

May 28, 1993

A-570-504  
Scope Review  
Public Document  
OADC:SLY

By Certified Mail, Return Receipt Requested

On November 12, 1992, the San Francisco Candle Company (the Company), requested that the Department of Commerce (the Department) issue a scope ruling that the Company's candles, numbered 30814, 30804, 30820, 36642, be found outside the scope of the antidumping duty order on petroleum wax candles from the People's Republic of China.

On December 16, 1992, the Company requested that additional candles be found outside the order, based on the industry definition of a "round." The same letter also requested exclusion from the order based on the origin of the raw materials used in producing them. Finally, the Company requested exemption from the order based on a previous scope ruling relating to scenes or symbols of religious holidays.

We evaluated the Company's application in accordance with 19 C.F.R. §353.29(i)(1). 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 all spherical candles (including candles 30804 and 36642), candles numbered 30814 and 30812 (oval-shaped), and candle 30820 (in the shape of a mushroom) to be novelty candles outside of the scope of the order. The Department finds all holiday candles specifically included in the request to be within the scope of the order. Finally, the Department finds that all candles made for the company with U.S. petroleum wax 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

Enclosure

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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 Antidumping Compliance

SUBJECT: Final Scope Ruling - Petroleum Wax Candles From the People's Republic of China  
(A-570-504): San Francisco Candle Company

## 1. SUMMARY

On November 12, 1992, the San Francisco Candle Company (the Company) requested that the Department of Commerce (the Department) issue a ruling that the Company's candles, numbered 30814, 30804, 30320 and 36642, are outside the scope of the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC).

An additional request was received dated December 16, 1992 from the same company, requesting that all their candles be found outside the order, based on the origin of the raw materials used in producing them. The same letter also requested a ruling that all of the Company's sphere-shaped candles be found outside the scope of the antidumping duty order, based on the industry definition of a "round." A last request for exemption from the same order was for all of the Company's holiday candles, based on a previous scope ruling relating to "scenes and symbols" of religious holidays.

The product descriptions contained in the petition, the initial investigation, and the determinations of the Department and the International Trade Commission (ITC) are dispositive concerning whether the merchandise in question is within the scope of the order. Therefore, a formal investigation was not initiated.

The Department determines that all spherical candles (including candles 30804 and 36642), candles numbered 30814 and 30812 (oval-shaped), and candle 30820 (in the shape of a mushroom) are novelty candles outside of the scope of the order. The Department determines that the holiday candle argument is moot, as the holiday candles listed are spherical-shaped. Finally, the Department finds that all candles made for the company with U.S. petroleum wax to be 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 Petroleum Wax Candles from the People's Republic of China: Final Determination of Sales at Less than Fair Value, July 10, 1986 (Final Determination).)

The need for scope clarification has arisen on several occasions prior to this scope determination request. In a notice to the U.S. Customs Service, the Department clarified that "Other novelty candles not within the scope of the order include candles having scenes or symbols of other occasions (e.g., religious holidays or special events) depicted in their designs, figurine candles, and candles shaped in the form of identifiable objects (e.g., animals and numerals)." (See CIE N-212/85, September 21, 1987 (Emphasis added).)

### b. Request

On November 12, 1992, San Francisco Candle Company filed a letter with the Department requesting a scope determination to ascertain whether four specific candles imported by the Company fall within the scope of the order on candles from the PRC. Candle numbered 30820 is mushroom-shaped, 30814 is oval or egg-shaped, 30804 and 36642 are spherical. The Company stated that the candles are shaped in the form of "identifiable objects" and therefore requested that they be found outside the scope of the order. (See letter from San Francisco Candle Company to the Department, November 12, 1992.)

An additional letter by the same company requested that all candles imported by the Company be found outside the order based on the origin of the raw materials used in the production of their candles. The Company stated that the candles are made of petroleum wax from the United States which is shipped to the PRC for processing. The Company considers the production of these candles as a value-added process and, for this reason, requests exclusion from the antidumping duty order for all of its candles. (See letter from San Francisco Candle Company to the Department, December 16, 1992.)

In the same letter, the Company requested that all spherical candles be found outside the same order on the basis that, in the language of the candle industry, the term "rounds" refers to "pillars" or "columns" and not "spheres" and this specific type of candle is not included in the list of shapes covered in the order. (See *ibid.*)

The last ruling request was that all holiday candles made by the Company be found outside the same antidumping duty order. This request is based on a previous scope ruling relating to "scenes and symbols" of "religious holidays." (See *ibid.*)

In conjunction with its letters, the Company sent a brochure containing photographs of the candles in question as well as product samples. All candles are multicolored with cotton wicks and made from petroleum wax.

### 3. ANALYSIS

In accordance with Section 353.29 (i)(l) of the Department's regulations, in analyzing the scope request in this proceeding, the Department took into account the descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Department and the ITC.

The candles submitted to the Department by the Company are made of petroleum wax and contain a cotton wick. Thus, on their face, these candles would appear to fall within the scope of this order. Accordingly, the Department must determine whether there are any other distinguishing characteristics that provide a basis for their exclusion.

In its letter, the Company requested that its candles numbered 30814, 30804, 30820 and 36642 be found outside the order, based on the fact that these candles are "shaped in the form of identifiable objects." The Company's candles numbered 36642 and 30804 are spherical in shape. Therefore, any determination based on the shape of these two candles would also apply to the request made by the Company for a ruling on all its spherical-shaped candles. The Company requests that all of its spherical-shaped candles be found outside the duty order based on the fact that, in the language of the candle industry, the term "rounds" refers to "pillars" or "columns" and not "spheres."

The petition and order specifically listed the shapes: "tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers." The petitioner supports the Company's claim that industry definition of "'rounds' refers to round shaped columns or pillars." (See Letter from Barnes & Thornburg on behalf of the National Candle Association, May 3, 1993.) Therefore the order did not specifically encompass ball-shaped candles.

As the order specifically lists the shapes that it does encompass, and because ball-shaped candles are not one of these shapes, ball-shaped candles are found outside the scope of the order. This argument also applies to Candle 30814, which is oval-shaped, and Candle 30820, which is mushroom-shaped. The petitioner did not object to the exclusion of the candles of these shapes. (See *ibid.*)

The Company's additional argument that these same candles be excluded from the order under the "identifiable object" precedent, is moot as the candles have been found outside the scope.

The Company requested that all of its candles be found outside the scope of the order based on the origin of the raw materials used in producing them. However, U.S. origin of input materials does not necessarily preclude inclusion within the scope of an order. The input materials are transformed into candles in the PRC. Moreover, the candles enter the United States as products of the PRC, a fact that appears not to be disputed. As no contrary information or argument has been presented, the Department has no basis to question the country of origin of these candles as the PRC.

The Company's additional argument, that its "Christmas Pattern" candles should be excluded from the order under the holiday novelty candle precedent, is also moot, as these candles have been found outside the scope based on their spherical shape.

#### 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. Ball-shaped candles are not included on the list of shapes of candles encompassing the order. Shapes not specifically listed are considered novelty candles and are therefore found outside of the order. Candles 30814 and 30820, which are oval and mushroom-shaped, are excluded from the order on this same basis.

The Company's "Christmas Pattern" argument was not considered, as these candles were excluded from the order based on their spherical shapes.

The Company's candles made from U.S. petroleum wax are found inside the order, as U.S. origin of input materials does not necessarily preclude inclusion within the scope of an order.

#### 5. RECOMMENDATION

That the Department find candle numbered 30820, in the shape of a mushroom, outside the scope of the antidumping duty order on petroleum wax candles.

Agree  Disagree

That the Department find candles numbered 30814, 30804, and 36642 and all spherical-shaped candles outside the scope of the antidumping duty order on petroleum wax candles.

Agree  Disagree

That the Department find specific holiday candles within the scope of the antidumping duty order on petroleum wax candles.

Agree  Disagree

If you agree, we recommend sending the attached letter to interested parties.

Agree  Disagree

Joseph A. Spetrini  
Deputy Assistant Secretary for Compliance  
6/9/93

Date

Attachment