresses, roll-away bed mattresses, high risers, trundle bed mattresses, crib mattresses), or as part of a set in combination with a "mattress foundation." "Mattress foundations" are any base or support for a mattress. Mattress foundations are commonly referred to as "foundations," "boxsprings," "platforms," and/or "bases." Bases can be static, foldable, or adjustable. Only the mattress is covered by the scope if imported as part of furniture, with furniture mechanisms, or as part of a set, in combination with a mattress foundation.

Excluded from the scope of these petitions are "futon" mattresses. A "futon" is a bi-fold frame made of wood, metal, or plastic material, or any combination thereof, that functions as both seating furniture (such as a couch, love seat, or sofa) and a bed. A "futon mattress" is a tufted mattress, where the top covering is secured to the bottom with thread that goes completely through the mattress from the top through to the bottom, and it does not contain innersprings or foam. A futon mattress is both the bed and seating surface for the futon.

Also excluded from the scope are airbeds (including inflatable mattresses) and waterbeds, which consist of air- or liquid-filled bladders as the core or main support system of the mattress.

Further, also excluded from the scope of these petitions are any products covered by the existing antidumping duty orders on uncovered innerspring units from China or Vietnam.

Additionally, also excluded from the scope of these petitions are “mattress toppers.” A “mattress topper” is a removable bedding accessory that supplements a mattress by providing an additional layer that is placed on top of a mattress. Excluded mattress toppers have a height of four inches or less.

The products subject to these petitions are currently properly classifiable under HTSUS subheadings: 9404.21.0010, 9404.21.0013, 9404.29.1005, 9404.29.1013, 9404.29.9085, and 9404.29.9087. Products subject to these petitions may also enter under HTSUS subheadings: 9404.21.0095, 9404.29.1095, 9404.29.9095, 9401.40.0000, and 9401.90.5081.

Foreign Producers and Exporters of Subject Merchandise

A list of foreign producers and exports, as identified by the Petitioners, is provided in [Attachment 1](#).

U.S. Importers of Subject Merchandise

A list of U.S. importers, as identified by the Petitioners, is provided in [Attachment 2](#).

Alleged Margins of Dumping/Subsidization

Petitioners allege the following dumping margins:

Cambodia: 708.10%
Indonesia: 706.28%
Malaysia: 47.97%
Serbia: 191.09%
Thailand: 773.49%
Turkey: 620.07%
Vietnam: 1,008.28%

DOC generally assigns duties at these alleged dumping rates to exporters that fail to cooperate with the investigation.

No specific subsidy rates for China are included in the petition.

Potential Trade Impact

According to U.S. import statistics, a total of \$762 million of subject imports was imported into the United States in 2019, broken down by country as follows:

China: \$199,257,288
Vietnam: \$186,632,480
Indonesia: \$112,250,131
Malaysia: \$42,126,386
Cambodia: \$35,635,264
Serbia: \$25,984,818
Turkey: \$21,370,019
Thailand: \$20,564,976

Estimated Schedule of Investigations

3/31/2020 – Petition filed
5/15/2020 – ITC preliminary injury determination
6/4/2020 – DOC preliminary CVD determination, if not postponed
8/8/2020 – DOC preliminary CVD determination, if fully postponed
9/7/2020 – DOC preliminary AD determination, if not postponed
10/27/2020 – DOC preliminary AD determination, if fully postponed
2/26/2021 – DOC final AD and CVD determinations, if both preliminary and final determinations are fully postponed
4/19/2021 – ITC final injury determination, if DOC’s determinations are fully postponed
4/26/2021 – AD/CVD orders published

In an effort to prevent the spread of the Coronavirus, DOC and ITC have issued revised procedures for AD/CVD proceedings. Cases are proceeding along typical timelines, but neither agency is holding in-person hearings or conferences.

If you have any questions about the petitions, please contact the experienced attorneys in HHR’s international trade group.

Related People



Matthew R. Nicely



Roy (Ruoweng) Liu



Joanne E. Osendarp



Eric S. Parnes



Dean A. Pinkert



Julia K. Eppard

Related Areas of Focus

[International Trade](#)

[Trade Remedies & Trade Agreements](#)