

JUL 27 1994

A-570-504  
Scope Review  
Public  
Document

By Certified Mail, Return Receipt Requested OADC : JRF

To All Interested Parties:

On April 14, 1994, West Coast Liquidators, Inc. (WCL), requested that the Department of Commerce (the Department) issue a scope ruling on whether two types of candles are outside the scope of the antidumping duty order on candles from the People's Republic of China.

In accordance with 19 CFR 353.29(b) (1994) of the Department's regulations, the Department has determined that no formal inquiry is warranted. Further, under 19 CFR 353.29(i)(1), the Department has determined that WCL's candles are outside the scope of the order on candles from the PRC. The enclosed memorandum contains the Department's analysis.

We will notify the U.S. Customs Service of this decision.

If you have any questions, please contact Jay Field at (202) 482-5222 or Wendy Frankel at (202) 482-5253.

Sincerely

Laurie A. Lucksinger  
Director, Division I  
Office of Antidumping Compliance

Enclosure

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

FROM: Holly A. Kuga, Director  
Office of Antidumping Compliance

SUBJECT: Final Scope Ruling - Antidumping Duty Order on Petroleum  
Wax Candles From the People's Republic of China (A-570-  
504); West Coast Liquidators, Inc.

#### SUMMARY

Pursuant to 19 CFR 353.29(i)(1) (1994), the Department of Commerce (the Department) has determined that the descriptions of the product contained in the petition, the Department's and the International Trade Commission's (the ITC) determinations, and the antidumping duty order are dispositive, and that the holiday figurine taper candles and the Christmas holiday object candles submitted by West Coast Liquidators, Inc. (WCL), are not within the scope of the antidumping duty order on Petroleum Wax Candles from the People's Republic of China, 51 FR 30686, August 28, 1986.

#### BACKGROUND

On April 14, 1994, WCL requested that the Department initiate a scope review to determine whether two types of candles, the "holiday figurine candle" and the Christmas "holiday object candle", imported from the People's Republic of China (PRC), are covered by the scope of the antidumping duty order on candles from the PRC (WCL Request). WCL submitted samples of both products with its request.

The regulations governing the Department's antidumping scope determinations can be found at 19 CFR 353.29. On matters concerning the scope of an antidumping duty order, our normal bases for determining whether a product is included within the scope of the order are the descriptions of the product contained in the order, the determinations of the Secretary and the ITC, the initial investigation, and the petition. See 19 CFR 353.29(b) and (i)(1).

Pursuant to 19 CFR 353.29 (i)(1), the Department has determined that the descriptions of the product contained in the petition, the Department's and the ITC's determinations, the antidumping duty order, and subsequent scope determinations are dispositive and that no formal inquiry is warranted.

Documents, and parts thereof, from the underlying investigation deemed relevant by the Department to the scope of the outstanding order were made part of the record of this determination. Documents that were not presented to the Department, or placed by it on the record, do not constitute part of the administrative record for this scope determination.

#### ANALYSIS

WCL's Christmas "holiday object candles" consist of four-inch tall candles in the shape of a Santa Claus, a Christmas tree, and a toy soldier. These candles are hand-painted with

seven colors for the Santa Claus candle, five colors for the Christmas tree candle, and nine colors for the toy soldier candle. They are wrapped in clear cellophane and tied with a red ribbon bow. See WCL Request at 10.

WCL's "holiday figurine candles" consist of two ten-inch red, white, green, black or orange tapers packaged as a set. Each taper has a ring of white petroleum wax shaped with various decorative hand-painted figurines, affixed at the midpoint of the taper. The Christmas holiday figurines consist of snowmen, Christmas trees, a Santa Claus, bells, and pinecones. These figurines are attached to red, white or green tapers, and each is packaged in a red, green, and gold box labeled 10" HOLIDAY EMBOSSED CANDLES with small green triangles "representing Christmas trees" and "a gold Christmas wreath design prominently displayed on the top of the packages." See WCL Request at 8. The Halloween holiday figurines consist of jack-o'-lantern pumpkins, ghosts, witches, and black cats affixed to orange and black tapers, and are packaged in a black, orange, and white box, labeled 10" HALLOWEEN TAPER CANDLES, with a "haunted house" and jack-o'-lantern pumpkin design on the front, sides, and back. Id.

The Department defined the scope of the original order as:

[C]ertain 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.

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

Also relevant to the present scope issue is a notice issued to the United States Customs Service in connection with a July 1987 scope determination, which states:

The Department of Commerce has determined that certain novelty candles, such as Christmas novelty candles, are not within the scope of the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC) Christmas novelty candles are candles specially designed for use only in connection with the Christmas holiday season. This use is clearly indicated by Christmas scenes and symbols depicted in the candle design. 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 or numerals)

See CIE N-212/85, September 21, 1987; Letter from the Director, Office of Compliance, to Burditt, Bowles & Radzius, Ltd., July 13, 1987.

Citing the Department's CIE N-212/85 to the Customs Service, WCL argues that the "holiday object candles" are not covered by the scope of the order because candles shaped in the form of identifiable objects have been clearly stated to be outside the scope of the order.

Physical examination of the "holiday object candles" reveals them to be candles shaped in the form of identifiable objects, namely a Santa Claus, a Christmas tree, and a toy soldier, and therefore, pursuant to the Department's 1987 scope determination, this places them outside of the scope of the order.

Also pertinent to WCL's request is a previous scope inquiry which states:

Your tapers have a hand-painted figurine molded to the candle, which could not be removed without damage to the taper. This different physical characteristic precludes inclusion of these candles in the scope of the order.

See Letter from the Department to Global Marketing Services, October 30, 1986 (emphasis added).

WCL argues that the "holiday figurine candles" are similar to the candles in the Global Marketing ruling in a number of important ways: that "they consist of a taper candle with a hand-painted holiday figurine firmly molded on a ring onto the candle" and that "the figurine can not [sic] be removed without damaging the candle". See WCL Request at 19.

Physical examination of the "holiday figurine candles" reveals that the figurines cannot be removed from the tapers without shattering the figurine and causing damage to the actual tapers. When the figurines are removed, the tapers are damaged because they are stripped of their wax coating in the area vacated by the figurines, and the tapers maintain a small bulge where the rings had been attached. The damage to the candles after the removal of the figurines from the tapers "precludes the inclusion of these candles within the scope of the order" (Letter to Global Marketing Services, op. cit.). We conclude that WCL's "holiday figurine candles" are congruent with the description of merchandise outside the scope of the order.

#### RECOMMENDATION

Because the product description provides a sufficient basis for making a determination, and the issue can be resolved by making reference to the descriptions of the product contained in the petition, the final determinations of the Secretary and the ITC, including scope determinations, we recommend determining that no formal inquiry is warranted.

Agree  Disagree

We recommend the Department find the "holiday object candles" and "holiday figurine candles" outside the scope of the antidumping duty order on petroleum wax candles, as they clearly meet the description of merchandise excluded from the scope of the order.

Agree  Disagree

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

Agree  Disagree

Joseph A. Spetrini  
Deputy Assistant Secretary  
for Compliance  
7/27/94

Date

Attachment