Petroleum Wax Candles from China

Investigation No. 731-TA-282 (Third Review)

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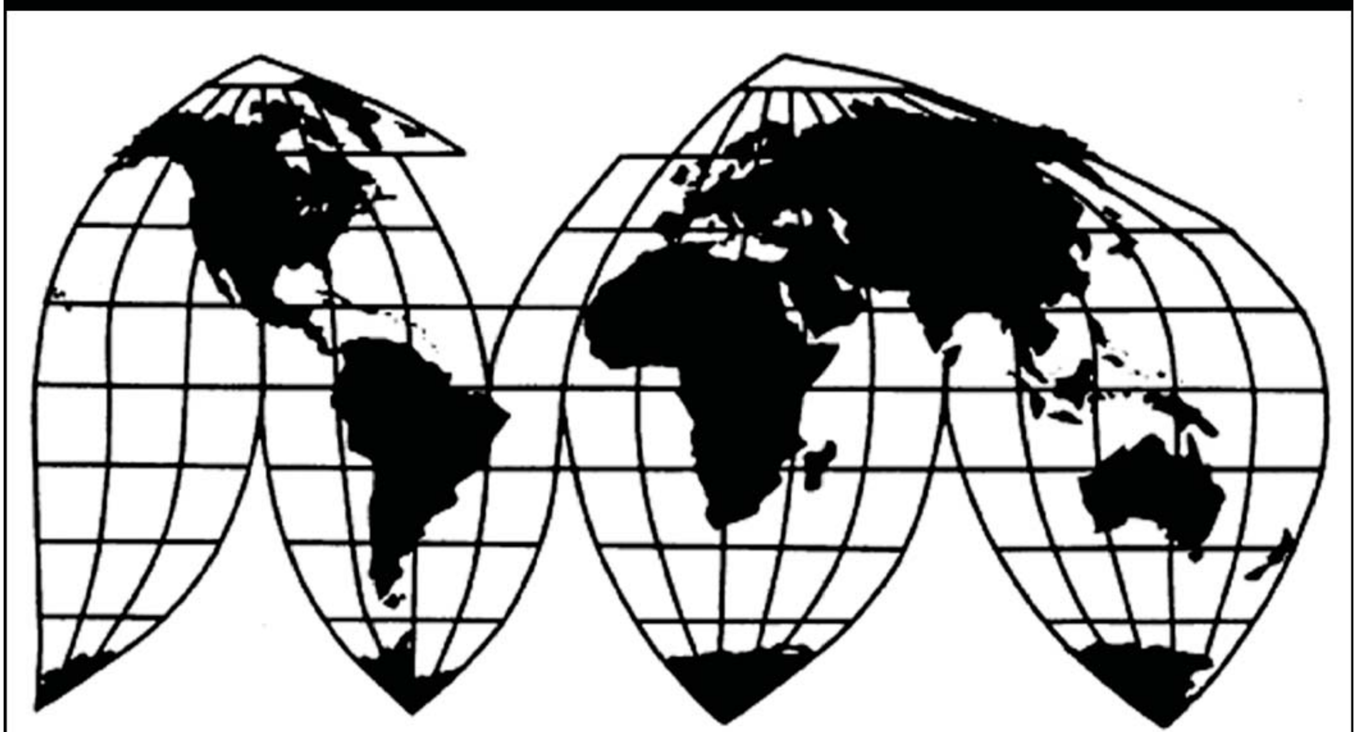
U.S. International Trade Commission



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been identified by the use of *.**

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-282 (Third Review)

PETROLEUM WAX CANDLES FROM CHINA

DETERMINATION

On the basis of the record[1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty order on petroleum wax candles from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted this review on July 1, 2010 (75 F.R. 38121) and determined on October 4, 2010 that it would conduct an expedited review (75 F.R. 63200, October 14, 2010).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended ("the Act"), that revocation of the antidumping duty order on petroleum wax candles from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

A. The Original Determination

In August 1986, the Commission determined that an industry in the United States was being materially injured by reason of less-than-fair value imports of petroleum wax candles from China.[1] The U.S. Department of Commerce ("Commerce") issued an antidumping duty order on petroleum wax candles from China on August 28, 1986.[2]

B. The Commission's Five-Year Reviews

The Commission instituted the first five-year review of the order on January 4, 1999. The Commission conducted an expedited review and determined that revocation of the antidumping duty order on petroleum wax candles from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3] As a result of affirmative determinations by Commerce and the Commission, the antidumping duty order remained in effect.

The Commission instituted the second review on August 2, 2004. Despite an inadequate respondent group response to the notice of initiation, the Commission determined that a full review was warranted to permit the Commission to examine any domestic like product issues raised by the numerous scope rulings issued by Commerce since the imposition of the antidumping duty order in 1986.[4] In July 2005, following an affirmative determination by Commerce, the Commission determined that revocation of the order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, and the subject order remained in effect.[5]

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[1] Petroleum Wax Candles from the People's Republic of China, Inv. No. 731-TA-282 (Final), USITC Pub.1888 (August 1986) ("Original Investigation"). Chairman Liebeler and Vice Chairman Brunsdale dissented.

[2] 51 Fed. Reg. 30686 (August 28, 1986).

[3] Petroleum Wax Candles from the People's Republic of China, Inv. No. 731-TA-282 (Review), USITC Pub. 3226 (August 1999) ("First Five-Year Review"). Commissioners Crawford and Askey dissented.

[4] Petroleum Wax Candles from the People's Republic of China, Inv. No. 731-TA-282 (Second Review), USITC Pub. 3790 (July 2005) ("Second Five-Year Review") at 3.

[5] Second Five-Year Review at 1.

C. The Current Review

The Commission instituted the present review on July 1, 2010. The National Candle Association ("NCA"), a trade association a majority of whose members manufacture candles in the United States, filed the sole domestic interested party response.[6] The Commission did not receive any responses from producers or exporters of petroleum wax candles in China or from any U.S. importers of the subject merchandise.

On October 4, 2010, the Commission found the domestic interested party response to the notice of institution adequate and the respondent interested party response inadequate.[7] As the Commission did not find any circumstances that would warrant conducting a full review, it determined to conduct an expedited review pursuant to section 751(c)(3) of the Act.[8]

On November 15, 2010, NCA filed comments, pursuant to 19 C.F.R. § 207.62(d), arguing, as it had in its response to the notice of institution, that revocation of the antidumping duty order on petroleum wax candles from China would likely lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.[9]

II. DOMESTIC LIKE PRODUCT

In making its determination under section 751(c) of the Act, the Commission defines "the domestic like product" and the "industry."[10] The Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."[11] The Commission's practice in five-year reviews is to look to the like product definition from the original determination and any completed reviews and consider whether the record indicates any reason to revisit the prior findings.[12]

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[6] CR/PR at I-3 and n.4; and NCA Response to the Commission's Notice of Institution (August 2, 2010) ("NCA Response") at 2. The NCA is a U.S. trade association comprising of 40 domestic producers of petroleum wax candles accounting for approximately *** percent of total U.S. production of candles in 2009. Id.

[7] See 75 Fed. Reg. 63200 (October 14, 2010) and Explanation of Commission Determination on Adequacy.

[8] Id.; 19 U.S.C. § 1675(c)(3) (2006).

[9] See generally NCA Response and NCA Final Comments (November 15, 2010) ("NCA Final Comments").

[10] 19 U.S.C. § 1677(4)(A).

[11] 19 U.S.C. § 1677(10); see, e.g., Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991); see also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[12] See, e.g., Internal Combustion Industrial Forklift Trucks From Japan, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (December 2005); Crawfish Tail Meat From China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); Steel Concrete Reinforcing Bar From Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (February 2003).

A. Product Description

In its expedited sunset determination, Commerce defined the subject merchandise as –

> . . . 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.[13] [14]

A candle is made of solid, fusible, combustible waxes or fatty substances surrounding and saturating a combustible wick. Candles are used to give light, heat, or scent, or for celebration or votive purposes. As a candle burns, its flame is fed by a supply of melted wax which flows up the wick as a result of capillary action.[15]

There are two broad categories of wax used for commercial purposes: natural and synthetic. The bulk of candle manufacturing uses various combinations of natural waxes, principally paraffins, microcrystallines, stearic acid, and beeswax. Selection of wax for candle-making takes into consideration a number of characteristics, such as melting point, viscosity, and burning power. In its original determination, the Commission noted that petroleum wax candles may contain other waxes in varying amounts, depending on the size and shape of the candle, to enhance melt-point, viscosity, and burning power.[16]

In addition to wax and wick, scents, dyes, labeling, and packaging are other components in the production of candles. Scents added to wax are created by the same companies that produce expensive perfumes, and they are specially compounded for use in petroleum wax; scents as a share of production costs can range from zero for unscented candles to 60 percent for scented votives. Special wax soluble dyes are used in color formulations, which are controlled in order to produce color consistency. Labeling and packaging may be provided at the request of purchasers (private labeling and UPC labels) or may be required (warning labels).[17]

B. The Original Investigation and Prior Reviews

1. Original Investigation

In the original investigation, the Commission considered whether candles made of materials other than petroleum wax, principally beeswax, should be considered a part of the domestic like product. The Commission defined petroleum wax candles as those composed of more than 50 percent petroleum wax

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[13] Petroleum Wax Candles from the People's Republic of China; Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 75 Fed. Reg. 70713 (November 18, 2010).

[14] Commerce has completed 212 separate scope rulings and two circumvention inquiries since it issued the original antidumping duty order in 1986. The scope language has remained unchanged from the original investigation, although Commerce has noted that, "[t]here have been numerous clarifications to the scope of this order." Final Results of Expedited Sunset Review: Petroleum Wax Candles from the People's Republic of China, 64 Fed. Reg. 32481 (June 17, 1999) and Petroleum Wax Candles From the People's Republic of China; Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 69 Fed. Reg. 75303 (December 16, 2004).

[15] CR at I-13, PR at I-11.

[16] CR at I-14, PR at I-11.

[17] CR at I-14, PR at I-11.

and defined beeswax candles as those composed of more than 50 percent beeswax.[18] Comparing beeswax and petroleum wax candles, the Commission defined the like product as consisting "only of petroleum wax candles."[19] In reaching this conclusion, the Commission found that beeswax candles had different physical characteristics and uses (religious purposes), were sold mainly through different channels (principally in religious and specialty markets), were priced considerably higher, and were produced only in small quantities by major domestic producers of petroleum wax candles.[20] Further, the Commission found that beeswax candles are not interchangeable with petroleum wax candles because of a threefold difference in the cost of production and because beeswax and petroleum wax candles were not perceived as competitive products by candle producers.[21]

2. Prior Five-Year Reviews

In the expedited first five-year review, none of the parties that provided information objected to the domestic like product definition determined in the original investigation. The Commission found that none of the additional information collected in the review warranted a departure from its original definition of the domestic like product. Accordingly, based on the facts available, the Commission again defined the domestic like product as petroleum wax candles.

In the second five-year review, the Commission reexamined its prior domestic like product findings to determine whether to include all blended candles within the domestic like product, regardless of the proportions between petroleum and vegetable wax. The Commission defined "blended candles" for purposes of its analysis as candles containing any blend of petroleum and vegetable wax.[22] The Commission found that there was no commercial production in the United States (or elsewhere) of blended candles in 1986 when the Commission made its original determination. Blended candles were not raised as an issue in 1999 at the time of the expedited first five-year review. Beginning in the late 1990s, however, some U.S. candle-makers began commercial production of blended candles and such production continued over the period of the second review.[23]

The Commission determined, applying its six-factor like product analysis, that petroleum and vegetable wax candles (1) had similar physical characteristics in appearance, odor, and feel; (2) were used for the same purposes; (3) shared common manufacturing facilities, processes, and employees; (4) were perceived to be completely interchangeable; and (5) were sold through the same channels of distribution and were advertised and displayed in the same manner.[24] With respect to the sixth factor, the Commission found that the cost for vegetable wax was higher than the cost for petroleum wax and that this differential was reflected in prices for the candles produced from different blends of these waxes during the period of review.[25]

The Commission concluded that, with the exception of price, the evidence in the record regarding each like product factor favored the inclusion of all blended wax candles in the domestic like product. The Commission noted that the record did not reflect a clear dividing line between blended wax candles with more than 50 percent petroleum wax content and those with 50 percent or less petroleum wax content, but rather that these types fell within a continuum. Accordingly, the Commission defined the

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[18] Original Investigation at 4-5.

[19] Original Investigation at 9.

[20] Original Investigation at 5.

[21] Original Investigation at 5-6 and n.11.

[22] Second Five-Year Review at 7.

[23] Second Five-Year Review at 8.

[24] Second Five-Year Review at 8-9.

[25] Second Five-Year Review at 9.

domestic like product as "candles with fiber paper-cored wicks and containing any amount of petroleum, except for candles containing more than 50 percent beeswax."[26]

3. The Current Review

In this expedited review, NCA has indicated that it agrees with the definition of the domestic like product in the Commission's second five-year review.[27] There is no new information obtained during this review that would suggest any reason to revisit that definition. Thus, we define the domestic like product as "candles with fiber or paper-cored wicks and containing any amount of petroleum wax, except for candles containing more than 50 percent beeswax."

III. DOMESTIC INDUSTRY

Section 771(4)(A) of the Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[28] In defining the domestic industry, the Commission's general practice has been to include all domestic producers of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

In its original determination and in the first five-year review, the Commission defined the domestic industry as all domestic producers of petroleum wax candles.[29] In its second five-year review, however, the Commission defined the domestic industry as all domestic producers of candles with fiber or paper-cored wicks and containing any amount of petroleum wax, except for candles containing more than 50 percent beeswax, consistent with the revised domestic like product definition. The NCA agrees with the domestic industry definition determined in the second five-year review.[30] Therefore, based on our definition of the domestic like product, we define the domestic industry to include all U.S. producers of the domestic like product.[31]

IV. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDER IS REVOKED

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping or countervailing duty order unless (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order "would be likely to lead to continuation or recurrence of

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[26] Second Five-Year Review at 9.

[27] NCA Response at 41.

[28] 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. <u>See</u> 19 U.S.C. § 1677.

[29] <u>See</u> Original Investigation at 9 and First Five-Year Review at 5-6.

[30] NCA Response at 41.

[31] The related party provision, 19 U.S.C. § 1677(4)(B), allows the Commission to exclude from the domestic industry certain domestic producers that imported subject merchandise or have a corporate affiliation with importers or exporters of the subject merchandise, if the Commission finds that appropriate circumstances exist. In 2009, *** imported ***. CR at I-23, PR at I-18. Consequently, *** is a related party as defined by the statute. Individual data for ***, however, are not available. Because we cannot determine whether circumstances are appropriate to exclude *** from the domestic industry, we determine not to exclude ***.

material injury within a reasonably foreseeable time."[32] The SAA states that "under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[33] Thus, the likelihood standard is prospective in nature.[34] The U.S. Court of International Trade has found that "likely," as used in the five-year review provisions of the Act, means "probable," and the Commission applies that standard in five-year reviews.[35] [36] [37]

The Act states that "the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time."[38] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' timeframe applicable in a threat of injury analysis in original investigations."[39]

Although the standard in a five-year review is not the same as the standard applied in an original antidumping duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated."[40] It directs the Commission to take into account its prior injury determination, whether any improvement in

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[32] 19 U.S.C. § 1675a(a).

[33] SAA at 883-84. The SAA states that "{t}he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." Id. at 883.

[34] While the SAA states that "a separate determination regarding current material injury is not necessary," it indicates that "the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked." SAA at 884.

[35] See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003) ("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"), aff'd mem., 140 Fed. Appx. 268 (Fed. Cir. 2005); Nippon Steel Corp. v. United States, 26 CIT 1416, 1419 (2002) (same); Usinor Industeel, S.A. v. United States, 26 CIT 1402, 1404 nn.3, 6 (2002) ("more likely than not" standard is "consistent with the court's opinion"; "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int'l Trade Sept. 4, 2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); Usinor v. United States, 26 CIT 767, 794 (2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

[36] For a complete statement of Chairman Okun's interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the "Likely" Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Argentina, Brazil, Germany, and Italy, Invs. Nos. 701-TA-362 (Review) and 731-TA-707 to 710 (Review)(Remand), USITC Pub. 3754 (Feb. 2005).

[37] Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape From Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004), she does not concur with the U.S. Court of International Trade's interpretation of "likely," but she will apply the Court's standard in these reviews and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue.

[38] 19 U.S.C. § 1675a(a)(5).

[39] SAA at 887. Among the factors that the Commission should consider in this regard are "the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities." Id.

[40] 19 U.S.C. § 1675a(a)(1).

the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C.§ 1675(a)(4).[41] The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination.[42]

As discussed above, no foreign producer of petroleum wax candles responded to the Commission's notice of institution. Accordingly, when appropriate in this review, we have relied on the facts otherwise available, which consist of information from the original investigation and the first and second five-year reviews, as well as information submitted in this review, including information provided by the domestic industry and information available from published sources.[43] [44]

B. Conditions of Competition and Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[45] We find the following conditions of competition relevant to our determination.

1. The Original Investigation

In the original investigation, the Commission found that the domestic industry consisted of a few large producers and many small producers. The Commission identified more than 100 producers of candles for commercial sale in the United States, in addition to many small craft producers for local, noncommercial use. The record in the original investigation showed that department and specialty stores, as well as mass merchandisers, were the principal outlets for candle sales.[46] The record in the original

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[41] 19 U.S.C. § 1675a(a)(1). We note that Commerce has made no duty absorption findings.

[42] 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[43] 19 U.S.C. § 1677e(a) authorizes the Commission to "use the facts otherwise available" in reaching a determination when (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to 19 U.S.C. § 1677m(i). The verification requirements in 19 U.S.C. § 1677m(i) are applicable only to Commerce. See Titanium Metals Corp. v. United States, 155 F. Supp. 2d 750, 765 (Ct. Int'l Trade 2002) ("the ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of Commission investigations.").

[44] Chairman Okun notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. See 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties' suggested interpretations of the record evidence. Regardless of the level of participation, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. "In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive." SAA at 869.

[45] 19 U.S.C. § 1675a(a)(4).

[46] Original Investigation Staff Report at A-17, A-41.

investigation also indicated that purchasers overwhelmingly viewed price as the most important factor in purchasing decisions.[47]

2. The Prior Five-Year Reviews

In the first five-year review, the Commission found that demand for petroleum wax candles surged in the mid-1990s. Apparent domestic consumption of petroleum wax candles grew substantially between the original investigation and the first five-year review with the domestic industry, subject imports, and nonsubject imports sharing in the growth.[48] The Commission found that the large increase since the original investigation included all candle styles, types and sizes, and was due to greater use of petroleum wax candles for non-traditional purposes, such as aromatherapy, scenting, and home decoration. The Commission also noted that there were over 200 domestic producers of candles. The Commission found that price continued to be an important factor in purchasing decisions and that department and specialty stores, as well as mass merchandisers, continued to be the principal outlets for sales.[49]

In the second five-year review, the Commission found that petroleum wax candles came in different shapes, colors, and scents that may be preferred in different market segments. The Commission found that wax-filled containers consistently accounted for the largest share -- between 40 percent and 50 percent -- of domestic producers' domestic shipments, followed by columns and pillars. Among subject imports, columns and pillars accounted for the largest share of U.S. shipments in 2004, followed by “other” candles. Demand during the period of review had a seasonal component, increasing at the end of the year during the holiday season.[50]

The Commission also found that overall apparent U.S. consumption remained relatively flat during the period of review, due to a saturation of the market for non-traditional purposes noted in the first five-year review. The Commission found that, while the volume and market share of subject imports and the domestic product continued to grow over the period of review, nonsubject imports decreased 44 percent and had lost market share.[51]

The Commission also found that the number of domestic producers doubled from the first five-year review to over 400, although there had been some contraction among the original large producers since the original investigation.[52] As in the original investigation and the first five-year review, the Commission found that department and specialty stores and mass merchandisers continued to be the principal outlets for candle sales. During the period of review, the role of mass merchandisers continued to grow, mostly at the expense of membership warehouse clubs and department and craft stores. The Commission found that the most *** candle producers during the period of review were those who supplied the direct sales segment of the market. This channel includes those selling directly to end-use consumers through home parties, as well as those selling through wholly owned retail establishments. Finally, although purchasers continue to view price as an important factor, the Commission found that not all purchasers reported buying the lowest-priced candles available.[53]

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[47] Original Confidential Report at A-70; see also Original Investigation at 16-17.

[48] First Five-Year Review at 8.

[49] First Five Year Review at 9.

[50] Second Five-Year Review at 14.

[51] Second Five-Year Review at 15.

[52] Second Five-Year Review at 15-16.

[53] Second Five-Year Review at 16.

3. The Current Review

We find that the conditions of competition relied upon by the Commission in making its determination in the second five-year review generally continue in the current period. The NCA reports, however, that the most significant change in demand for candles since the full second five-year review has been the emergence of the severe recession in late 2007. The recession has caused a marked decline in U.S. demand, with a 39.4 percent decrease in apparent U.S. consumption since 2004.[54] NCA claims that a major incentive for purchases of candles is the sale of new and existing homes because candles are often part of the homeowners' efforts to decorate living spaces. Accordingly, weak home sales in 2008 and 2009 have hindered candle sales. Other factors affecting candle sales include seasonal purchases and the use of candles as air fresheners. Candles face competition from other air fresheners, such as sprays and plug-ins, which further affects candle sales.[55]

With respect to changes in supply conditions since the second five-year review, NCA reports that subject imports have decreased dramatically because of an increase in the antidumping duty margin on subject imports and because of more effective anticircumvention efforts by the domestic industry.[56] In addition, China is a prominent supplier of paraffin wax to the United States and, according to the NCA, has large excess volumes of this key raw material that could be used to increase production of candles for export to the United States.[57] In this regard, the NCA argues that China has consistently been a large exporter of candles, not just to the United States but to the rest of the world, and that recent decreases in Chinese candle exports may be attributed to the decrease in worldwide demand.[58]

The price of paraffin wax, the primary raw material in the production of petroleum wax candles, more than doubled from 2004 to 2009, in addition to increases in the cost of other raw materials, such as linerboard used for packing boxes, which almost doubled over the same period.[59]

Nonsubject imports, particularly from Vietnam and India, have increased significantly since 2004, although nonsubject imports from these countries were equivalent to only one half of the decrease

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[54] CR/PR at Table I-5. Apparent U.S. consumption decreased significantly, from 729.9 million pounds in 2004 to 442.1 million pounds in 2009. Id.

[55] CR at I-32, PR at I-26; NCA Response at 32.

[56] NCA Response at 29-30. In October 2006, Commerce determined in an anticircumvention inquiry that "mixed wax candles" were later-developed products and were circumventing the antidumping duty order on petroleum wax candles form China. Commerce defined mixed-wax candles as candles composed of petroleum wax and over 50 percent or more palm or other vegetable oil-based waxes. In this inquiry, Commerce determined that mixed-wax candles containing any amount of petroleum were covered by the scope of the order. 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, 71 Fed. Reg. 59075 (October 6, 2006).

In June 2007, Commerce determined in a second anticircumvention inquiry that wickless petroleum wax forms from China were subject merchandise and were circumventing the order. The products covered by this inquiry were certain scented or unscented petroleum wax forms that did not incorporate a wick within the wax and were sold in a variety of shapes, including tapers, spirals, straight-sided forms, rounds, columns, pillars, and votives. Commerce determined that wickless wax candles required only certain minimal assembly, insertion of a wick into the form and the attachment of a clip assembly, after importation and, therefore, were circumventing the order. Petroleum Wax Candles from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order, 72 Fed. Reg. 31053 (June 5, 2007).

[57] CR at I-35, PR at I-28; NCA Response at 11-12, 31.

[58] NCA Response at 31-32.

[59] CR at I-32, PR at I-26; NCA Response at 34.

in subject imports between 2004 and 2009, resulting in a large decline in overall candle imports over the period.[60]

Based on the record evidence, we find that the conditions of competition in the petroleum wax candle market are not likely to change significantly in the reasonably foreseeable future. Accordingly, we find that current conditions provide us with a reasonable basis on which to assess the likely effects of revocation of the antidumping duty order in the reasonably foreseeable future.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the order under review were revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.[61] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[62]

1. The Original Investigation

In the original investigation, the Commission found that the quantity of subject imports increased by over 75 percent and that the value of these imports nearly doubled from 1983 to 1985. The Commission also found that subject imports increased more than 10 percentage points in 1985 as a percentage of the total quantity of candle imports from all countries.[63]

2. The Prior Five-Year Reviews

In the first five-year review, the Commission found that subject imports were likely to be significant if the antidumping duty order were revoked. The Commission found that the record from the original investigation indicated the Chinese petroleum wax candle industry had the ability and incentive to establish a significant presence in each segment of the U.S. market in a short period of time and that China was the largest exporter of petroleum wax candles to the United States. Although subject imports declined in 1986 after the antidumping duty order was issued, China was the fastest growing candle exporter to the United States in the 1990s. The Commission observed that this rapid increase took place even with an antidumping duty margin of 54.21 percent in place, indicating that the increase would have been greater absent the order. Although there were no aggregate data regarding the Chinese industry available, the Commission found that the substantial increase in subject imports indicated that the Chinese producers had increased their production capacity since the original investigation. The Commission found that the Chinese producers already had manufacturing capacity and channels of distribution in place, along with an abundant source of labor and raw materials to expand Chinese candle production and increase exports to the U.S. market were the order to be revoked. The Commission found a significant

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[60] CR/PR at Table I-4; NCA Response at 30-31.

[61] 19 U.S.C. § 1675a(a)(2).

[62] 19 U.S.C. § 1675a(a)(2)(A) - (D).

[63] Original Investigation at 15-16.

potential for Chinese producers to shift from production of out-of-scope candles to subject candles if the order was revoked. Finally, the Commission found that Mexico's imposition in 1993 of an antidumping duty order on candles from China with duties of 103 percent would create an incentive for Chinese producers to ship more candles into the United States if the order were revoked.[64]

In the second five-year review, the Commission again found that subject import volumes were likely to be significant if the order were revoked. The Commission found that China continued to be the largest single source of candle imports into the United States, and the United States continued to be the world's largest market for subject imports even with the order in place. Although the Commission did not have aggregate data for the Chinese producers, the Commission found that the large volumes of Chinese exports to other markets would provide an additional source of subject imports if the order were revoked. In addition, the Commission found that the growing exports of Chinese candles to other countries indicated that the expansion of Chinese production found in the original investigation and the first five-year review was ongoing.[65]

The Commission also found that total candle exports from China were at record levels during the period of review, while unit values of candle imports from China to the United States were generally declining despite the existence of the antidumping duty order.[66] In addition, the Commission noted that increases in market share and volume during the period of review may have been attributable to a shift by importers from subject petroleum wax candles (more than 50 percent petroleum wax) to nonsubject Chinese vegetable wax candles (blended, with less than 50 percent petroleum wax content).[67] Chinese producers had significantly increased their exports of these blended candles to the United States following the imposition of the antidumping duty order on petroleum wax candles. The Commission concluded that the Chinese producers would likely shift production from vegetable wax to petroleum wax for exports of candles to the United States if the order were revoked.[68] Finally, the Commission found that barriers to importation of Chinese candles in other markets would create an incentive for Chinese exporters to ship more candles to the United States if the order were revoked.[69]

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[64] First Five-Year Review at 11.

[65] Second Five-Year Review at 18.

[66] Second Five-Year review at 18-19.

[67] The Commission found in the second five-year review that Chinese producers had been blending vegetable waxes with petroleum wax to produce so-called "blended candles." As discussed infra, this type of candle had not been developed and was not commercially produced anywhere at the time of the original investigation. Beginning in 2001, the Commission found that candles produced in China from a blend of petroleum wax and vegetable wax began to enter the U.S. market and that blended candles accounted for a majority of imported candles from China by 2004. Blended candles accounted for only a small percentage of shipments by domestic producers in 2004. Second Five-Year Review at 6.

[68] Second Five-Year Review at 19. The Commission based its finding on several factors: there was an excess of paraffin wax in China, which was used in the production of all Chinese-produced petroleum wax candles; the price of vegetable wax, which is the predominant component in the blended candles, was more expensive than petroleum wax; there were no significant benefits to the predominantly vegetable wax candles in terms of quality or how well they burned; the nonsubject blended wax candles were indistinguishable from subject petroleum wax candles in virtually all candle types and end uses; the fact that Chinese producers were able to produce and increase their exports to the United States of nonsubject blended candles following Commerce's issuance of scope exclusion orders suggested that they could easily shift to production of varying wax blends; and imports of predominantly vegetable wax candles had increased tremendously since the imposition of the order and had overtaken subject imports. Id.

[69] Second Five-Year Review at 20.

3. The Current Review

Several factors support the conclusion that subject import volume is likely to be significant in the event of revocation of the order. Again, because of the lack of participation by Chinese producers, the Commission has limited information on the industry in China. The NCA contends that Chinese production capacity has increased since the imposition of the order in 1985 and that the Chinese producers retain established channels of distribution in the United States.[70] There is also reportedly a large quantity of idle candle-making equipment readily available in China. According to the NCA, many Chinese candle producers only manufacture candles on a seasonal basis, so they have capacity available to increase production at other times of the year.[71] Finally, China has a large and growing production capacity for paraffin wax that could be used to expand Chinese petroleum wax candle production. Notably, China is currently the largest supplier of paraffin wax to the U.S. market.[72] We find that these factors would allow Chinese candle producers to increase their existing capacity and production rapidly if the antidumping duty order were revoked.

The Chinese industry remains highly export-oriented. China was the world's largest exporter of candles, by value, from 2005 to 2009. Chinese candle exports to the world market increased every year from 2004 to 2008, before declining in 2009, commensurate with decreases in overall worldwide demand.[73]

The United States is an attractive market for Chinese producers because of its size. The United States was the world's largest importer of candles, by value, from 2004 to 2007, and was the world's second largest in 2008 and 2009.[74] The United States was also the largest export market for Chinese candles in 2005 and was the second largest in 2009.[75]

Finally, the Chinese industry faces barriers to entry in other markets. In November 2008, the European Union ("EU") imposed provisional antidumping duty measures on Chinese candles with the definitive order becoming effective in May 2009. EU imports of Chinese candles reportedly peaked at 199,250 tons in 2007, and import volume then decreased substantially to 67,573 tons in 2009. Notably, three of the four largest export markets for Chinese petroleum wax candles from 2004 to 2009 are member countries of the European Union (the United States is the other).[76] In addition to the EU measures, Mexico has maintained antidumping duty measures on Chinese candles since August 1993.[77]

Accordingly, based on the demonstrated ability of Chinese petroleum wax candle producers to increase imports into the U.S. market rapidly, their ready access to significant quantities of the principal raw material, their substantial production capacity and excess capacity, their export orientation, the attractiveness of the U.S. market, and the antidumping measures on Chinese candles in the EU and Mexico, we find that the likely volume of subject imports, both in absolute terms and as a share of the U.S. market, would be significant if the order were revoked.

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[70] CR at I-33, PR at I-27; NCA Response at 11.

[71] CR at I-33, PR at I-27.

[72] CR at I-35, PR at I-28; NCA Response at 11-12.

[73] CR/PR at Table I-8.

[74] CR/PR at Table I-9.

[75] CR/PR at Table I-7.

[76] CR/PR at Table I-7 (Germany, the Netherlands, and the United Kingdom).

[77] CR at I-32, PR at I-26.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the order under review were revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports in relation to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.[78]

1. The Original Investigation

In the original investigation, the Commission found that candles from China were consistently priced lower than the domestic like product. The Commission found that the pricing data for Chinese candles indicated large margins of underselling for all candle varieties examined during the period of investigation. The Commission also found that there was evidence of price suppression or depression for various types of candles in sales to mass merchandisers, the marketing channel most affected by the subject imports. The Commission found that the greater margins of underselling by subject imports to department and specialty stores suggested that the domestic like product was priced more competitively in mass merchandising outlets as a result of greater market penetration by the subject imports in those outlets.[79]

2. The Prior Five-Year Reviews

In the first five-year review, the Commission found that the limited price information in the record indicated that imports from China would undersell the domestic like product and have significant adverse price effects, as they did before the imposition of the order, if the order were revoked.[80] Noting the importance of price in purchasing decisions, the Commission found that Chinese candle producers would likely have an incentive to undersell the domestic producers in order to regain market share. As in the original determination, the Commission found that price effects were likely to be the most adverse in the mass merchandise portion of the market, where high volumes and intense competition among retailers made it likely that purchasers would switch suppliers readily, based on relatively small changes in price.[81]

In the second five-year review, the Commission again found that price remained a very important factor in purchasing decisions and that purchasers, particularly high volume mass merchandisers, were likely to switch suppliers based on small differences in price. The Commission found that mass merchandisers continued to be the principal outlet for candle sales during the period of review and that an increasing percentage of subject imports were being sold in the mass merchandise market.[82]

The Commission found that the pricing data obtained in the second five-year review were not particularly probative because they covered small volumes and it was not possible to make some price comparisons at equivalent levels of trade because many reporting importers sold candles directly at the retail level. The Commission found that the limited data available confirmed that the mass merchandiser

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[78] See 19 U.S.C. § 1675a(a)(3). The SAA states that "{c}onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

[79] Original Investigation at 16-17.

[80] First Five-Year Review at 13.

[81] First Five-Year Review at 13-14.

[82] Second Five-Year Review at 21.

market was particularly price sensitive, as reflected in the domestic price declines in products sold to this segment. Other information in the record indicated that Chinese candles were priced lower than the domestic like product, even with the order in place, and the record evidence confirmed that Chinese candles competed aggressively in the U.S. market by underselling the domestic like product.[83] Moreover, the Commission noted that out-of-scope blended Chinese candles competed directly in the United States with subject merchandise during the period of review. The Commission determined that these low-priced nonsubject candles would likely be replaced by low-priced subject imports in the event of revocation. The Commission concluded that revocation of the antidumping duty order would be likely to lead to significant price effects, including significant underselling of the domestic like product by the subject imports, as well as significant price depression or suppression, in the reasonably foreseeable future.[84]

3. The Current Review

Price remains a very important factor in purchasing decisions, particularly in the mass merchandiser portion of the market. As noted above, subject imports and the domestic like product are highly interchangeable.[85] The mass merchandiser segment of the market is defined traditionally as large discount retailers and chain stores and is estimated to account for approximately 60 percent of the total U.S. market. Reportedly, these large retailers will change suppliers based on relatively small changes in price.[86] The NCA states that very high-volume sales to mass merchandisers are of particular importance to both the Chinese and domestic producers. Despite extensive market segmentation involving combinations of intended end uses, channels of distribution, and particular candle types, Chinese candles can compete with every type of candle in every market segment.[87]

Because no Chinese producers or U.S. importers responded to the Commission's notice of institution, there are no new pricing data for subject imports or the domestic like product on the record of this review. We note that the average unit values of the subject imports were below the average unit values for the domestic like product in 2004 and 2009.[88] Notably, the average unit values of the Chinese subject imports increased significantly from 2006 to 2009, presumably in response to the increase in antidumping duty deposits in 2005.[89]

Given the likely significant volume of subject imports and the conditions of competition discussed above, we conclude that subject imports from China likely would significantly undersell the domestic like product to gain market share and likely would have significant depressing or suppressing effects on the prices of the domestic like product if the antidumping duty order were revoked.

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[83] Second Five-Year Review at 21.

[84] Second Five-Year Review at 22.

[85] CR at I-16, PR at I-11; NCA Final Comments at 8.

[86] NCA Response at 18.

[87] NCA Response at 17-18.

[88] CR/PR at Tables I-3 and I-4. We recognize that comparisons of average unit values normally are of limited significance where, as here, there are likely differences in product mix between the subject imports and the domestic like product. Although we acknowledge their limited significance, we note that these average unit value data are consistent with the Commission's prior underselling findings.

[89] CR/PR at Table I-4.

E. Likely Impact of Subject Imports[90]

In evaluating the likely impact of imports of subject merchandise if the antidumping duty order were revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[91] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the order at issue and whether the industry is vulnerable to material injury if the order were revoked.[92]

1. Original Investigation

In the original investigation, the Commission found that subject imports' share of domestic consumption increased over the period of investigation. The Commission found that substantially lower prices for the subject imports in a price-sensitive market allowed subject imports to gain market share and resulted in price suppression or depression. Therefore, the Commission concluded that the domestic industry was materially injured by reason of imports of petroleum wax candles from China.[93]

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[90] Section 752(a)(6) of the Tariff Act states that "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887.

Commerce expedited its determination in its review of petroleum wax candles from China and found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the following margin: 108.30 percent for the PRC-wide rate. 75 Fed. Reg. at 70713. This dumping margin is not the same margin Commerce calculated in the original less-than-fair value investigation. See Antidumping Duty Order: Petroleum Wax Candles from the People's Republic from China, 51 Fed. Reg. 30686 (August 28, 1986). In the original less-than-fair value investigation, Commerce calculated a 54.21 margin for the PRC-Wide Entity. In the final results of its second sunset review, Commerce selected the country-wide dumping margin of 108.30 percent calculated in the 2001-2002 administrative review. Commerce determined that the PRC-wide rate from the second administrative review was appropriate because both dumping margins and subject import volumes had increased since Commerce's first sunset review. CR at I-5, I-6, PR at I-4, I-5, and n.16; see Petroleum Wax Candles From the People's Republic of China; Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 69 Fed. Reg. 75302 (December 16, 2004), and the accompanying Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China; Final Results (December 10, 2004) at 4-6.

[91] 19 U.S.C. § 1675a(a)(4).

[92] The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

[93] Original Investigation at 16-17.

2. Prior Five-Year Reviews

In the first five-year review, the Commission found that the antidumping duty order had a significant restraining effect on subject imports. After imposition of the antidumping duty order, the volume of subject imports sharply declined and the average unit value for the imports doubled. U.S. producers were able to raise their prices and regain market share. Despite the initial volume declines and price increases following imposition of the order, subject imports from China decreased in per-unit value and regained a significant market presence during the period of review, while U.S. producers lost market share. The Commission found it likely that the most immediate impact of revocation would be upon prices, particularly in the mass merchandiser segment, in which producers would likely seek to protect their high volume sales by lowering prices to compete with subject imports. The Commission concluded that the price and volume declines would likely have a significant adverse impact on the production, shipment, sales, and revenue levels of the domestic industry. The Commission also determined that this reduction in the industry's production, sales, and revenue levels would have a direct adverse impact on the industry's profitability as well as its ability to raise capital and make and maintain necessary capital investments. In addition, the Commission found it likely that revocation of the order would result in employment declines for domestic firms, particularly the smaller and medium-sized companies that do not utilize heavily automated processes.[94]

In the second five-year review, the Commission found that the domestic industry’s condition had improved since the imposition of the antidumping duty order. During the period of review, the industry had operated profitably, and domestic shipments and total shipments of U.S. candles increased. Capacity had also increased as more domestic firms entered the industry. As a result, the Commission determined that the domestic industry was not vulnerable.[95] The Commission also found, however, that the domestic industry’s financial condition declined over the period of review. The Commission found that, as subject imports had increased and their prices had decreased over the period of review, the domestic industry’s operating income fell, and capacity utilization, capital expenditures, and return on investment also declined.[96] The Commission found that, if the order were revoked, prices for candles sold in the mass merchandise and department store channels would decline in response to large volumes of subject imports, and the consequent price depression ultimately would likely result in price reduction and lower revenues in the direct sales channel as well. Consequently, the Commission determined that revocation of the antidumping duty order would likely lead to significant increases in the volume of subject imports that would undersell the domestic like product and significantly suppress or depress U.S. prices. Accordingly, the Commission concluded that subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time if the antidumping duty order were revoked.[97]

3. The Current Review

Because this is an expedited review, we have only limited information with respect to the domestic industry's financial performance indicators. We collected 2009 data for several performance indicators, but no data from 2005 to 2008. Domestic producers' capacity was 502.4 million pounds in 2009; it was 181.7 million pounds in 1985 and 695.7 million pounds in 2004. Domestic production was 194.9 million pounds in 2009; it was 94.7 million pounds in 1985 and 361.3 million pounds in 2004.

[94] First Five-Year Review at 15.

[95] Second Five-Year Review at 23-24.

[96] Second Five-Year Review at 24.

[97] Second Five-Year Review at 25.

Capacity utilization was 38.8 percent in 2009; it was 52.1 percent in 1985 and 51.9 percent in 2004.[98] Domestic producers' U.S. shipments were 195.2 million pounds in 2009; they were 90.9 million pounds in 1985 and 361.3 million pounds in 2004. Net sales were $*** in 2009; they were $*** in 1985 and $1.4 billion in 2004. Operating income was $*** in 2009; it was $*** in 1985 and $215.0 million in 2004. Operating income as a percentage of net sales was *** percent in 2009; it was *** percent in 1985 and 15.9 percent in 2004.[99] [100]

Based on the record of this review, we find that the likely volume and price effects of the subject imports would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. Declines in these indicators of industry performance would have a direct adverse impact on the industry's profitability and employment, as well as its ability to raise capital, to make and maintain capital investments, and to fund research and development.

We have also considered the role of factors other than the subject imports. The share of the U.S. market held by nonsubject imports increased substantially from 2004 to 2009, particularly from India and Vietnam.[101] These increases appear to be driven, at least in part, by the effects of the increased antidumping duty margins imposed in 2005 on subject imports and improved enforcement of the order, which have apparently resulted in increased demand for nonsubject imports.[102] In the absence of the discipline of the antidumping duty order, we find it likely that mass market purchasers, such as large discount retailers and chain stores, would again purchase subject imports, and any future increase in market share by low-priced subject imports would likely come primarily at the expense of the domestic industry. Moreover, upon revocation, price competition between the domestic like product and subject imports would likely be intensified by the presence of the nonsubject imports which, in turn, would likely lead to an increase in the likely price effects caused by the likely large volumes of subject imports. Therefore, consideration of factors other than the subject imports does not undermine our finding that the subject imports would likely have a material adverse impact on the domestic industry if the order were revoked.

Accordingly, we conclude that, if the antidumping duty order were revoked, subject imports from China would likely have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

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[98] CR/PR at Table I-3.

[99] CR/PR at Table I-3. The limited evidence in this expedited review is insufficient for us to make a finding on whether the domestic industry producing petroleum wax candles is vulnerable to the continuation or reoccurrence of material injury in the event of revocation of the order.

[100] Commissioners Lane and Pinkert acknowledge that the data are mixed and somewhat incomplete, but find that the domestic industry does not appear to be vulnerable. Although several output indicators were lower in 2009 than in 2004, and although operating income was also lower, operating income remained viable by historical standards pertaining to the industry at $***. CR/PR at Table I-3. Furthermore, the industry achieved an operating income margin of *** percent in 2009, which was *** percent experienced in 2004. CR/PR at Table I-3. Finally, the NCA reported that the domestic industry was able to "maintain sufficient price levels to improve overall profitability from 2004 to 2009, despite the recession." NCA Final Comments at 12.

[101] Nonsubject imports' share of the U.S. market, by quantity, was 22.0 percent in 2004 and 52.3 percent in 2009. CR/PR at I-5.

[102] CR at I-24 and n.62, PR at I-18 and n.62.

CONCLUSION

For the above reasons, we determine that revocation of the antidumping duty order on petroleum wax candles from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

INFORMATION OBTAINED IN THE REVIEW

INTRODUCTION

On July 1, 2010, in accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"),[1] the U.S. International Trade Commission ("Commission" or "USITC") gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on petroleum wax candles ("candles") from China would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.[2] [3] On October 4, 2010, the Commission determined that the domestic interested party group response to its notice of institution was adequate[4] and that the respondent interested party group response was inadequate.[5] In the absence of respondent interested party responses and any other circumstances that would warrant the conduct of a full review, the Commission determined to conduct an expedited review of the antidumping duty order pursuant to section 751(c)(3) of the Act (19 U.S.C. § 1675(c)(3)).[6] The Commission voted on this review on December 3, 2010, and notified Commerce of its determination on December 16, 2010. The following tabulation presents selected information relating to the schedule of this five-year review.[7]

Effective date	Action	*Federal Register* citation
July 1, 2010	Commission's institution of five-year review	75 FR 38121 July 1, 2010
July 1, 2010	Commerce's initiation of five-year review	75 FR 39494 July 9, 2010
October 4, 2010	Commission's determination to conduct an expedited five-year review	75 FR 63200 October 14, 2010
November 18, 2010	Commerce's final determination in its expedited five-year review	75 FR 70713 November 18, 2010
December 3, 2010	Commission's vote	Not applicable
December 16, 2010	Commission's determination transmitted to Commerce	Not applicable

[1] 19 U.S.C. 1675(c).

[2] *Petroleum Wax Candles From China*, 75 FR 38121, July 1, 2010. All interested parties were requested to respond to this notice by submitting the information requested by the Commission. The Commission's notice of institution is presented in app. A.

[3] In accordance with section 751(c) of the Act, the U.S. Department of Commerce ("Commerce") published a notice of initiation of a five-year review of the subject antidumping duty order concurrently with the Commission's notice of institution. *Initiation of Five-Year ("Sunset") Review*, 75 FR 39494, July 9, 2010.

[4] The Commission received one submission in response to its notice of institution in the subject review. It was filed on behalf of the National Candle Association ("NCA") (collectively referred to herein as "domestic interested party"), a U.S. trade association, 40 members of which are domestic producers of petroleum wax candles. The domestic interested party reported that it accounted for approximately *** percent of total U.S. production of candles in 2009. *Response* of domestic interested party, August 2, 2010, p. 2.

[5] The Commission did not receive a response from any respondent interested parties to its notice of institution.

[6] *Petroleum Wax Candles From China*, 75 FR 63200, October 14, 2010. The Commission's notice of an expedited review appears in app. A. The Commission's statement on adequacy is presented in app. B.

[7] Cited *Federal Register* notices are presented in app. A.

The Original Investigation and Subsequent Five-Year Reviews

On September 4, 1985, the NCA filed a petition with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of less-than-fair-value ("LTFV") imports of petroleum wax candles from China. On July 10, 1986, Commerce published an affirmative final LTFV determination[8] and, on August 21, 1986, the Commission completed its original investigation, determining that an industry in the United States was materially injured by reason of LTFV imports of candles from China.[9] Following receipt of the Commission's final affirmative determination, Commerce issued an antidumping duty order on imports of petroleum wax candles from China.[10]

The Commission instituted the first five-year review of the subject order on January 4, 1999, and determined on April 8, 1999, that it would conduct an expedited review.[11] On June 17, 1999, Commerce published its determination that the revocation of the antidumping duty order on petroleum wax candles from China would be likely to lead to continuation or recurrence of dumping at a rate of 54.21 percent.[12] The Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time on September 1, 1999, and published its determination on September 8, 1999. Commerce published notice of the continuation of the antidumping duty order on September 23, 1999.[13]

The Commission instituted the second five-year review of the subject order on August 2, 2004, and determined on November 5, 2004, that it would conduct a full review.[14] On December 16, 2004, Commerce published its determination that revocation of the antidumping duty order on petroleum wax candles from China would be likely to lead to continuation or recurrence of dumping at the China-wide rate of 108.30 percent *ad valorem*, and on July 28, 2005, the Commission notified Commerce of its determination that material injury would be likely to continue or recur within a reasonably foreseeable

[8] *Petroleum Wax Candles From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 51 FR 25085, July 10, 1986.

[9] *Candles From the People's Republic of China*, 51 FR 30558, August 27, 1986. The Commission found that the domestic like product consisted "only" of petroleum wax candles, and, therefore that the relevant domestic industry consisted of the producers of petroleum wax candles. *Candles from the People's Republic of China: Investigation No. 731-TA-282 (Final)*, USITC Publication 1888, August 1986, p. 9.

[10] *Antidumping Duty Order: Petroleum Wax Candles From the People's Republic of China*, 51 FR 30686, August 28, 1986.

[11] *Petroleum Wax Candles From China*, 64 FR 365, January 4, 1999; and *Petroleum Wax Candles From China*, 64 FR 19197, April 19, 1999.

[12] *Final Results of Expedited Sunset Review: Petroleum Wax Candles from the People's Republic of China*, 64 FR 32481, June 17, 1999.

[13] *Petroleum Wax Candles From China*, 64 FR 48851, September 8, 1999; and *Continuation of Antidumping Duty Order: Petroleum Wax Candles From the People's Republic of China*, 64 FR 51514, September 23, 1999.

[14] *Petroleum Wax Candles From China*, 69 FR 46182, August 2, 2004; and *Petroleum Wax Candles From China*, 69 FR 68175, November 23, 2004.

time.[15] [16] Commerce issued the second continuation of the antidumping duty order effective August 10, 2005.[17]

Commerce's Final Results of Expedited Five-Year Review

Commerce published the final results of its review based on the facts available on November 18, 2010. Commerce concluded that revocation of the antidumping duty order on candles from China would be likely to lead continuation or recurrence of dumping at a rate of 108.30 percent.[18]

Commerce's Administrative Reviews

Commerce has completed six administrative reviews and two new shipper reviews of the antidumping duty order on candles from China. Although there have been 212 scope rulings and two circumvention findings concerning the antidumping duty order,[19] there have been no changed circumstances determinations and no duty absorption findings. Information on Commerce's final determination, antidumping duty order, administrative review determinations and final results of its expedited five-year review is presented in table I-1.

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[15] *Petroleum Wax Candles From the People's Republic of China; Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 69 FR 75302, December 16, 2004; and *Petroleum Wax Candles From China*, 70 FR 44695, August 3, 2005.

[16] In the final results of its second five-year review, Commerce maintained the country-wide dumping margin of 108.30 percent calculated in the 2001-02 administrative review, an increase from the 54.21 percent dumping margin reported in the original investigation and first five-year review. In a five-year review, Commerce normally prefers to select a margin from the original investigation because it is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place. However, Commerce found that it was appropriate to provide the Commission with a more recently calculated PRC-wide rate for subject merchandise because dumping margins had increased at the same time import volumes had increased since the first sunset review. *Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China; Final Results*, December 10, 2004, pp. 4-6.

[17] *Continuation of Antidumping Duty Order: Petroleum Wax Candles from the People's Republic of China ("PRC")*, 70 FR 56890, September 29, 2005.

[18] *Petroleum Wax Candles From the People's Republic of China: Final Results of Expedited Third Sunset Review of Antidumping Duty Order*, 75 FR 70713, November 18, 2010.

[19] See the section of this report entitled "Scope" for information concerning Commerce's scope rulings and circumvention findings.

Table I-1
Candles: Commerce's final determination, antidumping duty order, administrative reviews, and final results of expedited five-year review

Action	Effective date	*Federal Register* citation	Period of investigation/ review	Antidumping duty margins		
				Firm-specific		Country-wide[1]
				Percent ad valorem		
Final determination	07/10/1986	51 FR 25085	--	--		54.21
Antidumping duty order	08/28/1986	51 FR 30686	--	China Native Products	54.21	54.21
Administrative review	11/25/1988	53 FR 47742	02/19/1986-07/31/1987	P&C Enterprises	54.21	54.21
Administrative review	03/13/2001	66 FR 14545	08/01/1998-07/31/1999	--		54.21
New shipper review	06/18/2002	67 FR 41395	08/01/2000-01/31/2001	New Star	95.22	54.21
Administrative review	03/19/2003	68 FR 13264	08/01/2000-07/31/2001	Fay Candle	65.02	54.21
Administrative review[2]	04/19/2004	69 FR 20858	08/01/2001-07/31/2002	Fay Candle Shanghai Charming Shandong Jiaye	108.30 108.30 108.30	108.30
New shipper review	12/29/2004	69 FR 77990	08/01/2002-07/31/2003	Shandong Huihe	108.30	108.30
Administrative review	10/25/2006	71 FR 62417	08/01/2004-07/31/2005	Youngson	108.30	108.30
Administrative review	09/13/2007	72 FR 52355	08/01/2005-07/31/2006	Deseado	108.30	108.30
Final results of expedited five-year review	11/18/2010	75 FR 70713	--	--		108.30

[1] The country-wide rate applies to all companies that otherwise have not received a "firm-specific" rate.
[2] Commerce revised the weighted-average dumping margins following the allegation and correction of ministerial errors. *Amended Notice of Final Results of the Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 69 FR 20858, April 19, 2004.

Note.–In the final results of its second five-year review, Commerce maintained the country-wide dumping margin of 108.30 percent calculated in the 2001-02 administrative review, an increase from the 54.21 percent dumping margin reported in the original investigation and first five-year review. In a five-year review, Commerce normally prefers to select a margin from the original investigation because it is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place. However, Commerce found that it was appropriate to provide the Commission with a more recently calculated PRC-wide rate for subject merchandise because dumping margins had increased at the same time import volumes had increased since the first sunset review. *Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China; Final Results*, December 10, 2004, pp. 4-6.

Source: Cited *Federal Register* notices.

Distribution of Continued Dumping and Subsidy Offset Act Funds to Affected Domestic Producers

The Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA") (also known as the Byrd Amendment) provides that assessed duties received pursuant to antidumping or countervailing duty orders must be distributed to affected domestic producers for certain qualifying expenditures that these producers incur after the issuance of such orders.[20] Qualified U.S. producers of candles have been eligible to receive disbursements from the U.S. Customs and Border Protection ("Customs") under CDSOA relating to the orders covering the subject merchandise beginning in Federal fiscal year 2001.[21] Certifications were filed with Customs with respect to candles from China during 2001-09.[22] The number of firms that filed with Customs varied from year to year, ranging from a total of 3 to 12 companies. Table I-2 presents CDSOA disbursements for Federal fiscal years 2001-09.

Table I-2
Candles: CDSOA disbursements, Federal fiscal years 2001-09[1]

Year	Number of Companies	Amount disbursed
2001	3	$18,317,982.28
2002	7	$69,536,243.70
2003	10	$3,953,616.29
2004	10	$51,391,919.77
2005	9	$21,523,740.60
2006[2]	11	$1,609,740.64
2007[3]	9	$4,191,777.99
2008[4]	11	$13,313,089.31
2009[5]	12	$1,474,564.58

[1] The Federal fiscal year is October 1-September 30.
[2] Customs withheld $932,022.70 in 2006 due to pending litigation.
[3] Customs withheld $3,591,396.14 in 2007 due to pending litigation.
[4] Customs withheld a total of $15,081,362.46 in 2008 from three companies due to administrative actions or pending litigation.
[5] Customs withheld a total of $1,548,161.99 in 2009 from three companies due to administrative actions or pending litigation.

Source: Customs' *CDSOA Annual Reports 2001-09*, http://www.cbp.gov/xp/cgov/trade/priority_trade/add_cvd/cont_dump/.

Related Commission Investigations and Reviews

The Commission has conducted no other investigations or reviews concerning candles.

[20] Section 754 of the Tariff Act of 1930, as amended (19 U.S.C. § 1675(c)). The Deficit Reduction Act of 2005 repealed the CDSOA with respect to duties on entries of goods made and filed on or after October 1, 2007. See Pub. L. No. 109-171, 120 Stat. 4, 154 (2006).

[21] 19 CFR 159.64 (g).

[22] Customs' *CDSOA Annual Reports 2004-2009*, http://www.cbp.gov/xp/cgov/trade/priority_trade/add_cvd/cont_dump/.

THE PRODUCT

Scope

In its most recent *Federal Register* notice, Commerce defined the subject merchandise as follows:

> 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.[23] [24]

Commerce has completed 212 separate scope rulings and two circumvention inquiries since issuing the original antidumping duty order. The scope remained unchanged in the subsequent five-year reviews, although Commerce noted that, "There have been numerous clarifications to the scope of this order."[25]

Commerce's Scope Clarifications and Anticircumvention Inquiries

In July 1987, Commerce 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 or 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).[26]

On August 21, 2009, Commerce solicited comments from the general public on the best method to consider whether novelty candles should or should not be included within the scope of the order, given the extremely large number of scope determinations requested by outside parties. Commerce published its preliminary results on August 13, 2010, determining that there is no basis in the record of the antidumping duty investigation for excluding candles based upon holiday characteristics. Commerce proposed a new interpretation, as follows:

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[23] *Petroleum Wax Candles From the People's Republic of China: Final Results of Expedited Third Sunset Review of Antidumping Duty Order*, 75 FR 70713, November 18, 2010.

[24] Tariff treatment of this product is presented in the next section of this report. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

[25] *Final Results of Expedited Sunset Review: Petroleum Wax Candles from the People's Republic of China*, 64 FR 32481, June 17, 1999; and *Petroleum Wax Candles From the People's Republic of China; Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 69 FR 75303, December 16, 2004.

[26] See Russ Berrie & Co., Inc. v. United States, 57 F. Supp. 2d 1184, 1194 (CIT July 1999), citing Customs Information Exchange, CIE N-212185, 0912 1187, AR doc. 7; and Commerce's *Final Scope Ruling of Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China (A-570-504)*; JC Penney (November 9, 2001) citing Letter from the Director, Office of Compliance, to Burditt, Bowles & Radzius, Ltd., July 13, 1987.

> The Department will consider all candle shapes identified in the order to be within the scope of the order, regardless of etchings, prints, texture, moldings, or other artistic or decorative enhancements including any holiday-related art. However, even if they are one of the shapes listed within the scope of the order, two types of candles will be excluded: (1) those candles variously known as "household candles," "emergency candles," or "utility candles,". . .; and (2) birthday candles. . ., and birthday numeral candles. . . . All other candle shapes or types will be considered outside the scope of the order.[27]

In addition, Commerce has preliminarily applied its new interpretation to the 388 pending scope determinations.[28]

Commerce initiated an anticircumvention inquiry in March 2005, and determined in October 2006 that "mixed wax candles"[29] are later-developed merchandise and thus, are circumventing the order.[30] In addition, mixed-wax candles containing any amount of petroleum are covered by the scope of the order.[31] [32]

Commerce initiated a second anticircumvention inquiry in May 2006, and determined in June 2007 that exports of wickless petroleum wax forms from China imported by, or sold to, DECOR-WARE, Inc., A&M Wholesalers, Inc., and Albert E. Price are circumventing the order. Wickless wax forms from China subsequently undergo insertion of a wick and clip assembly in the United States.[33]

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[27] *Petroleum Wax Candles from the People's Republic of China: Preliminary Results of Request for Comments on the Scope of the Petroleum Wax Candles from the People's Republic of China Antidumping Duty Order*, 75 FR 49475, August 13, 2010. Household candles, emergency candles, or utility candles are typically white in color, 5 inches long, .75 inch in diameter, and come in packs of two or more. Birthday candles are typically small, thin, pillar-shaped candles that range in height from 2 inches to 3.5 inches, are .18 inch to .25 inch in width, and come in packs of 10 to 24. Birthday numeral candles are candles in the shape of numbers that typically range in height from 2 to 4 inches. Ibid.

[28] Ibid.

[29] Mixed-wax candles are candles composed of petroleum wax and over fifty percent or more palm and/or other vegetable oil-based waxes.

[30] Although "citronella rope candles" contain petroleum, Commerce has determined that they are not standard petroleum wax candles and are therefore outside the scope of the order because they (1) contain and advertise an insect repellent function and (2) are intended for outdoor use. *Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China: Final Scope Ruling*; Lamplight Farms, Inc. (December 13, 2007); America's Gardening Resource (April 29, 2009).

[31] *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*, 71 FR 59075, October 6, 2006.

[32] Commerce had determined through its scope rulings over the years that, "where the petroleum-based wax content of a candle model is less than 50 percent, the candle is outside the scope of the order." *Final Scope Ruling of Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China (A-570-504)*; Pei Eichel (February 8, 2005); Avon Products Inc. (November 17, 2003).

[33] *Petroleum Wax Candles from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 72 FR 31053, June 5, 2007. The products covered by this inquiry are certain scented or unscented petroleum wax forms that do not incorporate a wick within the wax, whether or not having pre-drilled wick holes (wickless petroleum wax forms) that are imported into the United States and assembled into petroleum wax candles, and are currently classifiable under HTSUS subheading 9602.00.40 as molded or carved articles of wax. Wickless petroleum wax forms are sold in the following shapes: tapers, spirals, straight-sided wax forms; rounds, columns, pillars, votives; and various wax-filled containers. Ibid.

U.S. Tariff Treatment

Petroleum wax candles originally were provided for in the former Tariff Schedules of the United States under item 755.25, and currently are provided for under the Harmonized Tariff Schedule of the United States ("HTS") subheading 3406.00.00, "Candles, tapers, and the like," which includes candles that have been excluded from the scope of the order and nonsubject candles made from materials other than petroleum waxes.[34] A general duty rate of "free" is applicable to imports of petroleum wax candles from China.[35]

Domestic Like Product and Domestic Industry

The domestic like product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. The domestic industry is the collection of U.S. producers, as a whole, of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. In its original determination and its expedited first five-year review determination, the Commission defined the domestic like product as petroleum wax candles and it defined the domestic industry as producers of petroleum wax candles. In the original investigation, the Commission considered whether candles made of materials other than petroleum wax, principally beeswax, should be considered a part of the like product. The Commission defined petroleum wax candles as those composed of more than 50 percent petroleum wax, and beeswax candles as those composed of more than 50 percent beeswax. Comparing beeswax and petroleum wax candles, the Commission defined the like product as consisting "only of petroleum wax candles."[36]

In its full second five-year review determination, the Commission defined the domestic like product as candles with fiber or paper-cored wicks and containing any amount of petroleum wax, except for candles containing more than 50 percent beeswax, and it defined the domestic industry as consisting of all domestic producers of the domestic like product.[37]

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[34] The NCA has filed a petition to Customs and Border Protection, requesting the reclassification under the HTSUS of certain wickless wax objects from China. Currently, these objects are classified as "Molded or carved articles of wax" under subheading 9602.00.40. The NCA contends that the proper classification for these wickless wax objects is in subheading 3406.00.00, as candles. Moreover, the NCA believes that importers of subject merchandise are using this classification to circumvent the order. *Receipt of Domestic Interested Party Petition Concerning the Tariff Classification of Wickless Wax Objects*, 75 FR 240, January 5, 2010; and *Response* of domestic interested party, August 2, 2010, pp. 37-38.

[35] Some candles may also be imported free of duty under heading 9505 as "festive articles" if found by Customs to be non-utilitarian in nature--that is, to be decorative articles intended for a festive purpose or occasion. See heading 9505 and note 1(v) to chapter 95.

[36] *Candles from the People's Republic of China: Investigation No. 731-TA-282 (Final),* USITC Publication 1888, August 1986, pp. 3-9 and n.11. The Commission found that, in comparison to petroleum wax candles, beeswax candles have different physical characteristics and uses (religious purposes), are sold mainly through different channels (principally in religious and specialty markets), are priced considerably higher, and are produced only in small quantities by major domestic producers of petroleum wax. Further, the Commission found that beeswax candles are not interchangeable with petroleum wax candles because of a threefold difference in the costs of production and because beeswax and petroleum wax candles are perceived by producers as not competing with each other. Ibid.

[37] *Petroleum Wax Candles From China: Investigation No. 731-TA-282 (Second Review),* USITC Publication 3790, July 2005, pp. 7-9. In the second five-year review, the NCA argued that the Commission should re-examine the like product definition and determine to include all blended candles within the domestic like product, regardless of the proportions between petroleum wax and vegetable wax. There was no commercial production in the United

The information regarding the nature of candles is unchanged since the Commission's second five-year review. The domestic interested party participating in this review indicated in its response to the Commission's notice of institution that it agrees with the Commission's like product definition as stated in the Commission's second review: "candles with fiber or paper-cored wicks and containing any amount of petroleum wax, except for candles containing more than 50 percent beeswax."[38]

Physical Characteristics and Uses[39]

A candle is made of solid, fusible, combustible waxes or fatty substances surrounding and saturating a combustible wick. Candles are used to give light, heat, or scent, or are used for celebration or votive purposes. As a candle burns, its flame is fed by a supply of melted wax which flows up the wick as a result of capillary action. Wax is melted as the flame runs down the wick, and a cup of melted wax forms as the outside layer of the candle is cooled by the upward current of air produced from the heat of the candle. A candle burning properly is the result of interactions among candle diameter, wax, wick, air movements, drafts, and other factors.

There are two broad categories of wax used for commercial purposes: natural and synthetic. The bulk of candle manufacturing utilizes various combinations of natural waxes, principally paraffins, microcrystallines, stearic acid, and beeswax. Selection of wax for candle-making takes into consideration a number of characteristics of wax, such as melting point, viscosity, and burning power. Typically, U.S. manufacturers will use higher melt-point waxes (130-160 degrees F.) for tapers, columns, and votives, and use lower melt-point or slack waxes for wax-filled containers. U.S. manufacturers use both refined and semi-refined waxes in candle production. In the original determination, the Commission noted that petroleum wax candles may contain other waxes in varying amounts, depending on the size and shape of the candle, to enhance the melt-point, viscosity, and burning power.

There are many different sizes and types of wicking available for candle manufacturing. Wicks may be flat braid, square braid, stranded, twisted, metal core, glass fiber, or hollow. Wick sizing depends upon the number of threads used, such as a 30-ply wick which consists of a 3-strand braid of 10 threads each. The size of the wick must be adjusted to the diameter of the candle for proper burn. A candle of lower melting-point wax should have a wick of looser plait than one with a higher melting point and less ready combustion.

In addition to wax and wick, scents, dyes, labeling, and packaging are other components in the production of candles. Scents added to wax are created by the same companies that produce expensive perfumes, and they are specially compounded for use in petroleum wax; scents as a share of production costs can range from 0 for unscented candles to 60 percent for scented votives. Special wax soluble dyes are used in color formulations, which are controlled in order to produce color consistency. Labeling and packaging as costs of production may be provided at the request of purchasers (e.g., private labeling and UPC labels) or may be required (e.g., warning labels).

States (or elsewhere) of blended candles in 1986, when the Commission made its original determination. The Commission therefore did not consider in the original investigation whether to include blended candles containing 50 percent or less petroleum wax in the domestic like product. Ibid.

[38] *Response* of domestic interested party, p. 41.

[39] Unless indicated otherwise, the discussion in this section is based on information contained in *Candles from the People's Republic of China: Investigation No. 731-TA-282 (Final)*, USITC Publication 1888, August 1986, pp. A-3-A-12; and *Petroleum Wax Candles From China: Investigation No. 731-TA-282 (Second Review)*, USITC Publication 3790, July 2005, pp. I-11-I-13.

Manufacturing Process[40]

As reported during the original investigation, candle manufacturing has evolved over the years from hand dipping at a few dozen candles per hour to the automatic rotary molding machines that produce at the rate of 6,000 per hour. At one time, all candles were produced from hot liquid wax, but technology has created a cold process that allows wax to be compressed into various candle shapes and forms.

In the hot wax process, wax is shipped and stored in liquid form. Steam-heated storage tanks and remote-controlled pumping systems permit custom blending of each batch of candle wax in its individual steam kettle. Cold wax processes take hot liquid wax and freeze the liquid in towers or through rotating drums to a powdered form, which is then supplied through tanks into compression and extrusion machines. Manufacturing techniques currently in use by U.S. manufacturers include dipping, molding, pouring, extrusion, and compression. A discussion of the principal manufacturing techniques is presented below.

Pouring & Dipping

U.S. candle manufacturers employ hand-poured processes for certain types of candles, when unusual shapes or dimensions impose physical or cost restrictions on the method of production. Dipping is a repeated, hot process. It consists of the following procedures: free-hanging wicks are attached to candle dipping boards or cages; dipping stations containing liquid wax are positioned along the path, either straight line or circular; candles are cooled and cut or melted to the desired length, then tapered, including any reverse taper at the base; two final dips in microcrystalline or high melt-point wax are applied as a color over dip, and to harden the candle exterior for better burning; and the candles are cut down from the dipping board, inspected, and packaged.

Molding

Machine molding techniques are also a hot process and may be semi-automated or fully automated. The procedures for semi-automated machine molding include the following: wicks are tended (made taut or straight, and centered); the molding machine is heated; liquid wax stored in steam kettles is poured into the molds encased in the machine; the machine is water cooled and the candles are ejected from the molds; wicks are cut for the removal of the set (group of candles) in the rack; and the set of candles is removed, inspected, and packaged.

Interchangeability and Customer and Producer Perceptions[41]

In the second five-year review, the Commission found that the domestically-produced product was substitutable with subject imports from China. Most U.S. producers, U.S. importers, and U.S. purchasers reportedly perceived candles produced in the United States and in China to be “always” or “frequently” interchangeable. Producers, importers, and purchasers who named nonsubject candles as

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[40] Unless indicated otherwise, the discussion in this section is based on information contained in *Candles from the People’s Republic of China: Investigation No. 731-TA-282 (Final)*, USITC Publication 1888, August 1986, pp. A-8-A-9; and *Petroleum Wax Candles From China: Investigation No. 731-TA-282 (Second Review)*, USITC Publication 3790, July 2005, p. I-16.

[41] Unless indicated otherwise, the discussion in this section is based on information contained in *Petroleum Wax Candles From China: Investigation No. 731-TA-282 (Second Review)*, USITC Publication 3790, July 2005, pp. 25 and II-15-II-16.

substitutes for petroleum wax candles generally stated that such nonsubject candles could be used in the same forms and uses; i.e., tapers, votives, jars, etc.[42]

In the current review, the NCA notes the high interchangeability of U.S. and Chinese candles.[43] U.S. purchasers *** focused on changes in the existence and availability of substitute products in the candles market since 2005. In its purchaser survey response, *** reported that there has been an increase in candles made from vegetable and natural wax since 2008. This is consistent with comments made by purchaser ***, which states that it is currently working with suppliers to develop candles with a natural wax blend. *** also stated that the use of outdoor candles has increased by two percent and that reed diffusers have become "very popular."[44]

Channels of Distribution[45]

Petroleum wax candles are sold to consumers through a variety of channels, including large retail outlets such as mass merchandisers and department stores, discount retailers, card and gift shops, door-to-door sales, local sales, and sales to individual organizations. In the original investigation and the first and second five-year reviews, department and specialty stores and mass merchandisers continued to be the principal outlets for candle sales.

During the period examined in the second review, the role of mass merchandisers continued to grow, mostly at the expense of membership warehouse clubs and department and crafts stores. The mass merchandise portion of the market continued to be characterized by high-volume sales and competition among retailers. The Commission noted that mass merchandisers were most likely to base purchasing decisions on price. During the period examined in the second review, the *** profitable candle producers were those who supplied the direct sales segment of the market.[46] This channel includes those selling directly to end-use consumers through home parties, as well as those selling through wholly-owned retail establishments. According to the NCA, because these producers are tied through ownership or other contractual arrangement to the direct sales distribution system, they experience less competition from imports.

For both U.S. producers and U.S. importers of candles from China, mass merchandisers and department/craft stores were the primary channels of distribution for sales of candles during 1999-2004. U.S. producers increased their sales of product to the two channels from 65 percent of total sales in 1999 to 73 percent in 2004. U.S. importers' sales of subject imports from China to the two channels increased from 92 percent to 97 percent from 1999 to 2004, while sales of nonsubject imports declined slightly from 95 percent to 92 percent.

In its response to the Commission's notice of institution, the NCA continued to emphasize the importance of mass merchandiser market sales. The domestic interested party estimates that this portion of the market alone accounts for 60 percent of the total U.S. market.[47]

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[42] *Petroleum Wax Candles From China: Investigation No. 731-TA-282 (Second Review),* USITC Publication 3790, July 2005, p. I-13.

[43] *Response* of domestic interested party, August 2, 2010, p. 17.

[44] Purchaser survey responses of *** and ***.

[45] Unless indicated otherwise, the discussion in this section is based on information contained in *Petroleum Wax Candles From China: Investigation No. 731-TA-282 (Second Review)*, USITC Publication 3790, July 2005, p. 16.

[46] Confidential Views of the Commission (Second Review), p. 22.

[47] *Response* of domestic interested party, August 2, 2010, p. 18.

Pricing

In the original investigation, the Commission found that candles imported from China undersold all varieties of domestic candles in all portions of the market by large margins. The Commission further found evidence of suppression or depression of prices for sales to mass merchandisers, the marketing channel most affected by imports.[48] Price was considered to be an important factor during the original investigation,[49] and (as discussed below) in subsequent reviews.[50] In addition, the subsequent reviews continued to place emphasis on the mass merchandise portion of the market, where high volumes and intense competition among retailers made it likely that purchasers would switch suppliers readily, based on relatively small changes in price. In the expedited first five-year review, the Commission found that the importance of price would likely give Chinese candle producers an incentive to undersell the domestic producers to regain market share. As noted, in the full second five-year review, purchasers considered price as the most important purchasing factor, and virtually all responding purchasers indicated that the U.S. and Chinese products were always or frequently interchangeable. The Commission found these data to indicate that the market is highly price sensitive.[51]

In its response to the Commission's notice of institution in the current review, the NCA continued to emphasize the price sensitivity of the candle market, as well as the high interchangeability of U.S. and Chinese candles.[52]

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[48] *Candles from the People's Republic of China: Investigation No. 731-TA-282 (Final)*, USITC Publication 1888, August 1986, pp. 16-17.

[49] *Candles from the People's Republic of China: Investigation No. 731-TA-282 (Final)*, USITC Publication 1888, August 1986, p. A-47.

[50] The record in the original investigation and the first review indicated that purchasers viewed price as the most important factor. In the second review, purchasers continued to view price as an important factor, although not all of them always bought the lowest-priced candle available.

[51] *Petroleum Wax Candles From China: Investigation No. 731-TA-282 (Review)*, USITC Publication 3226, August 1999, pp. 13-14; and *Petroleum Wax Candles From China: Investigation No. 731-TA-282 (Second Review)*, USITC Publication 3790, July 2005, pp. 20-21.

[52] *Response* of domestic interested party, August 2, 2010, p. 17.

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

The original antidumping investigation resulted from a petition filed on behalf of the NCA on September 4, 1985. In that investigation, the Commission reported that there were over 100 producers of candles in the United States and identified 47 firms that accounted for approximately 95 percent of domestically produced candles. The Commission received questionnaire responses from 22 firms, accounting for approximately 75 percent of total domestic production.[53]

During the first review instituted in January 1999, the Commission noted that there were over 200 domestic producers of candles and the NCA reported that its 39 members that produced candles represented about 75 percent of the total production of petroleum wax candles in the United States.[54] In its response to the Commission's notice of institution in the second five-year review, the NCA provided a list of over 400 domestic producers of candles. The U.S. industry data presented in the Commission's report in its full second five-year review of the order were based on the useable questionnaire responses of 39 U.S. producers that accounted for approximately 63 percent of U.S. production in 2003.[55] In this current review, the NCA provided a listing of 58 current U.S. producers and reported that 40 of its members are domestic producers of petroleum wax candles, accounting for approximately *** percent of total domestic production.[56]

The NCA indicated in its response to the Commission's notice of institution in this third five-year review that since the second review, at least seven U.S. candle producers, which had been members of the NCA, have gone out of business. They also indicated that numerous other smaller U.S. candle producers, which were not members of the NCA, have gone out of business since the last five-year review.[57]

U.S. Producers' Trade, Employment, and Financial Data

Table I-3 presents data reported by U.S. producers of candles in the Commission's original investigation and its subsequent reviews.

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[53] *Candles from the People's Republic of China: Investigation No. 731-TA-282 (Final)*, USITC Publication 1888, August 1986, p. A-12.

[54] *Petroleum Wax Candles From China: Investigation No. 731-TA-282 (Review)*, USITC Publication 3226, August 1999, p. I-6.

[55] *Petroleum Wax Candles From China: Investigation No. 731-TA-282 (Second Review)*, USITC Publication 3790, July 2005, p. I-19.

[56] *Response* of domestic interested party, August 2, 2010, p. 2 and Attachments A and G.

[57] *Response* of domestic interested party, August 2, 2010, p. 8 and n.14.

Table I-3
Candles: U.S. producers' trade, employment, and financial data, 1983-85, 1998, 1999-2004, and 2009[1]

(Quantity=*1,000 pounds*; value=*$1,000*; unit values are *per pound*)

Item	1983	1984	1985	1998	1999	2000	2001	2002	2003	2004	2009
Capacity	171,596	183,554	181,709	([2])	548,420	597,371	618,609	614,811	644,047	695,671	502,443
Production	94,427	95,769	94,708	411,872	360,164	357,383	315,577	324,359	328,936	361,269	194,912
Capacity utilization (*percent*)	55.0	52.2	52.1	([2])	65.7	59.8	51.0	52.8	51.1	51.9	38.8
U.S. shipments:[3] Quantity	90,929	93,179	90,933	375,515	293,239	315,042	333,688	337,052	330,304	361,272	195,175
Value (*$1,000*)	144,746	144,445	136,617	1,032,884	1,058,798	1,149,911	1,124,558	1,101,018	1,165,266	1,213,666	853,198
Unit value	$1.59	$1.55	$1.50	$2.75	$3.61	$3.65	$3.37	$3.27	$3.53	$3.36	$4.37
Exports: Quantity	3,157	2,304	1,437	([2])	13,855	14,211	11,879	11,784	11,843	11,886	([2])
Value (*$1,000*)	3,528	3,207	1,807	([2])	65,427	61,680	58,534	65,878	64,157	70,485	([2])
Unit value	$1.12	$1.39	$1.26	([2])	$4.72	$4.34	$4.93	$5.59	$5.42	$5.93	([2])
Total shipments: Quantity	94,086	95,483	92,370	([2])	307,094	329,253	345,567	348,836	342,147	373,158	([2])
Value (*$1,000*)	148,274	147,652	138,424	([2])	1,124,225	1,211,591	1,183,092	1,166,896	1,229,423	1,284,151	([2])
Unit value	$1.58	$1.55	$1.50	([2])	$3.66	$3.68	$3.42	$3.35	$3.59	$3.44	([2])
End-of-period inventories	20,353	20,190	20,890	([2])	223,250	197,458	164,090	138,771	126,614	113,655	([2])

Table continued on next page.

Table I-3--*Continued*
Candles: U.S. producers' trade, employment, and financial data, 1983-85, 1998, 1999-2004, and 2009[1]

(Quantity=*1,000 pounds*; value=*$1,000*; unit values are *per pound*)

Item	1983	1984	1985	1998	1999	2000	2001	2002	2003	2004	2009
Production and related workers (*number*)	3,272	3,191	2,875	(2)	5,076	5,025	4,692	4,828	4,680	4,389	(2)
Hours worked (*1,000 hours*)	3,358	3,229	2,928	(2)	9,556	9,527	8,855	9,098	9,136	8,735	(2)
Wages paid (*$1,000)*	19,980	20,961	20,562	(2)	107,247	112,103	104,915	108,215	110,601	106,839	(2)
Hourly wages	$5.95	$6.49	$7.02	(2)	$11.20	$11.72	$11.81	$11.83	$12.05	$12.16	(2)
Productivity (*pounds/hour*)	28.1	29.7	32.3	(2)	37.6	37.4	35.6	35.6	35.9	41.3	(2)
Unit labor costs	$0.21	$0.22	$0.22	(2)	$0.30	$0.31	$0.33	$0.33	$0.34	$0.30	(2)
Net sales (*$1,000*)	***	***	***	(2)	1,039,120	1,205,903	1,213,118	1,269,768	1,326,889	1,356,196	***
Cost of goods sold (*$1,000*)	***	***	***	(2)	526,148	618,764	638,424	663,534	686,927	709,141	***
Gross profit or (loss) (*$1,000)*	***	***	***	(2)	512,971	587,139	574,694	606,234	639,962	647,055	***
SG&A expenses (*$1,000*)	***	***	***	(2)	303,664	364,677	368,169	406,548	427,030	432,080	***
Operating income or (loss) (*$1,000*)	***	***	***	(2)	209,308	222,462	206,524	199,687	212,932	214,975	***
Operating income (loss)/sales (*percent*)	***	***	***	(2)	20.1	18.4	17.0	15.7	16.0	15.9	***

[1] Data presented for 2009 were provided by the National Candle Association, 40 members of which are believed to represent approximately *** percent of candle production during 2009.
[2] Not available.
[3] During the first five-year review, shipment data were also provided for 1996 (305 million pounds) and 1997 (335 million pounds).

Note.–Financial data for 2009 as reported by the domestic interested party do not reconcile.

Source: *Staff Report on Petroleum Wax Candles, Investigation No. 731-TA-282 (Second Review)*, June 17, 2005, INV-CC-092, table I-1; *Response* of domestic interested party, August 2, 2010, Attachment E.

Related Party Issues

The NCA reported in its response to the Commission's notice of institution that it is unaware of any related parties.[58] However, ***.[59]

U.S. IMPORTS AND APPARENT U.S. CONSUMPTION

U.S. Imports[60]

In the original investigation, the Commission identified over 175 possible importers of the subject merchandise from China, most of which were reported to have imported only small quantities. In its response to the Commission's notice of institution in the first review of the order, the NCA identified 96 U.S. firms that imported the subject merchandise into the United States. In its response to the Commission's notice of institution in the second five-year review, the NCA provided a listing of over 125 U.S. importers of candles from China.

In its response to the Commission's notice of institution in this third five-year review, the NCA listed more than 200 current importers and foreign producers of the subject merchandise in China. Imports from China entering the United States under the appropriate HTS subheading for petroleum wax candles amounted to 15.7 million pounds ($33.2 million, landed duty-paid) in 2009. Since the period examined in the original investigation, subject imports continued to increase through the first review and into the second review. However, there was a marked decrease in imports in 2005, after Commerce's adjustment of the country-wide margin rate from 54.21 percent to 108.30 percent. After Commerce's affirmative circumvention finding in 2006, U.S. imports dropped further in that year when compared to 2005. The presence of nonsubject sources of imports, however, has increased since the last five-year review, particularly from Vietnam and India.[61] [62]

Data on U.S. imports of candles, by source, during 2004-09 are presented in table I-4. Figure I-1 presents the quantity of imports of candles from China and from all other countries from 1983 to 2009.

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[58] Response to Commission's Letter Regarding Domestic Producers' Substantive Response, August 11, 2010, p. 1; *Response* of domestic interested party, August 2, 2010, Attachment E.

[59] *Response* of domestic interested party, August 2, 2010, pp. 26-27.

[60] As mentioned previously, subject merchandise is currently provided for in HTS subheading 3406.00.00, "Candles, tapers, and the like," which includes candles that have been excluded from the scope of the order and nonsubject candles made from materials other than petroleum waxes. Chinese candle imports for which Customs collected antidumping duties, based on quantity (in thousand pounds), from 2005 to 2009 are as follows: *** in 2005; *** in 2006; *** in 2007; *** in 2008; and *** in 2009. Compiled from proprietary Customs data.

[61] In its response to the notice of institution, the domestic interested party alleges that there have been illegal transshipments of subject merchandise with false country of origin declarations, including transshipments from Macau, the Netherlands, Austria, Israel, the Philippines, Korea, Taiwan, Vietnam, and Thailand. The NCA states that ***, and that Customs is currently conducting an investigation. *Response* of domestic interested party, August 2, 2010, pp. 39-40. *See also* "Transshipment, Help You Avoid Anti-Dumping Duties" (a web posting suggesting that a freight forwarding company could route candle shipments through a third country and provide documents certifying that the country of origin of the candles was the third country) as well as "How to Avoid the Huge Anti-dumping Duty" and "The China-made Candle" (similar web postings advertising candle-related transshipment services for either the EU duties or those in effect in other countries, such as the United States).

[62] Purchaser *** believes that "global anti-dumping enforcement for candles from China caused increased demand for candles from Vietnam and Thailand." Purchaser survey response of ***.

Table I-4
Candles: U.S. imports, by source, 2004-09

Source	2004	2005	2006	2007	2008	2009
	Quantity (*1,000 pounds*)					
China	208,073	130,796	47,365	28,826	19,156	15,709
Vietnam	1,171	23,231	54,915	99,287	92,496	75,084
India	4,562	14,965	29,192	41,560	36,883	37,648
Canada	38,062	33,009	36,463	37,038	38,280	29,413
Thailand	19,182	20,330	22,460	30,145	27,287	22,778
Mexico	13,490	11,283	14,323	18,215	17,778	16,562
Dominican Republic	860	1,220	2,523	6,921	13,262	15,389
Hong Kong	22,645	19,563	23,465	20,175	9,193	7,182
All other	60,580	87,831	80,503	66,619	35,419	27,151
Subtotal, nonsubject	160,551	211,431	263,845	319,960	270,597	231,206
Total	368,624	342,227	311,211	348,786	289,754	246,915
	Value (*$1,000*)					
China	219,540	140,162	67,420	47,229	39,731	33,200
Vietnam	1,073	26,940	76,408	130,755	154,996	116,519
India	6,998	17,295	29,228	41,335	42,750	42,139
Canada	88,899	86,524	103,180	109,068	121,638	99,973
Thailand	22,794	24,996	28,625	36,090	35,999	28,086
Mexico	11,038	7,403	8,583	11,001	12,160	12,082
Dominican Republic	584	912	1,561	4,627	8,607	10,264
Hong Kong	26,497	25,445	31,069	29,955	17,962	13,668
All other	83,295	117,060	124,862	104,740	61,126	42,737
Subtotal, nonsubject	241,178	306,575	403,516	467,571	455,238	365,468
Total	460,717	446,737	470,936	514,799	494,969	398,668

Table continued on next page.

Table I-4--*Continued*
Candles: U.S. imports, by source, 2004-09

Source	2004	2005	2006	2007	2008	2009
	Unit value (*per pound)*					
China	$1.06	$1.07	$1.42	$1.64	$2.07	$2.11
Vietnam	0.92	1.16	1.39	1.32	1.68	1.55
India	1.53	1.16	1.00	0.99	1.16	1.12
Canada	2.34	2.62	2.83	2.94	3.18	3.40
Thailand	1.19	1.23	1.27	1.20	1.32	1.23
Mexico	0.82	0.66	0.60	0.60	0.68	0.73
Dominican Republic	0.68	0.75	0.62	0.67	0.65	0.67
Hong Kong	1.17	1.30	1.32	1.48	1.95	1.90
All other	1.37	1.33	1.55	1.57	1.73	1.57
Average, nonsubject	1.50	1.45	1.53	1.46	1.68	1.58
Average	1.25	1.31	1.51	1.48	1.71	1.61
	Share of quantity (*percent*)					
China	56.4	38.2	15.2	8.3	6.6	6.4
Vietnam	0.3	6.8	17.6	28.5	31.9	30.4
India	1.2	4.4	9.4	11.9	12.7	15.2
Canada	10.3	9.6	11.7	10.6	13.2	11.9
Thailand	5.2	5.9	7.2	8.6	9.4	9.2
Mexico	3.7	3.3	4.6	5.2	6.1	6.7
Dominican Republic	0.2	0.4	0.8	2.0	4.6	6.2
Hong Kong	6.1	5.7	7.5	5.8	3.2	2.9
All other	16.4	25.7	25.9	19.1	12.2	11.0
Subtotal, nonsubject	43.6	61.8	84.8	91.7	93.4	93.6
Total	100.0	100.0	100.0	100.0	100.0	100.0

Table continued on next page.

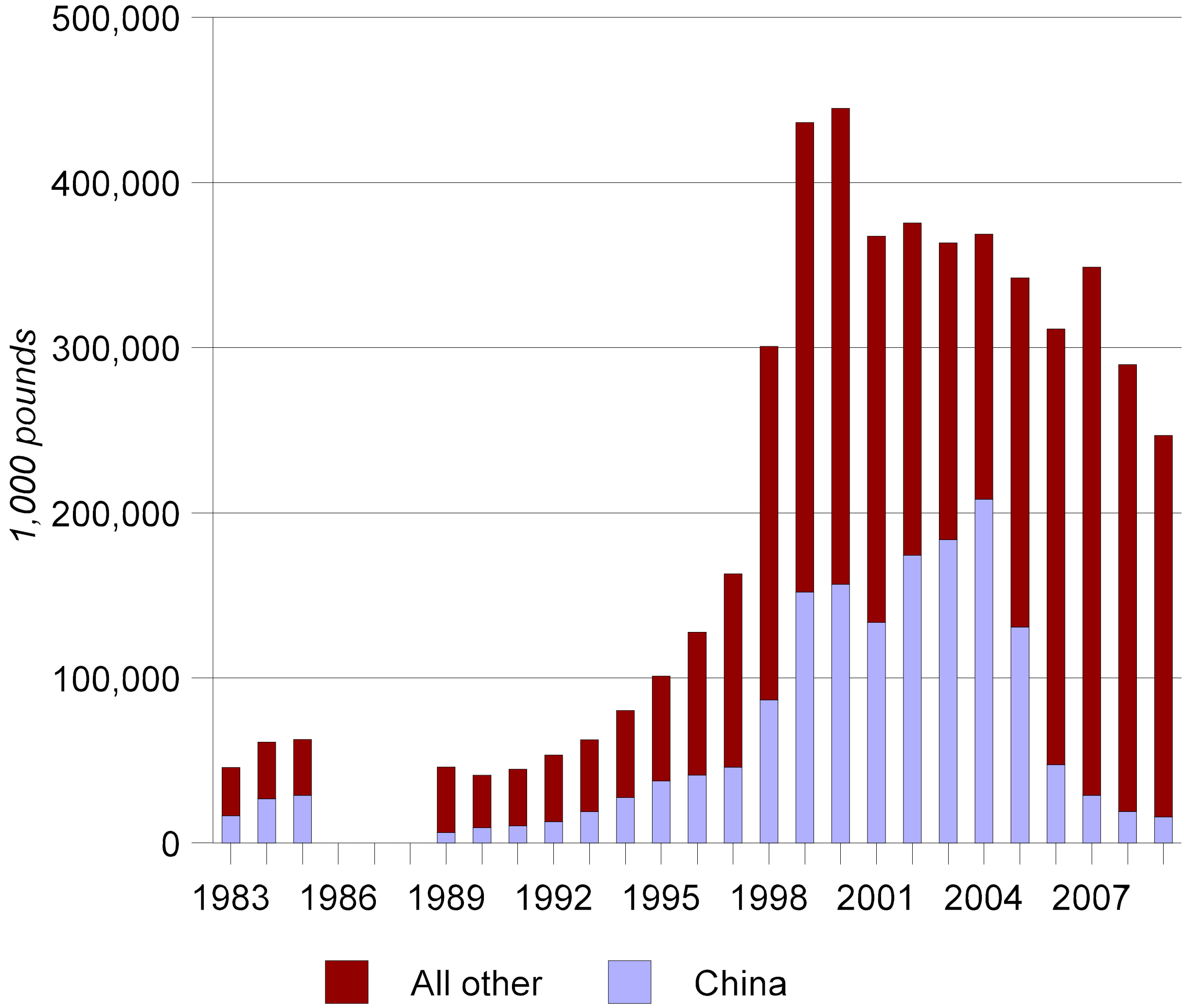
Table I-4--*Continued*
Candles: U.S. imports, by source, 2004-09

Source	2004	2005	2006	2007	2008	2009
	Share of value (*percent*)					
China	47.7	31.4	14.3	9.2	8.0	8.3
Vietnam	0.2	6.0	16.2	25.4	31.3	29.2
India	1.5	3.9	6.2	8.0	8.6	10.6
Canada	19.3	19.4	21.9	21.2	24.6	25.1
Thailand	4.9	5.6	6.1	7.0	7.3	7.0
Mexico	2.4	1.7	1.8	2.1	2.5	3.0
Dominican Republic	0.1	0.2	0.3	0.9	1.7	2.6
Hong Kong	5.8	5.7	6.6	5.8	3.6	3.4
All other	18.1	26.2	26.5	20.3	12.3	10.7
Subtotal, nonsubject	52.3	68.6	85.7	90.8	92.0	91.7
Total	100.0	100.0	100.0	100.0	100.0	100.0

Note.–Because of rounding, figures may not add to the totals shown.

Source: Official Commerce statistics, HTS statistical reporting number 3406.00.0000.

Figure I-1
Candles: U.S. imports from China and all other sources, 1983-2009



Note.--Data for years 1986-88 are not available.

Source: Compiled from official Commerce statistics.

Ratio of Imports to U.S. Production

Imports of candles from China were equivalent to 8.1 percent of U.S. production in 2009, compared to 57.6 percent in 2004, 21.1 percent in 1998, and 30.6 percent in 1985. The ratio of imports of candles from nonsubject countries to domestic production was 118.6 percent in 2009, compared to 44.4 percent in 2004, 52.0 percent in 1998, and 35.6 percent in 1985. The ratio of total imports to U.S. production increased throughout the period and was 126.7 percent in 2009, a substantial increase when compared to 102.0 percent in 2004, 73.1 percent in 1998, and 66.2 percent in 1985.

Apparent U.S. Consumption and Market Shares

Apparent U.S. consumption and market shares are presented in table I-5.

Table I-5
Candles: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 1983-85, 1996-98, 1999-2004, and 2009

Item	1983	1984	1985	1996	1997	1998
	Quantity (*1,000 pounds*)					
U.S. producers' U.S. shipments	90,929	93,179	90,933	305,125	335,395	375,515
U.S. imports from-- China	16,539	26,705	28,949	41,108	45,939	86,597
Other sources	29,121	34,456	33,728	86,516	117,088	214,148
Total imports	45,660	61,161	62,677	127,624	163,027	300,745
Apparent U.S. consumption	136,589	154,340	153,610	432,749	498,422	676,260
	Value (*1,000 dollars*)					
U.S. producers' U.S. shipments	144,746	144,445	136,617	([1])	([1])	1,032,884
U.S. imports from-- China	9,170	16,123	18,009	75,591	76,378	95,126
Other sources	27,880	33,654	38,263	137,564	165,958	268,793
Total imports	37,050	49,777	56,272	213,155	242,336	363,919
Apparent U.S. consumption	181,796	194,222	192,889	([1])	([1])	1,396,803
	Share of consumption based on quantity (*percent*)					
U.S. producers' U.S. shipments	66.6	60.4	59.2	70.5	67.3	55.6
U.S. imports from-- China	12.1	17.3	18.8	9.5	9.2	12.8
Other sources	21.3	22.3	22.0	20.0	23.5	31.6
Total imports	33.4	39.6	40.8	29.5	32.7	44.4
Apparent U.S. consumption	100.0	100.0	100.0	100.0	100.0	100.0
	Share of consumption based on value (*percent*)					
U.S. producers' U.S. shipments	79.6	74.4	70.8	([1])	([1])	73.9
U.S. imports from-- China	5.0	8.3	9.3	([1])	([1])	6.8
Other sources	15.3	17.3	19.8	([1])	([1])	19.2
Total imports	20.4	25.6	29.2	([1])	([1])	26.1
Apparent U.S. consumption	100.0	100.0	100.0	100.0	100.0	100.0

Table continued on next page.

Table I-5--*Continued*
Candles: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 1983-85, 1996-98, 1999-2004, and 2009

Item	1999	2000	2001	2002	2003	2004	2009
	Quantity (*1,000 pounds*)						
U.S. producers' U.S. shipments	293,239	315,042	333,688	337,052	330,304	361,272	195,175
U.S. imports from-- China	151,908	156,765	133,553	174,165	183,644	208,073	15,709
Other sources	284,396	288,054	233,886	201,401	179,851	160,551	231,206
Total imports	436,304	444,819	367,439	375,566	363,495	368,624	246,915
Apparent U.S. consumption	729,543	759,862	701,128	712,618	693,799	729,896	442,090
	Value (*1,000 dollars*)						
U.S. producers' U.S. shipments	1,058,798	1,149,911	1,124,558	1,101,018	1,165,266	1,213,666	853,198
U.S. imports from-- China	149,240	171,593	151,162	179,244	185,143	219,540	33,200
Other sources	371,697	372,136	312,808	264,855	262,067	241,178	365,468
Total imports	520,937	543,729	463,970	444,099	447,211	460,717	398,668
Apparent U.S. consumption	1,579,735	1,693,640	1,588,527	1,545,117	1,612,477	1,674,383	1,251,866
	Share of consumption based on quantity (*percent*)						
U.S. producers' U.S. shipments	40.2	41.5	47.6	47.3	47.6	49.5	44.1
U.S. imports from-- China	20.8	20.6	19.0	24.4	26.5	28.5	3.6
Other sources	39.0	37.9	33.4	28.3	25.9	22.0	52.3
Total imports	59.8	58.5	52.4	52.7	52.4	50.5	55.9
Apparent U.S. consumption	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Share of consumption based on value (*percent*)						
U.S. producers' U.S. shipments	67.0	67.9	70.8	71.3	72.3	72.5	68.2
U.S. imports from-- China	9.4	10.1	9.5	11.6	11.5	13.1	2.7
Other sources	23.5	22.0	19.7	17.1	16.3	14.4	29.2
Total imports	33.0	32.1	29.2	28.7	27.7	27.5	31.8
Apparent U.S. consumption	100.0	100.0	100.0	100.0	100.0	100.0	100.0

[1] Not available.

Note.–Because of rounding, figures may not add to the totals shown.

Source: *Staff Report on Petroleum Wax Candles, Investigation No. 731-TA-282 (Second Review)*, June 17, 2005, INV-CC-092, table I-1; official Commerce statistics, HTS statistical reporting number 3406.00.0000; and *Response* of domestic interested party, August 2, 2010, Attachment E.

In its response to the Commission's notice of institution, the domestic interested party reported that the most significant change in demand for candles since the second five-year review has been the recession that began at the end of 2007. The recession has caused a marked decline in product demand. U.S. candle demand is also affected by the decline in the housing market, as the sale of homes is a major incentive for the purchase of candles.[63] This is consistent with comments made by purchaser ***, which stated that the U.S. economic downturn has negatively affected domestic demand for candles in recent years. *** reports that the use of candles for bedrooms and bathrooms have declined by one percent, but it anticipates that candle demand related to sales and new home purchases will increase.[64]

The NCA also notes the increasing cost of inputs, such as paraffin wax and linerboard. From 2004 to 2009, the price of paraffin wax more than doubled from *** per pound, while the price of linerboard, which is used for packing boxes, almost doubled from $350 to $675 per ton. The decline in domestic consumption and price pressure from major retailers have made it difficult for candle producers to pass the increased cost of inputs to candle purchasers. According to the domestic interested party, "such increased costs contribute to the industry's vulnerability."[65]

ANTIDUMPING ACTIONS OUTSIDE THE UNITED STATES

In November 2008, the EU implemented a provisional antidumping duty order on candles from China. The final, definitive EU order entered into effect in May 2009. According to the response of the domestic interested party, EU imports of candles from China peaked at 199,250 tons (398.5 million pounds) in 2007, then volume decreased substantially to 67,573 tons (135.1 million pounds) in 2009. In addition, Mexico has had an antidumping duty order of 103 percent on candles from China in effect since August 1993.[66]

THE SUBJECT INDUSTRY IN CHINA

The staff report in the Commission's final investigation leading to the antidumping duty order subject to this review indicated that approximately *** percent of the subject imports from China during 1985 were exported by the China Native Products Corp., an import/export entity. In that final investigation, the NCA identified 44 factories and the China Native Products Corp. identified 11 factories in China that produced candles for export. Many of the candle producers in China were rural enterprises that operated largely outside centralized control.[67] In its response to the Commission's notice of institution in the first review of the order, the NCA identified 25 manufacturers/exporters of the subject merchandise in China. In its response to the Commission's notice of institution in the second five-year review, the NCA provided a listing of approximately 70 manufacturers/exporters of candles in China. Eight Chinese companies provided limited data to the Commission on their candle operations in China during the second full five-year review. In its response to the Commission's notice of institution in the current review, the NCA listed more than 200 current importers and foreign producers of the subject merchandise in China.

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[63] *Response* of domestic interested party, August 2, 2010, pp. 27-39.

[64] Purchaser survey response of ***.

[65] *Response* of domestic interested party, August 2, 2010, pp. 34-35 and Attachments K-L.

[66] *Response* of domestic interested party, August 2, 2010, pp. 33-34; and *Petroleum Wax Candles From China: Investigation No. 731-TA-282 (Second Review)*, USITC Publication 3790, July 2005, p. IV-9.

[67] *Petroleum Wax Candles From the People's Republic of China: Final Determination of Sales at Less than Fair Value*, 51 FR 25085, July 10, 1986.

The NCA states that Chinese production capacity has increased since the imposition of the order in 1985. Since the Chinese producers have established channels of distribution, “the industry would experience a certain immediate surge in the volume of Chinese imports similar to that experienced in 2004.” Other characterizations of the Chinese industry include: (1) a significant portion of the Chinese production base operates under more traditional, labor-intensive production methods, (2) a large number of preexisting candle-making equipment is readily available in China and elsewhere, (3) many Chinese candle producers produce candles on a seasonal basis. The NCA asserts that these conditions of the Chinese industry would allow Chinese candle producers to rapidly increase existing capacity utilization.

Tables I-6 and I-7 present data on Chinese candle exports from 2004 to 2009.

Table I-6
Candles: Chinese exports, 2004-09

Quantity (*1,000 pounds*)

	2004	2005	2006	2007	2008	2009
Exports to:						
United States	245,075	152,832	95,192	85,363	48,352	39,860
All other	656,727	797,745	825,518	890,060	700,263	548,664
Total	901,802	950,577	920,709	975,423	748,615	588,524
Source: Compiled from World Trade Atlas data, HTS statistical reporting number 3406.00.00, found in *Response* of domestic interested party, August 2, 2010, Attachment F.						

Table I-7
Candles: Chinese exports, by market, 2004-09

Market	2004	2005	2006	2007	2008	2009
			Value (*$1,000*)			
Germany	40,408	60,854	73,866	94,828	99,986	61,573
United States	138,054	90,429	67,419	67,839	48,338	38,616
Netherlands	32,407	53,553	56,559	57,743	45,118	30,601
United Kingdom	37,650	42,256	50,249	53,464	50,457	28,258
Nigeria	12,863	9,454	13,443	19,052	23,658	24,062
Canada	17,504	19,815	23,314	27,364	23,825	20,531
Australia	12,647	14,035	13,291	14,560	20,745	17,912
France	11,827	14,060	13,029	18,440	19,239	12,965
Japan	6,236	6,959	7,725	8,179	12,059	12,265
Angola	5,254	7,478	11,388	13,833	16,246	11,655
Italy	17,801	18,371	17,392	20,685	20,454	10,147
Spain	13,970	15,607	13,600	18,117	15,347	9,838
Sweden	7,348	16,764	15,674	24,489	25,646	9,387
Hong Kong	28,264	26,871	20,232	20,140	11,054	8,734
Norway	2,384	4,795	5,247	7,461	8,741	8,502
All other	95,675	143,988	191,648	218,473	249,234	179,696
Total	480,294	545,289	594,076	684,666	690,149	484,744

Source: Compiled from World Trade Atlas data, HTS statistical reporting number 3406.00.00.

Another important factor is related to China's role as global supplier of paraffin wax, the principal raw material in candles. According to the domestic interested party, China has a large and growing production capacity of paraffin wax, and could be used to support a "massive" expansion of Chinese candle production. China is currently the largest supplier of paraffin wax to the U.S. market.[68]

THE GLOBAL MARKET

In the EU's antidumping investigation on candles from China, the Council reported a surge of low-priced candle imports from China were being dumped in the EU market. The Council also reported that the subject merchandise was undercutting the Community industry's prices at a margin of 15.7 percent during the period of investigation, while the volume of subject imports increased by 31 percent.[69]

[68] *Response* of domestic interested party, August 2, 2010, pp. 11-12.

[69] Council Regulation (EC) No. 393/2009 of 11 May 2009, *Official Journal of the European Union*, May 14, 2009.

During the investigation period (2007), total EU production was approximately 390,000 tonnes (859.8 million pounds). The 31 domestic producers participating in the investigation accounted for approximately 60 percent of total EU production during the period. Although domestic sales between 2004 and 2007 increased by 3 percent, Community consumption increased by 13 percent. The domestic industry could not take advantage of this expansion of Community consumption and subsequently lost market share, decreasing by almost 3.7 percentage points.[70]

Tables I-8 and I-9 present additional data on world exports and imports, by value, from 2004 to 2009.

Table I-8
Candles: World exports, by source, 2004-09

Source	2004[1]	2005[2]	2006	2007	2008	2009
	Value (*$1,000*)					
China	480,294	545,289	594,076	684,666	690,149	484,744
Poland	137,512	157,982	177,853	240,742	330,002	325,862
Netherlands	194,005	213,752	253,946	269,661	333,346	310,057
Germany	175,351	175,154	184,486	213,193	233,659	199,226
United States	76,213	82,217	87,860	113,197	129,760	143,155
Canada	101,982	96,221	111,165	119,661	131,743	107,645
Belgium	53,030	53,977	62,166	74,146	79,426	86,210
United Kingdom	62,755	63,934	69,822	85,023	77,821	71,078
Hong Kong	89,060	77,643	75,231	66,445	49,498	46,315
Denmark	34,369	35,328	38,262	47,983	50,801	41,538
Thailand	23,499	28,778	31,875	44,351	42,930	40,058
All other	295,231	310,438	359,599	420,030	416,015	403,497
Total	N/A	N/A	2,046,342	2,379,099	2,565,148	2,259,386

[1] 2004 data not available for Bolivia, Cote d'Ivoire, Egypt, El Salvador, Kenya, Mauritius, and Senegal.
[2] 2005 data not available for Kenya.

Source: Compiled from World Trade Atlas data, HTS statistical reporting number 3406.00.00.

[70] Commission Regulation (EC) No 1130/2008 of 14 November 2008, *Official Journal of the European Union*, November 15, 2008.

Table I-9
Candles: World imports, by market, 2004-09

Market	2004[1]	2005[2]	2006	2007	2008	2009
			Value (*$1,000*)			
Germany	326,307	308,710	316,631	410,506	480,144	426,463
United States	426,039	414,816	441,745	485,332	470,462	381,511
United Kingdom	137,171	143,556	150,556	157,715	167,892	154,426
Netherlands	91,350	105,183	140,433	154,503	164,833	138,921
France	70,162	78,575	89,824	116,289	122,171	115,677
Canada	79,316	80,639	89,739	101,644	98,577	90,324
Austria	78,860	79,078	80,969	108,755	112,679	87,600
Sweden	44,888	58,126	65,909	79,745	105,734	80,613
Norway	38,853	44,985	49,886	67,345	76,817	75,129
Denmark	57,102	67,031	70,285	80,819	92,161	72,102
Belgium	48,593	51,173	51,932	71,878	71,601	70,518
All other	446,387	479,832	523,554	624,037	677,025	574,848
Total	N/A	N/A	2,071,463	2,458,570	2,640,097	2,268,131

[1] 2004 data not available for Bolivia, Cote d'Ivoire, Egypt, El Salvador, Kenya, Mauritius, and Senegal.
[2] 2005 data not available for Kenya.

Source: Compiled from World Trade Atlas data, HTS statistical reporting number 3406.00.00.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–282 (Third Review)]

Petroleum Wax Candles From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on petroleum wax candles from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on petroleum wax candles from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is August 2, 2010. Comments on the adequacy of responses may be filed with the Commission by September 14, 2010. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: Effective Date: July 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 10–5–220, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On August 28, 1986, the Department of Commerce issued an antidumping duty order on imports of petroleum wax candles from China (51 FR 30686). Following first five-year reviews by Commerce and the Commission, effective September 23, 1999, Commerce issued a continuation of the antidumping duty order on imports of petroleum wax candles from China (64 FR 51514). Following second five-year reviews by Commerce and the Commission, effective August 10, 2005, Commerce issued a second continuation of the antidumping duty order on imports of petroleum wax candles from China (70 FR 56890, September 29, 2005). The Commission is now conducting a third review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination and its expedited first five-year review determination, the Commission defined the *Domestic Like Product* as petroleum wax candles. In its full second five-year review determination, the Commission defined the *Domestic Like Product* as candles with fiber or paper-cored wicks and containing any amount of petroleum wax, except for candles containing more than 50 percent beeswax.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination and its expedited first five-year review determination, the Commission defined the *Domestic Industry* as producers of petroleum wax candles. In its full second five-year review determination, the Commission defined the *Domestic Industry* as consisting of all domestic producers of candles containing petroleum wax, except for candles that contain more than 50 percent beeswax.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 2, 2010. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is September 14, 2010. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided In Response to this Notice of Institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product or the Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2009, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise from the Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production; and

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in the *Subject Country* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject*

Merchandise from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise in the Subject Country* after 2004, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product and Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: June 23, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–15669 Filed 6–30–10; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (“Sunset”) Review

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (“the Act”), the Department of Commerce (“the Department”) is automatically initiating a five-year review (“Sunset Review”) of the antidumping duty orders listed below. The International Trade Commission (“the Commission”) is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective Date:* July 1, 2010.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Ave., NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (“Sunset”) Reviews of Antidumping and Countervailing.*

Duty Orders, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin,* 63 FR 18871 (April 16, 1998).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–588–046	AA1921–129	Japan	Polychloroprene Rubber (3rd Review)	Dana Mermelstein (202) 482–1391
A–570–504	731–TA–282	PRC	Petroleum Wax Candles (3rd Review)	Jennifer Moats (202) 492–5047
A–401–808[1]	731–TA–1087	Sweden	Carboxymethylcellulose	Dana Mermelstein (202) 482–1391

[1] In the sunset initiation notice that published on June 2, 2010 (75 FR 30777), the case number listed for Carboxymethylcellulose from Sweden was incorrect. The case number listed above is the correct number for that case. This notice serves only to correct the case number. The initiation remains in effect as of June 2, 2010.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Internet Web site at the following address: *http://ia.ita.doc.gov/sunset/.* All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103 (d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (“APO”) immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. *See* 19 CFR 351.218(d)(1)(i). The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. *See* 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that all parties wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[2] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218 (c).

[2] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

Dated: June 23, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–16080 Filed 7–6–10; 4:15 pm]

BILLING CODE 3510–DS–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–282 (Third Review)]

Petroleum Wax Candles From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on petroleum wax candles from China.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on petroleum wax candles from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* October 4, 2010.

FOR FURTHER INFORMATION CONTACT: Keysha Martinez (202–205–2136), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On October 4, 2010, the Commission determined that the domestic interested party group response to its notice of institution (75 FR 38121, July 1, 2010) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on November 10, 2010, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before November 15, 2010 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by November 15, 2010. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] The Commission has found the response submitted by the National Candle Association to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: October 8, 2010.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2010–25818 Filed 10–13–10; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–504]

Petroleum Wax Candles From the People's Republic of China: Final Results of Expedited Third Sunset Review of Antidumping Duty Order

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

DATES: *Effective Date:* November 18, 2010.

SUMMARY: On July 9, 2010, the Department of Commerce ("Department") initiated the third sunset review of the antidumping duty order on petroleum wax candles from the People's Republic of China ("PRC"). On the basis of a timely notice of intent to participate and an adequate substantive response filed on behalf of a domestic interested party, as well as an inadequate response from any respondent interested parties (in this case, no response), the Department conducted an expedited sunset review. As a result of the sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the margins identified in the *Final Results of Review* section of this notice.

FOR FURTHER INFORMATION CONTACT: Tim Lord, 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) 482–7425.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 2010, the Department published the notice of initiation of the third sunset review of the antidumping duty order on petroleum wax candles from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). *See Initiation of Five-Year ("Sunset") Review,* 75 FR 39494 (July 9, 2010). On July 16, 2010, the Department received a notice of intent to participate from a domestic interested party, the National Candle Association ("NCA" or "Petitioner"). Submission of the notice of intent to participate filed by Petitioner was within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. Petitioner claimed interested party status under section 771(9)(E) of the Act, as NCA is a trade association, a majority of whose members manufacture candles in the United States. On August 9, 2010, the Department received a substantive response from Petitioner within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. We did not receive any adequate substantive responses from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department determined to conduct an expedited sunset review of the order.

Scope of the Order

The products covered by the 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. The products were originally classifiable under the Tariff Schedules of the United States item 755.25, Candles and Tapers. The products are currently classifiable under the Harmonized Tariff Schedule ("HTS") item number 3406.00.00. The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum ("Decision Memorandum") from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated November 8, 2010, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit in room 7046 of the main Commerce building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(c)(1) and (3) of the Act, we determine that revocation of the antidumping duty order on petroleum wax candles from the PRC would be likely to lead to continuation or recurrence of dumping at the following percentage margins:

Manufacturers/producers/exporters	Margin (percent)
PRC-Wide	108.30

This notice also 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 section 351.305 of the Department's regulations. Timely notification of the return or 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.

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

Dated: November 8, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–29263 Filed 11–17–10; 8:45 am]

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APPENDIX B

COMMISSION'S STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Petroleum Wax Candles from China
Inv. No. 731-TA-282 (Third Review)

On October 4, 2010, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751 (c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B) .

The Commission received a single, individually adequate response from the National Candle Association ("NCA"), whose participating members account for the majority of production of the domestic like product. Because the Commission received an adequate response from the NCA, the Commission determined that the domestic interested party group response was adequate.

The Commission did not receive a response from any respondent interested party, and therefore determined that the respondent interested party group response was inadequate. In the absence of an adequate respondent interested party group response or any other circumstances that it deemed warranted proceeding to a full review, the Commission determined to conduct an expedited review. A record of the Commissioners' votes is available from the Office of the Secretary and the Commission's website (http:/www.usitc.gov).