

FEB 14 1995

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

By Certified Mail, Return Receipt Requested

To All Interested Parties:

On November 3, 1994, Watkins Incorporated (Watkins) requested that the Department of Commerce (the Department) issue a scope ruling on whether its Watkins pillar candle, model number 5418, is covered by the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC).

In accordance with 19 CFR 353.29(b) 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 the Watkins model 5418 pillar candle is outside the scope of the order on petroleum wax candles from the PRC.

Enclosed is a memorandum containing the Department's analysis. We will notify the U.S. Customs Service of this decision. If you, have any questions, please contact Robert M. James or Wendy J. Frankel, at (202) 482-5222 or (202) 482-5253, respectively.

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); Watkins, Incorporated

SUMMARY

On November 3, 1994, Watkins, Incorporated (Watkins) requested that the Department of Commerce (the Department) issue a scope ruling finding that the Watkins model 5418 pillar candle, imported from the People's Republic of China (PRC), is outside the scope of the antidumping duty order on candles from the PRC (51 FR 30686, August 28, 1986). In accordance with 19 CFR 353.29(b) (1994), we recommend that the Department determine that no formal scope inquiry is warranted. Further, pursuant to 19 CFR 353.29(i)(1), we recommend that the Department determine that the Watkins model 5418 pillar candle is outside the scope of the antidumping duty order.

BACKGROUND

In its November 3, 1994, request for a scope ruling, Watkins maintains that its model 5418 pillar candle (Watkins pillar candle) meets the established criteria for exclusion from the scope of the order covering candles from the PRC. Watkins submitted a sample of the subject candle with its request.

ANALYSIS

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 determination of the Secretary and the International Trade Commission (ITC), the initial investigation and the petition. This determination may take place with or without a formal inquiry. See 19 CFR 353.29(b) and (i) (1).

Pursuant to 19 CFR 353.29(b), the Department has determined that no formal inquiry is warranted to determine whether the Watkins pillar candle is covered by the scope of the order. We have evaluated this request in accordance with 19 CFR 353.29(i)(1) because the descriptions of the products contained in the petition, the final determinations of the Secretary and the ITC, the antidumping duty order, and subsequent scope determinations are dispositive of the issue. Therefore, we have not referred to the additional factors found at section 353.29(i)(2).

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 and are referenced herein. 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.

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 ruling is a notice we 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.

The subject Watkins pillar candle is seven-and-one-half inches tall, and approximately two-and-one-half inches in diameter. It features a raised-relief, sculptured design depicting a horse-drawn "Watkins" delivery wagon being driven past a farm house, as "elves" dispense gifts from the back. To one side, Santa's sleigh is shown approaching a covered bridge some distance away. The design is identical to one on a Christmas greeting card offered by this same company.

We agree with Watkins that Christmas and other holiday novelty candles are excluded from the scope of the order, as the Department stated in the July 13, 1987, letter from the Director, Office of Compliance, quoted above. In addition, prior scope decisions have addressed, products similar to the Watkins candle, i.e., a pillar candle incorporating a Christmas holiday design. See, e.g., Recommendation Memorandum, Final Scope Ruling, Success Sales, July 27, 1994 (on file in Room B-099 of the Main Commerce Building). We find that the winter scene, with 'elves' dispensing gifts from the back of the delivery wagon, coupled with the depiction of Santa Claus, clearly limit this candle for use in connection with the Christmas holiday season. As such, this candle meets the exclusionary characteristics of a holiday novelty candle set forth by the Department in its past scope clarifications.

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, and subsequent scope determinations, we recommend determining that no formal inquiry is warranted.

_____√_____ Agree _____ Disagree

We recommend the Department find the Watkins model 5418 pillar candle outside the scope of the antidumping duty order on petroleum wax candles, as this candle meets the description of a holiday novelty candle, which is excluded from the order.

_____√_____Agree _____Disagree

If you agree, we will send the attached letter to the interested parties, and will notify the U.S. Customs Service of our determination.

Joseph A. Spetrini
Deputy Assistant Secretary
for Compliance

Attachment