

values allows only for the submission of publicly available information.

Assessment Rates

Assessment rates will be based upon the final results of review. Upon issuing the final results of the review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*.

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will be effective upon publication of the final results of these NSRs for all shipments of subject merchandise exported by Hengyong or Hongda and entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise manufactured by Hengxian and exported by Hengyong or manufactured by Haishan and exported by Hongda, the cash-deposit rate will be that established in the final results of this review; (2) for subject merchandise exported by Hengyong or Hongda but not manufactured by Hengxian or Haishan, respectively, the cash deposit rate will continue to be the PRC-wide rate (*i.e.*, 198.63 percent); and (3) for subject merchandise manufactured by Hengxian or Haishan, but exported by any other party, the cash deposit rate will be the rate applicable to the exporter. If the cash deposit rates calculated for Hengyong or Hongda in the final results is zero or *de minimis*, no zero cash deposit will be required for entries of subject merchandise both produced by Hengxian and Haishan and exported by Hengyong or Hongda, respectively. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR

351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These NSRs and notice are in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214(i).

Dated: July 26, 2011.

Ronald Lorentzen,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-504]

Petroleum Wax Candles From the People's Republic of China: Final Results of Request for Comments on the Scope of the Antidumping Duty Order

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

SUMMARY: On August 13, 2010, the Department of Commerce ("Department") published in the **Federal Register** the *Preliminary Results*¹ regarding its request for comments on the scope of antidumping duty order on petroleum wax candles from the People's Republic of China ("PRC"),² in which we preliminarily determined a new interpretation for analyzing candle scope ruling requests and applied this interpretation to pending scope requests. We gave interested parties an opportunity to present comments and rebuttals on the *Preliminary Results*. Based upon our analysis of the comments and information received, we have changed our interpretation of the scope of the *Order* from the *Preliminary Results*. As discussed in more detail below, the Department intends to apply the interpretation articulated in these final

¹ See *Petroleum Wax Candles from the People's Republic of China: Preliminary Results of Request for Comments on the Scope of the Petroleum Wax Candles from the People's Republic of China Antidumping Duty Order*, 75 FR 49475 (August 13, 2010) ("*Preliminary Results*").

² See *Antidumping Duty Order: Petroleum Wax Candles from the People's Republic of China*, 51 FR 30686 (August 28, 1986) ("*Order*").

results to all pending and future scope determinations involving the *Order*.

FOR FURTHER INFORMATION CONTACT: Tim Lord, AD/CVD Operations, Office 9, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, *telephone:* (202) 482-7425.

Case History

The petitioner in the original less-than-fair-value ("LTFV") investigation, the National Candle Association ("NCA") requested that the investigation of petroleum wax candles from the PRC cover:

candles made from petroleum wax {that} contain fiber or paper-cored wicks. They are sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars; votives; and various wax-filled containers. These candles may be scented or unscented { * * * } and are generally used by retail consumers in the home or yard for decorative or lighting purposes.³

The Department adopted this same language as the scope in its notice of initiation, with the modification that the Department placed "certain" before "petroleum wax candles." This scope language carried forward without change through the eventual antidumping duty order and subsequent segments of this proceeding. Due to the fact that the plain language of the scope contains no specific words of exclusion, throughout the history of the *Order* there has been particular confusion regarding the coverage of certain candle types—particularly "novelty candles." This uncertainty has led to an overabundance of scope ruling requests that has hindered the effective administration of the *Order*.

On August 21, 2009, given the extremely large number of scope determinations requested by outside parties, the Department solicited comments from interested parties on the best method to consider whether novelty candles should or should not be included within the scope of the *Order*. See *Petroleum Wax Candles from the People's Republic of China: Request for Comments on the Scope of the Antidumping Duty Order and the Impact on Scope Determinations*, 74 FR 42230 (August 21, 2009). In that notice, interested parties were presented two options (as well as the opportunity to submit additional options and ideas):

Option A: The Department would consider all candle shapes identified in the scope of

³ See Antidumping Petition Submitted on Behalf of the National Candle Association in the Matter of: Petroleum Wax Candles from the People's Republic of China (September 3, 1985) ("Petition"), at 7.

the *Order* (i.e., tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers) to be within the scope of the *Order*, regardless of etchings, prints moldings or other artistic or decorative enhancements, including any holiday-related art. All other candle shapes would be considered outside of the scope of the *Order*.

Option B: The Department would consider all candle shapes, including novelty candles, to be within the scope of the *Order*, including those not in the shapes listed in the scope of the *Order*, as that is not an exhaustive list of shapes, but simply an illustrative list of common candle shapes.

After receiving comments from interested parties, the Department issued its *Preliminary Results* on August 13, 2010, in which it preliminarily developed a new interpretation for candle scope ruling requests based on Option A, with the added modification that birthday and utility candles would be excluded from the scope of the *Order*. See *Preliminary Results*. That is, the Department stated that any candle shapes not specifically listed in the *Order*'s scope would be excluded; birthday and utility candles would be excluded from the scope of the *Order* even if in one of the shapes (such as tapers or pillars) specifically mentioned in the scope's text. *Id.* 75 FR at 49480 (emphasis added). The Department found in the *Preliminary Results* that, in accordance with Option A, there was no evidence on record from the LFTV investigation to indicate that prior to the issuance of the *Order*, religious, holiday, or special occasion-themed characteristics were considered to be criteria that excluded candles from the scope of the LFTV investigation. See *Preliminary Results*. No interested parties contested this assertion subsequent to the issuance of the *Preliminary Results*.

The Department preliminarily applied this interpretation to 269 unique candles⁴ contained in the five pending scope determinations under the *Order*.⁵ See *Preliminary Results* see also Memorandum to the File through Alex Villanueva, Program Manager, from Tim

Lord, Case Analyst, Certain Petroleum Wax Candles from the People's Republic of China: Candle Scope Request Preliminary Determinations (August 9, 2010). The Department subsequently discovered that it had not made preliminary determinations on all of the unique candles in the five pending scope determinations under the *Order*. As such, on October 13, 2010, the Department issued preliminary determinations for the 349 unique candles that it had inadvertently neglected to include with the *Preliminary Results*. See Memorandum to the File through Alex Villanueva, Program Manager, from Tim Lord, Case Analyst, Petroleum Wax Candles from the People's Republic of China: Preliminary Scope Rulings not Included in Preliminary Results (October 13, 2010).⁶

Changes Since the Preliminary Results

The Department received comments and/or rebuttals from interested parties by the appropriate deadlines. In examining these comments and the administrative record beginning with the LFTV investigation, the Department has changed its interpretation from the one chosen in the *Preliminary Results* and is now adopting an approach based on Option B for the reasons fully described in the I&D Memo. In addition, the Department is applying the interpretation articulated in these final results to the 618 unique candles contained in the pending scope determinations under the *Order* in a final scope ruling memorandum, which will be issued subsequent to this notice. Further, this interpretation will be applied to all future scope proceedings involving the *Order*.

All issues raised in the case and rebuttal briefs by parties are addressed in "Petroleum Wax Candles from the People's Republic of China: Issues and Decision Memorandum of Request for Comments on the Scope of the Antidumping Duty Order," dated concurrently with this notice ("I&D Memo"), which is hereby adopted by this notice. A list of the issues that parties raised, and to which we responded in the I&D Memo, is attached to this notice as an appendix. The I&D Memo is a public document and is on file in the Central Records Unit, Main Commerce Building, Room 7046, and is accessible on the Department's Web site

at <http://www.trade.gov/ia>. The paper copy and electronic version of the memorandum are identical in content.

Final Results

Evidence on the record indicates that contrary to the Department's position in the *Preliminary Results*, the *Order* is not limited only to the enumerated shapes/types⁷ listed in the scope of the *Order*. Rather, the most reasonable interpretation pursuant to the factors established in 19 CFR 351.225(k)(1) is that the enumerated shapes/types serve as an illustrative, not exhaustive, list of candles included within the scope of the *Order*. See I&D Memo, at Comment 1. In this regard, the Department has determined that there is no basis to exclude religious, holiday or special occasions-themed candles from the scope of the *Order*; no commenting party has objected to this determination. See I&D Memo, at Comment 3. Therefore, for the final results, the Department is adopting an inclusive scope interpretation based on Option B, whereby all petroleum wax candles (regardless of holiday or special-occasion theme), are within the scope of the *Order*.

In addition, the evidence establishes that birthday, utility, and figurine candles are excluded from the scope of the *Order*; all the commenting parties in this case, including the NCA, have agreed with this determination. See I&D Memo, at Comment 3. The Department also finds the term "figurine" is narrowly defined as a candle in the shape of a human, animal, or deity. See I&D Memo, at Comment 3.

Therefore, the Department hereby adopts an inclusive interpretation of the scope of the *Order*, whereby all candles are included within, with the exception of the three candle types that are excluded: Birthday, utility, and figurine (i.e., human, animal, or deity shaped) candles.

We are issuing these final results in accordance with 19 CFR 351.225.

Dated: July 26, 2011.

Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

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⁴ "Unique candles" are those candles from a particular requestor that are not identical to each other. For example, if a requestor submitted three beach ball candles, and two of those were exactly the same size, shape, and color, while the third candle was not, the set of three candles would consist of two unique candles.

⁵ On June 5, 2009, July 7, 2009, August 20, 2009, and May 5, 2010 the Department received requests from Trade Associates Group, Ltd., Candym Enterprises, Ltd. ("Candym"), Sourcing International, LLC, and Accent Imports, respectively, for scope rulings to determine whether each company's respective assortment of candles is outside the scope of the *Order*. The Department received another scope ruling request from Candym on November 5, 2009.

⁶ In total there are currently 618 in the five pending scope determinations under the *Order* (i.e., the 269 for which the Department issued preliminary determinations at the time of the *Preliminary Results* combined with 349 for which the Department issued preliminary determinations on October 13, 2010).

⁷ The term "enumerated shapes/types" refers to the candle shapes and candle types specifically mentioned in the scope of the *Order*.