

By Certified Mail, Return Receipt Requested

On October 14, 1992, Trade Advisory Group, on behalf of Autom Company, Inc. (Autom), requested that the Department of Commerce (the Department) issue a scope ruling that Autom's candle, with its terra cotta container, is outside the scope of the antidumping duty order on petroleum wax candles from the People's Republic of China.

We evaluated Autom's application in accordance with 19 C.F.R. §353.29(i)(1) (1992). Based on the product descriptions contained in the petition, the initial investigation, and the determinations of the Department and the International Trade Commission (ITC), the Department determines that Autom's candle has no distinguishing features that would exclude it from the order on Petroleum Wax Candles from the People's Republic of China. Consequently, Autom's candle is determined to be within the scope of the order. Enclosed is a memorandum explaining our decision.

We will notify Customs of this decision. If you have any questions, please contact Sandra Yacura at (202) 482-4851.

Sincerely,

Laurie A. Lucksinger
Division Director
Office of Antidumping Compliance

4/9/93

(date)

MEMORANDUM FOR: Joseph A. Spetrini
Deputy Assistant Secretary for Compliance

THROUGH: Roland L. MacDonald, Director
Office of Agreements Compliance

FROM: Holly A. Kuga, Director
Office of Anti-Dumping Compliance

SUBJECT: Final Scope Ruling – Antidumping Duty Order on
Petroleum Wax Candles from the People's Republic of
China (A-570-504); Trade Advisory Group and Autom
Company, Inc.

1. SUMMARY

On October 14, 1992, the Trade Advisory Group, on behalf of its client, Autom Company, Inc. (Autom), requested that the Department of Commerce (the Department) issue a ruling that Autom's candle, with its terra cotta container, is outside the scope of the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC).

On January 7, 1993, the Department initiated a formal scope inquiry pursuant to 19 CFR 353.29(b). We received comments from the National Candle Association (Association) urging the Department to reject Autom's exclusion request. Autom provided no comments. Based on an analysis of the information on the record, and in accordance with 19 CFR 353.29(i)(1), the Department determines that Autom's candle is within the scope of the order.

2. BACKGROUND

a. Scope of the Order

The products covered by this order are "certain scented or unscented petroleum wax candles made from petroleum wax and having 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." (See Antidumping Duty Order: Petroleum Wax Candles from the PRC, 51 FR 30686, August 28, 1986.)

The candle at issue is made of petroleum wax and contains a cotton wick. Thus, on its face, the candle would appear to fall within the scope of the order on petroleum wax candles from the PRC.

In its letter, Autom requested that its candles be found outside the scope of the order based on the religious significance of the symbols on the terra cotta container. The terra cotta container has the symbols of a heart, diamond and cross carved into it. The Department requested comments from interested parties to determine whether these symbols reflect "scenes or symbols of other occasions (e.g. religious holidays or special events)." The Department received one response to its inquiry, dated January 25, 1993, from the Association through its counsel. The Association opposed Autom's assertion of religious significance, stating:

Clearly, a heart and a diamond are not recognized as religious symbols. The Association is unaware of any religious order that recognizes a combination of a cross, heart and diamond as religious symbols together. The decorative nature of the heart and diamond shapes negate or undermine the religious symbolism of the cross to Christians. Putting these symbols on a terra cotta pot cannot form the basis for exclusion from the antidumping order.

(See letter from Barnes & Thornburg to the Department, January 25, 1993.) The Department did not receive any further comments.

In the previous scope clarification referred to in the background section, the Department determined that certain Christmas candles were outside the scope of the order, as well as "other novelty candles... includ[ing] candles having scenes or symbols of other occasions (e.g., religious holidays or special events) depicted in their designs...." Autom provided no evidence that the combination of symbols on the terra cotta container (the heart, diamond and cross) are known or associated with a "religious holiday or special event."

Further, the clarification referred to above had, as its focus, whether the physical characteristics of the candle in question limited it to a specific use. While Autom claims similarly that the combination of the cross, heart and diamond limits (to some extent) its candle to religious use, Autom provides no evidence for this assertion.

4. CONCLUSION

The product descriptions contained in the petition, the initial investigation, and the determinations of the Department and the ITC are dispositive concerning whether the merchandise in question is within the scope of the order. The terra cotta container which contains the petroleum wax candle has three symbols carved into it; a heart, a diamond and a cross. Autom failed to provide evidence that the three symbols represent "a scene or symbol of [a]... religious holiday." Further, Autom failed to demonstrate how this combination limits its candle to religious use. Thus, these candles fall within the scope of the order on petroleum wax candles from the PRC.

5. RECOMMENDATION

That the Department find the candle made by Autom, and its terra cotta container carved with the symbols of a cross, heart, and diamond, within the scope of the antidumping duty order.

_____√_____ Agree _____ Disagree

Joseph A. Spetrini
Deputy Assistant Secretary for Compliance

4/9/93

Date