Manufacturers/exporters/producers	Weighted-average margin (percent)
Korea	
Union Steel Manufacturing Company	12.17
All Others	12.17
Hyundai Steel Pipe Company, Ltd., succeeded by Hyundai Hysco, was excluded from the order.	

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: September 29, 2006.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E6–16607 Filed 10–5–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–504

Later–Developed Merchandise Anticircumvention Inquiry of the Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Affirmative Final Determination of Circumvention of Antidumping Duty Order

Final Determination

We determine that candles composed of petroleum wax and over fifty percent or more palm and/or other vegetable oil–based waxes (''mixed–wax candles'') are later–developed merchandise and thus, are circumventing the antidumping duty order on petroleum wax candles from the People's Republic of China (''PRC'') under the later–developed merchandise provision, pursuant to section 781(d) of the Tariff Act of 1930, as amended (''the Act''). *See Notice of Antidumping Duty Order: Petroleum Wax Candles from the People's Republic of China*, 51 FR 30686 (August 28, 1986) (''*Order*''). In addition, we determine that mixed–wax candles containing any amount of petroleum are covered by the scope of the *Order*. We are also rescinding the concurrently initiated[1] minor alterations anticircumvention inquiry.[2] *See Memorandum from Stephen J. Claeys, Deputy Assistant Secretary, Import Administration to David M. Spooner, Assistant Secretary, Import Administration, Subject: Issues and Decision Memorandum for the Later–Developed Merchandise Anticircumvention Inquiry of the Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China*, (September 29, 2006) (''*Issues and Decision Memorandum*'').

EFFECTIVE DATE: October 6, 2006.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva or Julia Hancock, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482–3208 and (202) 482–1394, respectively.

SUPPLEMENTARY INFORMATION:

Background:

On June 2, 2006, the Department of Commerce (''the Department'') published the preliminary circumvention determination. *See Notice of Affirmative Preliminary Determination of Circumvention of Antidumping Duty Order: Later–Developed Merchandise Anticircumvention Inquiry of the Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China*, 71 FR 32033 (June 2, 2006) (''*Preliminary Determination*''). Additionally, on June 2, 2006, the Department requested that interested parties submit comments and information addressing certain areas of the analysis. *See Letter to all Interested Parties, from Edward C. Yang, Senior Enforcement Coordinator, China/NME Unit, Import Administration, RE: Anticircumvention Inquiry on Later–Developed Merchandise: Petroleum Wax Candles from the People's Republic of China*, (June 2, 2006) (''*June 2, 2006, Letter*'').

On June 23, 2006, the Department received comments and information from the following eight parties: (1) the National Candle Association (''Petitioners''); (2) China Chamber of Commerce for Importers and Exporters of Foodstuffs, Native Products and Animal By–Products, the China Daily Chemical Association and their common members, (*i.e.*, Dalian Gift Co., Ltd., Kingking A.C. Co., Ltd., Shanghai Autumn Light Enterprise Co., Ltd., Aroma Consumer Products (Hangzhou) Co., Ltd., Amstar Business Company Limited, Zhongshan Zhongnam Candle Manufacturer Co., Ltd., and Jiaxing Moonlite Candle Art Co., Ltd.) (''CCCFNA''); (3) Candle Corporation of America (''CCA''); (4) Target Corporation (''Target''); (5) Bed Bath & Beyond, Christmas Tree Shops, Inc. and Christmas Tree Shops' subsidiary Nantucket Distributing, Inc.; (6) Amscan, Inc. (''Amscan''); (7) Shonfeld USA, Inc. (''Shonfeld'') and (8) CVS Stores (''CVS'').[3]

On July 7, 2006, the Department received case briefs from the following parties: (1) Petitioners; (2) CCCFNA; (3) CCA; (4) Target; (5) Smart Marketing, Kate Aspen, and Wisconsin Cheeseman (''SKW''); (6) Christmas Tree Shops, Inc. and Christmas Tree Shops' subsidiary Nantucket Distributing, Inc.;[4] (7) Amscan; (8) CVS and (9) Shonfeld.[5]

On July 13, 2006, Petitioners submitted a letter stating that Target's case brief contained significant portions of untimely submitted new, non–publicly available information and should be resubmitted without the new information. On July 17, 2006, the Department informed parties that it was keeping the new information contained within Target's case brief and extended the deadline for parties to submit rebuttal briefs until July 24, 2006.

[1] *See Notice of Initiation Anticircumention Inquiries of Antidumping Duty Order: Petroleum Wax Candles from the People's Republic of China*, 70 FR 10962 (March 7, 2005) (''*Initiation Notice*'').

[2] The Department received a separate request from Petitioners on October 12, 2004, to initiate an inquiry to determine whether pursuant to section 781(c) of the Act, candles containing palm or vegetable-based waxes as the majority ingredient and exported to the United States are circumventing the antidumping duty order on petroleum wax candles from the PRC under the minor alterations provision.

[3] Bed Bath & Beyond, Christmas Tree Shops, Inc. and Christmas Tree Shops' subsidiary Nantucket Distributing, Inc, Amscan, Shonfeld and CVS submitted virtually identical information and comments with the only difference being each entity's responses to some of the Department's questions contained in the June 2, 2006, letter.

[4] Although Bed Bath & Beyond submitted comments and new information with Christmas Tree Shops' subsidiary Nantucket Distributing, Inc., it did not file a case brief.

[5] Christmas Tree Shops, Inc. and Christmas Tree Shops' subsidiary Nantucket Distributing, Inc., Amscan, CVS, and Shonfeld submitted four individual briefs containing identical arguments. These parties will be hereinafter be referred to as ''Merchandisers.''

On July 24, 2006, the Department received rebuttal case briefs from the following parties: (1) Petitioners; (2) CCCFNA; (3) CCA and (4) Target. On July 27, 2006, Target submitted a letter stating that Petitioners' rebuttal brief contained significant portions of untimely submitted new, non–publicly available information and should be resubmitted without the new information. On July 28, 2006, the Department informed parties that it was keeping the new information contained within Petitioners' rebuttal brief and provided parties an opportunity to rebut Petitioners' new information with additional coents and information. On August 3, 2006, CCCFNA and CCA[6] submitted additional comments and information.

Scope Of 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; round, columns, pillars, votives; and various wax–filled containers. The products were classified under the Tariff Schedules of the United States (''TSUS'') 755.25, Candles and Tapers. The products covered are currently classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') item 3406.00.00. Although the HTSUS subheading is provided for convenience purposes, our written description remains dispositive. *See Order* and *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).

Final Rescission Of Minor Alterations Anticircumvention Inquiry

Due to the issuance of the affirmative final determination that mixed–wax candles are a later–developed product, the minor alterations anticircumvention inquiry, pursuant to section 781(c) of the Act, has been rescinded as the products subject to that inquiry have already been determined to be within the scope of the *Order*, pursuant to the instant inquiry under section 781(d) of the Act.

Later–Developed Merchandise

Statutory Provisions

Section 781(d) of the Act provides that the Department may find circumvention of an antidumping duty order when merchandise is developed after an investigation is initiated (''later–developed merchandise''). In conducting anticircumvention inquiries under section 781(d)(1) of the Act, the Department must examine the following criteria: (A) whether the later–developed merchandise has the same general physical characteristics as the merchandise with respect to which the order was originally issued (''earlier product''); (B) whether the expectations of the ultimate purchasers of the later–developed merchandise are the same as for the earlier product; (C) whether the ultimate use of the earlier product and the later–developed merchandise is the same; (D) whether the later–developed merchandise is sold through the same channels of trade as the earlier product; and (E) whether the later–developed merchandise is advertised and displayed in a manner similar to the earlier product.

In addition, section 781(d)(2) of the Act also states that the administering authority may not exclude later–developed merchandise from a countervailing or antidumping duty order merely because the merchandise (A) is classified under a tariff classification other than that identified in the petition or the administering authority's prior notices during the proceeding, or (B) permits the purchaser to perform additional functions, unless such additional functions constitute the primary use of the merchandise, and the cost of the additional functions constitute more than a significant proportion of the total cost of production of the merchandise.

Legislative History and Case Precedent

The statute does not provide further guidance in defining the meaning of further development. The only other source of guidance available is the brief discussion of later–developed products in the legislative history for section 781(d) of the Act, which although addressing later–developed products with respect to the ITC's injury analysis, we find is also relevant to the Department's analysis. The Conference Report on H.R. 3, Omnibus Trade and Competitiveness Act of 1988 defines a later–developed product as a product that has been produced as a result of a ''**significant technological advancement or a significant alteration of the merchandise involving commercially significant changes**.'' *See* H.R. Conf. Rep No. 576, 100th Cong., 2d Sess. (1988), reprinted in 134 Cong. Rec. H2031, H2305 (daily ed. April 20, 1988) (*emphasis added*). In addition, in the first section 781(d) determination involving portable electric typewriters, the Department also cited a U.S. Senate report:

> [s]ection 781(d) was designed to prevent circumvention of an existing order through the sale of later developed products or of products with minor alterations that contain features or technologies not in use in the class or kind of merchandise imported into the United States at the time of the original investigation.

See S. Rep No. 40., 100th Cong., 1st Sess. 101 (1987).

Additionally, the Department noted the following:

> The Senate amendment is designed to address the application of outstanding antidumping and countervailing duty orders to merchandise that is essentially the same merchandise subject to an order, but was developed after the original investigation was initiated. Sec. 323(a) of Sen. amendment to H.R. 3, October 6, 1987. H.R. Conf. Rep No. 576, 100th Cong., 2d Sess. (1988), reprinted in 134 Cong. Rec. H2031, H2305 (daily ed. April 20, 1988).
>
> The language of the statute and legislative history makes clear that for **any product to be considered later–developed it must be an advancement of the original product** subject to the investigation, as opposed to a product recently found to be within the scope of the order.

See Portable Electric Typewriters from Japan: Preliminary Scope Ruling, 55 FR 32107, 32114 (August 7, 1990) (''*PET Prelim*'') (*emphasis added*).

In addition to the legislative history, prior later–developed merchandise cases also provide further guidance, foremost of which is that the Department has considered ''commercial availability'' at the time of the underlying less–than-fair–value (''LTFV'') investigation in some form in its prior later–developed merchandise anticircumvention inquiries: *PET Final*; *EMD Final*; and *EPROMs Final*. *See Portable Electric Typewriters from Japan: Final Scope Ruling*, 55 FR 47358 (November 13, 1990) (''*PET Final*''); *Electrolytic Manganese Dioxide from Japan: Final Scope Ruling*, 57 FR 395 (January 6, 1992) (''*EMD Final*''); and

[6] In its new factual information comments, CCA stated that Petitioners' factual information should be rejected by the Department as untimely new factual information. According to CCA, Petitioners had ample opportunity to submit factual information to bolster their argument during the course of this anticircumvention inquiry. Additionally, CCA states that Petitioners have twice ignored the Department's schedule for submitting factual information and submitted factual information past the established deadline. *See CCA's Response to Petitioners' New Factual Information*, (August 3, 2006) at 3. Moreover, CCA argues that Petitioners have not provided any justification for submitting this untimely new information and as such, the Department should reject Petitioners' new information for the final results of this anticircumvention inquiry.

However, for the final determination, the Department has kept Petitioners' factual information on the record.

Eraseable Programmable Read Only Memories from Japan: Final Scope Ruling, 57 FR 11599 (April 6, 1992) (''*EPROMS Final*''). In each case, the Department addressed the ''commercial availability'' of the later–developed merchandise in some capacity, such as the product's presence in the commercial market or whether the product was fully ''developed,'' *i.e.*, tested and ready for commercial production.[7]

Based upon the legislative history of the anticircumvention provision and prior later–developed merchandise inquiries, the Department continues to include a ''commercial availability'' standard in its analysis of this proceeding, as was indicated in the *Preliminary Determination*. *See Preliminary Determination*, 71 FR at 32038. As noted above, both the legislative history and prior later–developed merchandise inquiries place emphasis on evaluating the ''commercial availability'' of the specific product to determine whether that product is later–developed, pursuant to section 781(d) of the Act. Accordingly, the Department will evaluate whether mixed–wax candles were not ''commercially available'' at the time of the LTFV investigation in order to be properly considered later–developed merchandise.

Analysis

We have analyzed the information, comments, and rebuttal comments of interested parties in this anticircumvention inquiry. Based on all of the information on the record, the Department considered whether the merchandise subject to this anticircumvention inquiry was ''developed'' as a result of a significant technological development *or* a significant alteration of the merchandise involving commercially significant changes. In the *Preliminary Determination*, the Department found that the technology required to produce the kind of mixed–wax candles at issue was hydrogenation, but that the Department had serious concerns that required further inquiry regarding the precise significant technological advancement that allowed for the commercial sale of mixed–wax candles.[8] *See Preliminary Determination* at 32038–40. After examining the information received since the *Preliminary Determination*, the Department finds that the record does not support a conclusion that there was a clear technological development which permitted the commercial appearance of mixed–wax candles. However, as discussed above, the relevant legislative history indicates a second, disjunctive permissible condition for finding a product to be later–developed: whether there was a significant alteration of the merchandise involving commercially significant changes. The Department finds that this standard has been met. In this case, primarily through a large number of submitted patents, manuals, and brochures, the record supports that there has been a sustained and significant series of scientific studies since the LTFV investigation centered on the composition of waxes and the application of those waxes to candle–making. *See Evidence Memorandum* for further discussion. As such, it is evident that the composition of the wax content of a candle is a significant constituent component of the candle and, accordingly, changes to the content in excess of 50 percent of the total wax are significant. Moreover, the record also supports that the addition of vegetable and/or palm–oil based waxes to previously 100 percent petroleum wax candles is commercially significant. First, such a capability permits a manufacturer to optimize candle production to take into account varying input costs with obvious commercial benefits. *See CCA's New Factual Information Submission*, (June 23, 2006) at Exhibit 7. Second, although such an addition yields a comparable product properly considered within the scope of the *Order*, as discussed in Comments 5 and 6 of the *Issues and Decision Memorandum*, creative marketing has begun to highlight the vegetable or palm–oil based wax component of mixed–wax candles to create a new niche market centered on renewable resources or health concerns. This second aspect of the significant change to the candle composition, in that it creates a new marketing possibility, while not creating a separate class of merchandise, also has commercial significance. Based on this analysis, the Department finds that the one of the two requisite conditions for finding that a product is later–developed has been satisfied. Accordingly, the Department finds that this can be categorized as a ''significant alteration of the merchandise involving commercially significant changes,'' and thus, satisfies one of the legislative history's criterion for finding these mixed–waxed candles are later–developed merchandise, pursuant to the section 781(d) of the Act. *See Issues and Decisions Memorandum*, at Comment 3.

Additionally, based on further information and evidence submitted by parties, the Department considered whether mixed–wax candles were ''commercially available'' at the time of the LTFV investigation. In the *Preliminary Determination*, the Department found that, due to the limited data, it was unable to establish that mixed–wax candles were available at the time of the LTFV investigation. *See Preliminary Determination*, 71 FR at 32040. Since the *Preliminary Determination*, the Department has not received any information, either through relevant product brochures, annual sales data, or any other information, that allows it to definitively conclude that mixed–wax candles were available in the market at the time of the LTFV investigation. *See Issues and Decisions Memorandum*, at Comment 4. As a result of our analysis, we continue to find that U.S. imports of mixed–wax candles are later–developed products of the subject merchandise, within the meaning of section 781(d) of the Act.

Moreover, based on further comments and evidence submitted by parties, the Department considered whether mixed–wax candles were within the scope of the *Order*. In the *Preliminary Determination*, the Department found that, because the Department had only limited information with which to establish a distinction, if any, between subject and non–subject mixed–wax candles, it concluded that mixed–wax candles containing up to 87.80 percent non–petroleum wax were within the scope of the *Order*. *See Preliminary Determination*, 71 FR at 32040. Since the *Preliminary Determination*, no information on the record indicates that mixed–wax candles above a certain percentage are not sufficiently different

[7] The fourth later-developed merchandise inquiry conducted by the Department was Television Receiving Sets, Monochrome and Color, from Japan. In that inquiry, the Department found that hand-held LCD televisions (LCD TVs) were later-developed merchandise. *See Television Receiving Sets, Monochrome and Color, from Japan: Final Scope Ruling*, 56 FR 66841 (December 26, 1991) (''*TV Final*''). In its final determination, the Department reviewed LCD TVs based upon the later-developed merchandise provision and noted that the LCD TV technology did not exist at the time the original product descriptions were developed. If the technology did not exist, the Department concluded, LCD TVs could not have been ''commercially available'' at the time of the investigation. In other later-developed merchandise inquiries, such as *EPROMs Final*, the Department addressed ''commercial availability'' in some form as a factor in its later-developed merchandise analysis because the technology to ''develop'' the new product existed at the time of the original investigation. *See EPROMs Final*, 57 FR at 11602-3.

[8] Hydrogenation of oils is essentially chemically modifying palm and vegetable oils through heat, the addition of hydrogen and other catalysts, to form a carbon chain chemistry that allows the long chains to fit closely together so that the oil can be converted into wax.

from other in–scope mixed–wax candles and petroleum wax candles to draw a useful distinction. Additionally, there is further evidence on the record demonstrating that mixed–wax candles are produced in proportions higher than 87.80 percent non–petroleum wax. Accordingly, we find that mixed–wax candles containing any amount of petroleum wax are within the scope of the *Order*.

However, we recognize that there may be types of mixed–wax candles containing a given amount of vegetable–based wax that places these mixed–wax candles outside the scope of the *Order*. Therefore, we note that interested parties may submit a scope request, pursuant to 351.225 of the Department's regulations, regarding whether a certain type of mixed–wax candle is outside the scope of the *Order*. *See Issues and Decision Memorandum*, at Comments 5 and 6.

Consequently, pursuant to section 781(d) of the Act, we continue to find that mixed–wax candles containing any amount of petroleum wax are later–developed merchandise and are within the scope of the *Order*.

All issues raised by the interested parties to which we have responded are listed in the Appendix to this notice and addressed in the *Issues and Decision Memorandum*, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this inquiry and the corresponding recommendation in this public memorandum, which are on file in the Central Records Unit (''CRU''), Room B–099 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://ia.ita.doc.gov/*. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Continuation Of Suspension Of Liquidation

Section 351.225(l)(2) of the Department's regulations states: ''If liquidation has not been suspended, the Secretary will instruct the Customs Service to suspend liquidation and to require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the product entered, or withdrawn from warehouse, for consumption on or after the date of initiation of the scope inquiry.'' In accordance with section 351.225(l)(2) of the Department's regulations, we will continue to instruct U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all entries of mixed–wax candles containing any amount of petroleum wax, from the People's Republic of China that were entered, or withdrawn from warehouse, for consumption on or after February 25, 2005, the date of initiation of this anticircumvention inquiry. *See Notice of Affirmative Preliminary Determination of Circumvention of Antidumping Duty Order: Anti–Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy*, 63 FR 18364, 18366 (April 15, 1998); *Notice of Affirmative Final Determination of Circumvention of Antidumping Duty Order: Anti–Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy*, 63 FR 54672, 54675–6 (October 13, 1998).

In the *Preliminary Determination*, the merchandise subject to suspension of liquidation were mixed–wax candles containing up to 87.80 percent of non–petroleum wax. *See Preliminary Determination*, 71 FR at 32043–4. However, in this determination, the Department has found that mixed–wax candles containing any amount of petroleum wax are within the scope of the Order. *See Issues and Decision Memorandum*, at Comments 5 and 6. Section 351.225(l)(3) of the Department's regulations states:

> If the Secretary issues a final scope ruling under either paragraph (d) or (f)(4) of this section, to the effect that the product in question is included within the scope of the order, any suspension of liquidation under paragraph (l)(1) or (l)(2) of this section will continue. Where there has been no suspension of liquidation, the Secretary will instruct the Customs Service to suspend liquidation and to require a cash deposit of estimated duties at the applicable rate, for each unliquidated entry of the product entered, or withdrawn from warehouse, for consumption on or after the date of initiation of the scope inquiry.

Because the Department in the *Preliminary Determination* did not suspend liquidation for those entries of mixed–wax candles containing an amount of non–petroleum wax greater than 87.80 percent, with the publication of this notice, the Department hereby suspends liquidation of those entries of mixed–wax candles containing any amount of petroleum wax that were entered, or withdrawn from warehouse, for consumption on or after February 25, 2005, the date of initiation of this anticircumvention inquiry, pursuant to section 351.225(l)(3) of the Department's regulations. Accordingly, the merchandise subject to suspension of liquidation based on this determination are mixed–wax candles containing any amount of petroleum wax. CBP shall 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. *See Amended Notice of Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 69 FR 20858, 20859 (April 19, 2004).

This suspension of liquidation will remain in effect until further notice.

Notice To Parties

This notice also serves as the only reminder to parties subject to the administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with section 351.305 of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This final circumvention determination is in accordance with section 781(d) of the Act and 19 CFR 351.225(j).

Dated: September 29, 2006.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E6–16613 Filed 10–5–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE.

International Trade Administration

A–570–832

Pure Magnesium from the People's Republic of China: Notice of Extension of Final Results of the 2004–2005 Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: October 6, 2006.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or Hua Lu, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–3434 and (202) 482–6478, respectively.

Background

On April 10, 2006, the Department of Commerce (''the Department'') published the preliminary results of the