

FACT SHEET

PRELIMINARY DETERMINATION IN THE ANTICIRCUMVENTION INQUIRY UNDER THE LATER-DEVELOPED MERCHANDISE PROVISION: ANTIDUMPING DUTY ORDER ON PETROLEUM WAX CANDLES FROM THE PEOPLE'S REPUBLIC OF CHINA

On May 24, the Department announced its preliminary determination of circumvention of the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC). In determining whether mixed-wax candles composed of petroleum wax and more than fifty percent or more palm and/or other vegetable oil-based waxes (mixed-wax candles) are considered later-developed merchandise under section 781(d) of the Tariff Act of 1930, as amended (the Act), the Department evaluated the arguments raised by the interested parties in light of the language of the statute, regulations, and the applicable legislative history. The evidence on the record of this inquiry, taken as a whole, leads to our preliminary determination that mixed wax candles are later-developed products of petroleum wax candles, within the meaning of section 781(d) of the Act.

However, the Department is unable to conclusively determine whether, and at what point, candles containing increasing proportions of palm and/or other vegetable oil-based wax may no longer be considered petroleum wax candles. As a result, the Department preliminary finds that only those mixed wax candles that contain up to 87.80 percent of palm and/or other vegetable oil-based waxes, which is the highest amount within a mixed-wax candle that has been made for commercial sale on the record, are within the scope of the antidumping duty order on petroleum wax candles from the PRC, as provided in section 781(d) of the Act.

Next Steps: In accordance with its affirmative preliminary determination, the Department will require suspension of liquidation of entries of mixed wax candles containing up to 87.80 percent of palm and/or other vegetable oil-based waxes mixed with petroleum wax, from the PRC that were entered, or withdrawn from warehouse, for consumption on or after February 25, 2005, the date of initiation of this anticircumvention inquiry. The merchandise subject to suspension of liquidation is limited to mixed-wax candles. U.S Customs and Border Protection (CBP) will require a cash deposit in the amount of 108.30 percent for all such unliquidated entries, which is the most recently calculated PRC-wide rate.

Following the publication of the preliminary determination, the Department will solicit additional comments and information from interested parties for consideration in the final determination in the following areas:

- the precise significant technological advancement that allowed for the commercial sale of mixed-wax candles;
- the extent to which the concentration of palm or vegetable-based oil wax has any effect on the physical properties of the mixed-wax candle as well as the proper characterization of such as candle as a petroleum wax candle;
- a direct link between patents awarded during this period and commercial sale of mixed-wax

- candles; and,
- a comprehensive survey showing the technological developments regarding mixed-wax candles.

The Department will be setting a schedule for the submission of these comments and information in the next two weeks.

Minor Alterations Anticircumvention Inquiry: On February 25, 2005, the Department also initiated a minor alterations anticircumvention inquiry on mixed wax candles, pursuant to section 781(c) of the Act. Due to the issuance of the preliminary determination that mixed-wax candles are a later-developed product, the minor alterations inquiry is on hold, but may continue pending the results of the final determination of this later-developed merchandise proceeding. However, if the Department determines to affirm the results of this preliminary determination, then the minor alteration anticircumvention proceeding will be rescinded as the products subject to that inquiry would already have been determined to be within the scope pursuant to the instant inquiry.

Petitioners: The National Candle Association, petitioners in this proceeding, requested that the Department conduct an anticircumvention inquiry pursuant to section 781(d) of the Act (the later-developed provision) on October 8, 2004.

Product Description: 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; round, columns, pillars, votives; and various wax-filled containers. The products were classified under subheading 755.25 of the Tariff Schedules of the United States. The products covered are currently classified under subheading 3406.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience purposes, our written description remains dispositive. See Notice of Antidumping Duty Order: Petroleum Wax Candles from the People’s Republic of China, 51 FR 30686 (August 28, 1986); see also Notice of Final Results of the Antidumping Duty New Shipper Review: Petroleum Wax Candles from the People’s Republic of China, 69 FR 77990 (December 29, 2004).

Import Statistics:

Petroleum Wax Candles	2002	2003	2004	2005
Value (USD)	\$160,595,833	\$165,320,212	\$197,643,517	\$126,034,894
Volume (kg)	79,000,643	83,300,550	94,381,144	59,328,534

Source: U.S. ITC Trade DataWeb for HTS 3406.00.00. The subject merchandise falls under a “basket” category, and therefore data for the exact import quantities and values are unavailable.