

May 10, 2005

By: E-mail Notification

To All Interested Parties:

On March 29, 2002, the Department of Commerce (the Department) received a request from New Spectrum Gift Gallery, Inc. for scope rulings on whether 100 candles it imports are covered by the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC).

In accordance with 19 CFR 351.225(k)(1), the Department has determined that 30 candles are not included within the scope of the antidumping duty order on petroleum wax candles from the PRC, and 70 candles are included within the scope of the antidumping duty order.

Attached is a memorandum containing the Department's analysis. We will notify Customs and Border Protection (CBP) of this decision. If you have any questions, please contact Jacky Arrowsmith at (202) 482-5255.

Sincerely,

Dana Mermelstein
Acting Director
AD/CVD Operations Office 6
Import Administration

Enclosure

May 10, 2005

MEMORANDUM FOR: Barbara E. Tillman
Acting Deputy Assistant Secretary
for Import Administration

FROM: Dana Mermelstein
Acting Director
AD/CVD Operations, Office 6

SUBJECT: Final Scope Ruling; Antidumping Duty Order on Petroleum
Wax Candles from the People's Republic of China (A-570-504);
New Spectrum Gift Gallery, Inc.

Summary

On March 29, 2002, the Department of Commerce (the Department) received a request from New Spectrum Gift Gallery, Inc. (New Spectrum) for a scope ruling on 100 candles (assorted columns, spheres, and figurines, etc.) to determine whether any are covered by the antidumping duty order on petroleum wax candles from the People's Republic of China (the PRC). Petroleum Wax Candles from the PRC: Final Determination of Sales at Less Than Fair Value, 51 FR 25085 (July 10, 1986) (Order). In accordance with 19 CFR 351.225(k)(1), the Department finds that 30 of New Spectrum's candles are not included within the scope of the Order, and 70 candles are subject to the Order.

Background

On March 29, 2002, New Spectrum submitted a request directly to the Department's analyst for a scope ruling. Pursuant to section 351.103(b) of the Department's regulations, which states that "no document will be considered as having been received by the Secretary unless it is submitted to the Central Records Unit (CRU) with the date and time of receipt," the Department deemed New Spectrum's submission improperly filed. To facilitate the review of the scope request, the Department properly placed New Spectrum's submission on the record of this scope proceeding on March 29, 2002. On June 17, 2002, the National Candle Association (the NCA or "petitioner") filed comments on New Spectrum's request for a scope ruling. New Spectrum submitted rebuttal comments on July 12, 2002.

The Department requested that New Spectrum group similar candles together in its scope request to facilitate the Department's analysis. We also requested that New Spectrum submit one sample candle representing each group of similar candles which New Spectrum identified. As a result of New Spectrum's categorization, the Department received samples of 36 candles from New Spectrum with its scope request, although the scope request identified 100 candles. Each of the 36 candles submitted to the Department is a representative sample of the types of candles found within the various groups from among the 100 candles identified by New Spectrum. The Department's analysis of New Spectrum's candles covers all of the candles identified by New Spectrum in its scope request. There are 36 candle groups identified below which the Department has analyzed to determine whether any of the candles are subject to the Order. Each of the candle groups identified below corresponds to the candle groups which New Spectrum identified in its scope request. New Spectrum submitted the first candle listed below in each group to the Department as the sample candle representing that group. The NCA also provided comments to the Department based on New Spectrum's categorization of its candles. Because of the large number of candles contained in this request, the Department briefly summarizes New Spectrum and the NCA's comments in the sections below. In our analysis section below, we review New Spectrum and the NCA's comments in detail.

For a summary listing of the candles deemed to be not included within the scope of the Order, see Attachment I. For a summary listing of the candles deemed included within the scope of the Order, see Attachment II.

New Spectrum Comments

New Spectrum argues that all of the candles in its scope request are novelty candles, which are not included within the scope of the Order. New Spectrum argues that the novelty candles are used as household decorations or as decorations for Christmas, weddings and anniversaries, or other holidays. Furthermore, New Spectrum argues that the candles are identifiable objects that can be viewed from all angles. New Spectrum contends that removal of the identifiable objects would damage the candles.

The National Candle Association's Comments

In its comments, the NCA retraces the history of this Order, including the import surges and resultant injury suffered by domestic manufacturers which prompted the original September 1985 antidumping petition. Petitioner contends that the antidumping statute and antidumping duty Orders are remedial in nature and exceptions to them should be construed as narrowly as possible to preserve the efficacy of the Order. In support of its assertion, petitioner cites a CIT decision with regard to the novelty exception, that states that “. . . a candle must be specifically designed for use only in connection with a religious holiday or special event to fall within the novelty candle exception.” See Russ Berrie & Co., Inc. v. United States, 57 F. Supp. 2d 1184, 1194 (CIT 1999). Thus, the petitioner argues that the Department narrowly limited the novelty candle exception to figurine candles, candles shaped in the form of identifiable objects, and candles specifically designed for use only in connection with the holiday season. The NCA notes that all of New Spectrum's candles fall within the shapes delineated by the Order and are petroleum wax candles made in the PRC, having fiber or paper-cored wicks.

The NCA notes that New Spectrum's candles compete in the same channels of trade as the candles subject to the Order, and that their sale without the antidumping duty will severely injure the U.S. candle producers. The NCA further notes what it characterizes as the long-standing efforts of candle importers to "expand the 'novelty candle' loophole in the Order through a continuing stream of scope requests, causing the Order on PRC candles to be subjected to over seventy Final Scope Rulings and many more requests." Petitioner maintains that the success of the scope requests in eroding the Order has resulted in geometric increases in the volume of PRC candles coming into the United States. Petitioner concludes by stating that New Spectrum is now asking the Department to narrow the scope of the Order to exclude everyday candles, claiming that they are novelty candles, and that the Department does not have such legal authority.

Legal Framework

The Department examines scope requests in accordance with the Department's scope regulations, which may be found at 19 CFR 351.225 (2001). On matters concerning the scope of an antidumping duty order, the Department first examines the descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the International Trade Commission (the Commission). See 19 CFR 351.225(k)(1). If the Department determines that these descriptions are dispositive of the matter, the Department will issue a final scope ruling as to whether or not the product is covered by the order. See 19 CFR 351.225(d).

Conversely, where the descriptions of the merchandise are *not* dispositive, the Department will consider the five additional factors set forth at 19 CFR 351.225(k)(2). These criteria are: i) the physical characteristics of the merchandise; ii) the expectations of the ultimate purchasers; iii) the ultimate use of the product; iv) the channels of trade in which the product is sold; and v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope inquiry is made on a case-by-case basis, with or without formal inquiry, after consideration of all evidence before the Department.

Pursuant to 19 CFR 351.225(k)(1), the Department will examine the description of the subject merchandise from the petition, the initial investigation, and the Commission's determinations. In its petition of September 4, 1985, the NCA requested that the investigation cover:

{c}andles {which} are made from petroleum wax and contain 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. These candles may be scented or unscented and are generally used by retail consumers in the home or yard for decorative or lighting purposes.

See Antidumping Petition (September 4, 1985) at 7.

The Department defined the scope of the investigation in its notice of initiation. This scope language carried forward without change through the preliminary and final determinations of sales at less than fair value and the Order:

{c}ertain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers.

See Petroleum Wax Candles from the People’s Republic of China: Initiation of Antidumping Duty Investigation, 50 FR 39743 (September 30, 1985); Petroleum Wax Candles from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 51 FR 6016 (February 19, 1986); Final Determination; and Order.

The Commission adopted a similar definition of the “like product” subject to its determinations, noting that the investigations did not include “birthday, birthday numeral and figurine type candles.” See Determinations of the Commission (Final), USITC Publication 1888, August 1986, at 4, note 5, and A-2 (Commission Determination). The Commission stated that “we determine that the domestic like product shall consist only of petroleum wax candles.” See Commission Determination, at 9. In its discussion of like product, the Commission also stated:

Petroleum wax candles are those composed of over 50 percent petroleum wax, and 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.

See Commission Determination, at 4-5.

The Department clarified the scope of the Order in relation to certain novelty candles. See Russ Berrie Ruling, 57 F.Supp 2d at 1194. In 1987, the Department issued a notice to the United States Customs Service (since renamed U.S. Customs and Border Protection) (CBP) in connection with a scope ruling which provides:

The Department of Commerce has determined that certain novelty candles, such as Christmas novelty candles, are not within the scope of the antidumping duty order on petroleum-wax candles from the People's Republic of China (PRC). Christmas novelty candles are candles specially designed for use only in connection with the Christmas holiday season. This use is clearly indicated by Christmas scenes and symbols depicted in the candle design. Other novelty candles not within the scope of the order include candles having scenes or symbols of other occasions (e.g., religious holidays or special events) depicted in their designs, figurine candles, and candles shaped in the form of identifiable objects (e.g., animals or numerals).

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

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

In November 2001, the Department changed its interpretation of the scope of the Order. See Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China (A-570-504); J.C. Penney (November 9, 2001) (J.C. Penney Scope Ruling) (November 9, 2001). In this ruling, the Department reviewed the text of the scope of the Order, beginning with the text of the first sentence of the scope which covers “{c}ertain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks.” See Order. The text following this broad, inclusive sentence provides a list of shapes; this list is not modified by any express words of exclusivity. The result of our prior practice of not including within the scope of the Order candles of a shape other than those specifically listed in the Order was inconsistent with the fact that the candles were “scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks.”¹ In the J.C. Penney Scope Ruling (November 9, 2001), the Department revised this practice because the former practice had the effect of narrowing the broad coverage of the first sentence of the Order’s scope. The list of shapes in the second sentence of the Order’s scope does not provide a textual basis for such a narrowing of the coverage of the first sentence of the Order’s scope.

This approach of evaluating candles in light of the entire text of the Order’s scope is in keeping with Duferco Steel, noting that a better approach in scope rulings is to avoid subjective issues of intent and, instead, look to the petition’s language to determine whether the class or kind of merchandise at issue was expressly included. See Duferco Steel, Inc. v. United States, 146 F. Supp. 2d 913 (CIT 2001) (Duferco Steel).

Although the specific scope decision in Duferco Steel has been overturned by the United States Court of Appeals of the Federal Circuit (CAFC) in Duferco Steel, Inc. v. United States, 296 F.3d 1087 (Fed. Cir. 2002) (Duferco Steel II), the Court’s ruling does not undermine the Department’s scope determination in the J.C. Penney Scope Ruling (November 9, 2001). The plain language of the scope of the Order clearly states “{c}ertain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks . . . sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers” are included within the scope of the Order. Thus, the Order offers a descriptive list of the shapes of candles included within the Order, but, as the

¹ See, e.g., Final Scope Ruling - Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China (A-570-504); Endar Corp. (January 11, 2000) Endar Scope Ruling (the Department determined that a “dragonfly” candle, in the shape of a rough-hewn stone with a dragonfly carved on top, should not be included within the scope because it is of a shape not specifically listed by the language of the scope); see also Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China (A-570-504); American Drug Stores, Inc. (March 16, 1998) (American Drug Stores Scope Ruling). (The Department determined that a sphere or ball-shaped candle should not be included within scope because it is a shape not specifically listed by the language of the scope.)

courts have recognized, there is no requirement that every single product covered must be identified in the scope. More specifically, the CAFC has stated that “the petitions that led to the issuance of the order did not need to specifically identify the {product} in order to cover {it}; our precedent, to say nothing of the regulations, makes clear that neither a petition nor an antidumping or countervailing duty order requires that level of specificity.”² The CAFC further stated “{a}s a matter of law, a petition need not list the entire universe of products . . . in order {for the petition} to cover those products.”³ Thus, as applied to this Order, there is no requirement, nor is it possible, for all the shapes of candles to be listed.⁴ In fact, if the list were exhaustive, there would have been no need for the Department to render a decision on novelty candles or any other candle that was not explicitly listed as a shape in the scope of the Order. However, the Department did issue the novelty candle exception, which offered a narrowly construed exception and left all other petroleum wax candles from the PRC covered by the Order.

When determining whether a particular novelty candle is within the scope of the Order, the Department will first determine whether the candle is made of petroleum wax. If the candle is made of petroleum wax, the Department will look to see whether the shape of the candle falls within those shapes listed in the second sentence of the scope as defined in the Order, *i.e.*, “tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers.” If the Department determines that a candle is one of these shapes, it is within the scope of the Order.

If the Department finds that a candle’s shape is not among the shapes listed in the second sentence of the scope as defined in the Order, *i.e.*, taper, spiral, straight-sided dinner candle, round, column, pillar, votive, and various wax-filled containers, then the candle will be evaluated to determine whether it is a novelty candle. For a candle to qualify for this exception, the characteristic which is claimed to render it a novelty candle (*i.e.*, the shape of an identifiable object or a holiday-specific design), should be easily recognizable in order for the candle to merit not being included within the scope of the Order. Specifically, among other determining factors, the Department will examine whether the characteristic is identifiable from most angles and whether or not it is minimally decorative, *e.g.*, small and/or singularly placed on the candle. If the identifiable object or holiday-specific design is not identifiable from most angles, or if the design or characteristic is minimally decorative, the Department may determine that the candle should be included within the scope of the Order. See Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China (A-570-504); J.C. Penney Purchasing Corp. (May 21, 2001) (J.C. Penney Scope Ruling) (May 21, 2001); Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People’s

² Novosteel SA v. United States, 284 F.3d 1261, 1264 (Fed. Cir. 2002).

³ Id.

⁴ See Petroleum Wax Candles from China, USITC Pub. No. 3226 Investigation No. 731-TA-282 (Review) (August 1999) (USITC Pub. No. 3226), at 18 (“Candles come in a wide variety of shapes and sizes. Major U.S. candle manufacturers reportedly will offer 1,000 to 2,000 varieties of candles in their product lines”).

Republic of China (A-570-504); San Francisco Candle Co. (Feb. 12, 2001) (SFCC Scope Ruling); San Francisco Candle Company, Inc. v. United States, 265 F. Supp. 2d 1374, 1379 (CIT 2003) (SFCC); See Endar Scope Ruling (January 11, 2000). If the candle does not possess characteristics set out in the 1987 novelty candle exception, and it is a scented or unscented petroleum wax candle made from petroleum wax and having a fiber or paper-cored wick, the Department will determine that the candle is within the scope of the Order.

Analysis

Candle Group 1

Round-Blue Pearl with Silver Christmas Flowers (L05-S-PBBS);
Round-Blue Pearl with Silver Christmas Flowers (L05-L-PBBS);
Round-Pearl Color with Gold Christmas Flowers (L-05SP);
Round-Pearl Color with Gold Christmas Flowers (L-05LP);
Round-Pearl White with Dots and String (L-26SP);
Round-Pearl White with Dots and String (L-26SY);
Round-Pearl Color with Flower (L-29SP);
Round-Pearl Color with Flower (L-29LP);
Round-Yellow Color with Flower (L-29SY); and
Round-Yellow Color with Flower (L-29LY)

New Spectrum Comments: New Spectrum describes these candles as round, pearl blue with silver or gold Christmas flowers and other similar decorations as listed above. New Spectrum contends that these candles are novelty candles intended to be used as decorations for the Christmas holiday. New Spectrum further contends that the candles are decorated with molded Christmas flowers and other Christmas decoration, which are identifiable objects that can be viewed from all angles. New Spectrum also argues that the Department should exclude these candles from the scope of the Order because removal of the molded decorations would be destructive to the candle.

NCA Comments: The NCA notes that New Spectrum characterizes the candles as “round,” and argues that rounds fall specifically within the scope of the Order. The NCA also argues that the candles are not novelty candles because the flower designs are ubiquitous and are not solely for Christmas use. In addition, the NCA contends that New Spectrum cannot change a round candle into an identifiable object by adding a textured surface and flowers. The NCA contends that the Department has concluded that molded decoration depicting multi-colored flowers on a taper does not change a taper into an out-of-scope candle. See Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China (A-570-504); American Greetings Corporation (May 4, 2000) (American Greetings Scope Ruling). According to the NCA, the Department has also determined that the addition of a pattern resembling variegated kernels of corn etched into the sides of a taper does not sufficiently alter the fundamental shape of the candle as a taper to make it a candle in the shape of an identifiable object. Furthermore, the NCA states that, “{t}he candle is still in the form of a taper, with or without the decorative etched design, distinguishing this product from other identifiable object rulings in the past.” See id. The NCA maintains that the addition of a textured surface and

flowers to the subject candle does not sufficiently transform the fundamental shape of the candle from a round into an identifiable object. Finally, because the subject candle is not specifically designed for use solely with respect to a special holiday or event, it falls within the scope of the Order. The NCA contends that the Department should determine that this candle is specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum asserts that the subject candles were indeed designed with Christmas in mind; however, New Spectrum recognizes that consumers may choose to burn them outside the Christmas season.

Analysis: These candles are round-shaped columns with multi-colored surface decorations, including flowers, dots, and string. The Department finds that these candles are rounds, which are shapes listed by the inclusive language of the Order's scope. The candle is a petroleum wax candle. Accordingly, we find that these candles are subject to the Order. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

We disagree with New Spectrum that these candles are in the shape of an identifiable object. We have previously held that the application of molded decorations to the surface of an in-scope candle does not transform the candle into an identifiable object which is outside the scope of the Order. See, e.g., American Greetings Scope Ruling (May 4, 2000). The molded decorations at issue here are flower decorations. The decorations applied to these candles are not sufficient to transform these rounds into any identifiable object. We disagree with New Spectrum that we should examine the molded decorations alone to determine whether they are identifiable objects. The Department's practice is to examine the candle as a whole. See Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China (A570-504); Atico International, Inc. (March 31, 2003) (Atico Scope Ruling). Moreover, we find that the molded decoration is only minimally decorative since the decoration is only singularly placed on the candle, and the size of the decoration is small relative to the entire size of the candle. Therefore, we conclude that these candles are not subject to the novelty candle exception because these candles are not in the shape of any identifiable object.

The Department also disagrees with New Spectrum that these candles are exclusively associated with a generally recognized holiday. The Department finds nothing about the texture, colors, or decorations that indicates any exclusive affiliation to a particular, generally recognized holiday. New Spectrum concedes that consumers may choose to burn these candles outside the Christmas season. Therefore, we conclude that these candles are not subject to the novelty candle exception for candles exclusively associated with a generally recognized holiday. See J.C. Penney Scope Ruling (May 21, 2001). In addition, because the molded flower decorations are insufficient to impart any specific holiday quality to this product, whether the molded flower decorations can be removed without causing irreparable damage to the candle is not relevant to the Department's determination. These candles do not possess any characteristics set out in the July 1987 novelty candle exception. For the aforementioned reasons, the candles comprising candle Group 1 are included within the scope of the Order.

Candle Group 2

Round-Blue with Hummingbird and Flowers (MT-203-B);
Round-Lilac with Hummingbird and Flowers (MT-203-LV); and
Round-Lilac with Palm Leaf (MT-209-LV)

New Spectrum Comments: New Spectrum describes these candles as round, blue or lilac colored candles, with molded blue hummingbirds, flowers, or a palm leaf (3 inches in diameter and 4 inches in height), with a non-lead wick. New Spectrum argues that these candles are novelty candles because they are used as wedding anniversary decorations. New Spectrum also contends that the candles' molded hummingbirds and flowers are identifiable objects that can be viewed from all angles. New Spectrum also asserts that the Department should exclude these candles from the scope of the Order because removal of the decorative molded hummingbirds and flowers would be destructive to the candle.

NCA Comments: The NCA notes that New Spectrum characterizes its "round" with hummingbird and flowers" candle as a "round," and rounds fall specifically within the express language of the scope of the Order. The NCA argues that hummingbirds are ubiquitous and nothing inherent in the design of the subject candle would limit its use to wedding anniversaries. Furthermore, the NCA states that the subject candle's design is generic and the candle can be used at any time. The NCA contends that the Department should determine that this candle is specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum claims that the hummingbirds and flowers are three-dimensional and clearly recognizable. Further, New Spectrum maintains that the design of the subject candle was specifically intended for association with weddings and anniversaries; however, New Spectrum recognizes that customers may choose to burn the subject candle at other occasions.

Analysis: These candles are pillars with molded multi-colored surface decorations, including a hummingbird, flowers and palm leaf. Pillars are one of the shapes specifically listed in the scope of the Order. The Order provides:

{c}andles {which} are made from petroleum wax and contain 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. These candles may be scented or unscented and are generally used by retail consumers in the home or yard for decorative or lighting purposes.

We disagree that these candles are in the shape of an identifiable object. We have previously found that the application of molded decorations to the surface of an in-scope candle does not transform the candle into an identifiable object which is outside the scope of the Order. See, e.g., American Greetings Scope Ruling (May 4, 2000). The decorations applied to these candles are not sufficient to transform these rounds into any identifiable object which would not be included within the Order. We disagree with New Spectrum that we should examine the molded

decorations alone to determine whether they are identifiable objects. The Department's practice is to examine the candle as a whole. See Atico Scope Ruling (March 31, 2003). Therefore, we conclude that these candles are not subject to the novelty candle exception because these candles are not in the shape of an identifiable object.

The Department also disagrees with New Spectrum that these candles are novelty candles because of their association with wedding anniversaries. Even if the Department agreed that the candles could be exclusively associated with wedding anniversaries, such an occasion is not a generally recognized holiday. New Spectrum concedes that consumers may choose to burn these candles for other occasions. Therefore, we conclude that these candles are not subject to the novelty candle exception because these candles are not exclusively associated with a generally recognized holiday. See J.C. Penney Scope Ruling (May 21, 2001). In addition, because the molded decorations are insufficient to impart any specific holiday quality to this product, whether the molded flower, hummingbird, and leaf decorations can be removed without causing irreparable damage to the candle is not relevant to the Department's determination. These candles do not possess any characteristics set out in the July 1987 novelty candle exception. Thus, we find that the candles comprising candle Group 2 are included within the scope of the Order.

Candle Group 3

Round-Pearl White with Glitter and Honeycomb (MT-216P-C);
Round-Pearl White with Glitter and Honeycomb (MT-216P-A);
Round-Pearl White with Glitter and Honeycomb (MT-216P-B);
Round-Pearl Blue with Glitter and Honeycomb (MT-216PLB-A);
Round-Pearl Blue with Glitter and Honeycomb (MT-216PLB-B); and
Round-Pearl Blue with Glitter and Honeycomb (MT-216PLB-C)

New Spectrum Comments: New Spectrum describes these candles as round, pearl white or pearl blue candles with glitter and honeycomb (2.25 inches in diameter and 3.5 inches in height). New Spectrum contends that these candles are novelty candles, for use as wedding anniversary decorations. New Spectrum also argues that the honeycomb texture renders these candles identifiable objects that can be viewed from all angles, and removal of the decorations would be destructive to the candles.

NCA Comments: The NCA notes that New Spectrum characterizes its "round with glitter and honeycomb" candles as "round," and round candles fall specifically within the scope of the Order. According to the NCA, contrary to New Spectrum's allegation, there is nothing inherent in the design of this candle that would limit its use to wedding anniversaries. Therefore, for these reasons and those discussed with respect to the Group 1, Christmas flower candles, the subject candles are specifically included within the scope of the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum concedes that these candles fall within the scope of the Order.

Analysis: We agree with the NCA that these candles are rounds which fall specifically within the scope of the Order. We find that the involved candles do not represent identifiable objects because the molded decorations on the candles are not sufficient to change an otherwise in-scope candle to an out-of-scope candle. We further find that the candles do not contain any designs or motifs that would render these candles specific to any holiday. Moreover, New Spectrum concedes that these candles are within the scope of the Order. Thus, we find that the candles comprising candle Group 3 are within the scope of the Order.

Candle Group 4

Ball of Gold Rope (L-02G);
Ball of Pearl Colored Rope (L-02P);
Column of Gold Rope (AL-01SG);
Column of Gold Rope (AL-01LG); and
Column of Pearl Colored Rope (AL-03SP)

New Spectrum Comments: New Spectrum describes these candles as balls of gold rope (4 inches in diameter). These candles are also pearl colored and in the shape of columns (4 inches to 6 inches in height). New Spectrum contends that these candles are novelty candles used as a decoration. New Spectrum also argues that the gold rope decoration renders its candle an identifiable object that can be viewed from all angles, and the removal of the rope decorations would be destructive to the candle.

NCA Comments: The NCA claims that New Spectrum's ball of gold rope candle is not in the shape of a ball because it has a flat bottom that can be viewed from all sides. See Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People's Republic of China (A-570-504); Avon Products Inc. (April 8, 2002) (Avon Scope Ruling). In addition, the NCA argues that there is nothing in the texture of the surface of the subject candle to make it look like a ball of gold rope. See Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People's Republic of China (A-570-504); Atico International, Inc. (April 8, 2002) (Atico Scope Ruling). Therefore, for these reasons and those discussed with respect to New Spectrum's Group 1 Christmas flower candles, the subject candle is specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum disagrees with the NCA in that it believes the subject candle looks and feels like a ball of gold rope; they should not be included within the scope of the Order.

Analysis: Some of these candles are columns with surface decorations of braided cord. These candles are painted gold or pearl color. The Department finds that the column-shaped candles are rounds, which are shapes specifically listed by the inclusive language of the Order. The Department has clarified that the term "rounds" in the language of the scope refers to round-shaped columns or pillars. See, e.g., SFCC Scope Ruling (June 9, 1993) and American Drug Stores Scope Ruling (March 16, 1998). In addition, the candle is a petroleum wax candle. Accordingly, these candles are subject to the scope of the Order. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

We have previously held that the application of molded decorations to the surface of an in-scope candle does not transform the candle into an identifiable object which is outside the scope of the Order. See, e.g., American Greetings Scope Ruling (May 4, 2000). The decorations applied to these candles are not sufficient to transform these rounds into any identifiable object which would not be included within the Order. We disagree with New Spectrum that we should examine the molded braided cord decorations alone to determine whether they are identifiable objects. The Department's practice is to examine the candle as a whole. See Atico Scope Ruling (March 31, 2003). Therefore, we conclude that these candles are not subject to the novelty candle exception because these candles are not in the shape of an identifiable object.

This candle group also includes candles which are spheres with flat bottoms and surface decorations of braided cord. These candles are painted gold or pearl color. These candles, are rounds as that term is defined in the candle industry and as previously determined by the Department. The Department has clarified that the term rounds in the language of the scope refers to spheres. See Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People's Republic of China (A-570-504); Wal-Mart, Inc. (December 12, 2004) (Wal-Mart Scope Ruling). Moreover, these candles are petroleum wax candles. Accordingly, these candles are subject to the Order, unless the Department finds that they are not included by the novelty candle exceptions for candles in the shape of an identifiable object, or for candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department disagrees with New Spectrum that a ball of rope is an identifiable object. The Department has previously held that balls and spheres are not identifiable objects for purposes of the novelty candle exception. See Avon Scope Ruling (April 8, 2002). In the Wal-Mart Scope Ruling, we stated that ball ornaments are a shape not an identifiable object. In prior scope rulings, we have established that the difference between a shape and an object is one of specificity. See Wal-Mart Scope Ruling. Specifically, we stated that “a shape is generally the characteristic surface configuration of a thing, the outline or contour. . . . An object is more specific, something perceptible by one or more senses, especially, vision or touch, a material thing.” Id. Furthermore, we have also previously determined that a ball or sphere with a flat bottom is not identifiable as a ball or sphere for purposes of the novelty candle exception because balls and spheres do not, in fact, have flat bottoms. Id. In addition, because the molded decorations are insufficient to impart any identifiable object quality to this product, whether the molded decorations can be removed without causing irreparable damage to the candle is not relevant to the Department's determination. These candles do not possess any characteristics established in the July 1987 novelty candle exception and as a result, these candles are included within the scope of the Order. For the aforementioned reasons, these candles comprising candle Group 4 are subject to the scope of Order.

Candle Group 5

Round Christmas Ornament, Blue with Glitter and Silver Christmas Flowers (L-06BS);
Round Christmas Ornament, Pearl Color w/ Glitter and Silver Christmas Flowers (L-06P);
Round Christmas Ornament, Pearl Baby Blue Color w/ Glitter and Silver Christmas Flowers

(L-06-PBB-S);

Round Christmas Ornament, Pearl Green Color with Glitter and Silver Christmas Flowers (L-06PGR); and

Round Christmas Ornament, Gold with Bows (L-10G)

New Spectrum Comments: New Spectrum describes these candles as round, blue, Christmas ornament candles (3 inches in diameter and 3 inches in height), with glitter and silver Christmas flowers, or bows, a non-lead wick and other similar decorations as listed above. New Spectrum contends that these candles are novelty candles because they are in the shape of Christmas ornaments and are used for Christmas decorations. New Spectrum further contends that the candles' molded "Christmas" flowers are identifiable objects that can be viewed from all angles. New Spectrum also states that the Department should exclude these candles from the scope of the Order because removal of the molded decorations would be destructive to the candle.

NCA Comments: The NCA notes that New Spectrum describes these candles as blue pearl, baby blue, or pearl green in color, with glitter and silver Christmas flowers, and blue with silver stripes candles as "round Christmas ornaments." Furthermore, according to the NCA, New Spectrum characterizes the subject candles as "round candles," and "round candles" fall specifically within the scope of the Order. The NCA argues that the silver flowers are ubiquitous and are not specifically designed solely for use during the Christmas holiday. Moreover, the NCA claims that neither candle depicts Christmas scenes or symbols. The NCA contends that both candles have a flat bottom that may be viewed from the bottom and all sides. In addition, the NCA maintains that a Christmas tree ornament is completely round without any flat surfaces. Thus, characteristics of a Christmas tree ornament are not visible from most angles, citing Avon Scope Ruling (April 8, 2002). Therefore, the NCA contends that New Spectrum's alleged Christmas ornaments are not in the shapes of identifiable objects, and they are not specifically designed for use only during the Christmas holiday. The NCA claims that the subject candles are in the shapes of round candles, which specifically fall within the scope of the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum argues in rebuttal that it does not believe that the NCA has adequately justified the inclusion of this candle in the scope of the Order, in that the candle's floral pattern is critical to its design and, without it, there would be no candle.

Analysis: These candles are reported as spherical shapes with flat bottoms and multi-colored painted surface decorations consisting of flowers, bows, dots, and string. These candles are round in shape and rounds as that term is defined in the candle industry and as previously determined by the Department. The Department has clarified that the term rounds in the language of the scope refers to spheres. See Wal-Mart Scope Ruling. These candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that they are excluded by the novelty candle exceptions for candles in the shape of an identifiable object or for candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department disagrees with New Spectrum that these candles are in the shape of an identifiable object. We find that there is nothing in the blue, pearl, green or gold color, or the

shape of the flowers, bows dots, or string that is inherently characteristic of Christmas ornaments. When viewed from all angles, the Department is not able to identify any characteristic of these candles that is inherently representative of Christmas ornaments. Specifically, we disagree with New Spectrum that a round candle purporting to be a Christmas ornament is an identifiable object. The Department has previously held that balls and spheres are not identifiable objects for purposes of the novelty candle exception. See Avon Scope Ruling (April 8, 2002). In Wal-Mart Scope Ruling, we stated that ball ornaments are a shape not an identifiable object. In prior scope rulings, we have established that the difference between a shape and an object is one of specificity. See Wal-Mart Scope Ruling. Specifically, we stated that “a shape is generally the characteristic surface configuration of a thing, the outline or contour. . . . An object is more specific, something perceptible by one or more senses, especially, vision or touch, a material thing. Id. Furthermore, we have also previously determined that a ball or sphere with a flat bottom is not identifiable as a ball or sphere for purposes of the novelty candle exception because balls and spheres do not, in fact, have flat bottoms. See Avon Scope Ruling (April 8, 2002).

The Department also disagrees with New Spectrum that these candles are exclusively associated with a generally recognized holiday. The Department finds nothing about the texture, colors, or decorations that denotes any exclusive affiliation to a particular recognized holiday. The Department finds that the flowers, bows, and other molded decorations are not inherently associated with the Christmas holiday or any other generally recognized holiday. Therefore, we conclude that these candles do not qualify for the novelty candle exception candles because they are not exclusively associated with a generally recognized holiday. In addition, because the molded decorations are insufficient to impart any specific holiday or identifiable object quality to these products, whether the molded decorations can be removed without causing irreparable damage to the candle is not relevant to the Department’s determination. These candles do not possess any characteristics set out in the July 1987 novelty candle exception; and thus these candles are included within the Order. Therefore, for the aforementioned reasons, the candles comprising candle Group 5 are subject to the scope of the Order.

Candle Group 6

Round Christmas Ornament, Blue with Silver Stripes and Gold Dots (L-45-B);
Round Christmas Ornament, Burgundy with Gold Stripes (L-45-B); and
Round Christmas Ornament, Green with Gold Stripes (L45-GR)

New Spectrum Comments: New Spectrum describes these candles as round, Christmas ornaments (3 inches in diameter and 3 inches in height), blue, burgundy, or green, in color with silver or gold stripes and gold dots, and a non-lead wick. New Spectrum contends that these candles are novelty candles, for use as Christmas decorations. New Spectrum further contends that the molded blue and silver stripes and gold dots are “Christmas wrapping” which is an identifiable object that can be viewed from all angles. New Spectrum also argues that the Department should exclude these candles from the scope of the Order because removal of the molded decorations would be destructive to the candle.

NCA Comments: The NCA notes that New Spectrum describes its blue with glitter and silver Christmas flowers, and blue with silver stripes and gold dots candles as “round Christmas ornaments.” Furthermore, according to the NCA, New Spectrum characterizes the subject candles as “round candles,” and “round candles” fall specifically within the scope of the Order. The NCA argues that the silver flowers and silver stripes with gold dots are ubiquitous and are not specifically designed solely for use during the Christmas holiday. Moreover, the NCA claims that neither candle depicts Christmas scenes or symbols. The NCA contends that both candles have a flat bottom that may be viewed from the bottom and sides. In addition, the NCA maintains that a Christmas tree ornament is completely round without any flat surfaces. Thus, characteristics of a Christmas tree ornament are not visible from most angles, citing Avon Scope Ruling (April 8, 2002). Therefore, the NCA contends that New Spectrum’s alleged Christmas ornaments are not in the shapes of identifiable objects, and they are not specifically designed for use only during the Christmas holiday. The NCA claims that the subject candles are in the shapes of round candles, which specifically fall within the scope of the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum states in rebuttal that these candles are identical to traditional Christmas tree ornaments and there is nothing ubiquitous about them. In addition, New Spectrum insists that its candles’ flat surface is for safety and security reasons. As such, New Spectrum argues that these candles should be excluded from the scope of the Order.

Analysis: These candles are spherical shapes with flat bottoms and multi-colored painted surface decorations consisting of stripes and dots. The candles are round in shape and rounds as that term is defined in the candle industry and as previously determined by the Department. The Department has clarified that the term rounds in the language of the scope refers to spheres. See Walmart Scope Ruling. .. Moreover, these candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that they are excluded by the novelty candle exceptions for candles in the shape of an identifiable object or for candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department disagrees with New Spectrum that these candles are in the shape of an identifiable object. We find that there is nothing in the burgundy, green, or gold color, or the shape, patterns, and designs of the stripes or dots, that is inherently and exclusively characteristic of Christmas ornaments. We find that the application of dots and stripes to a spherical candle does not transform the candle into an identifiable object for purposes of the novelty candle exception. When viewed from most angles, the Department is not able to identify any characteristic of these candles that is inherently representative of Christmas ornaments. We disagree with New Spectrum that a spherical candle purporting to be a Christmas ornament is an identifiable object. The Department has previously held that balls and spheres are not identifiable objects for purposes of the novelty candle exception. See Avon Scope Ruling (April 8, 2002). In Wal-Mart Scope Ruling, we stated that ball ornaments are a shape not an identifiable object. In prior scope rulings, we have established that the difference between a shape and an object is one of specificity. See Wal-Mart Scope Ruling. We stated that “a shape is generally the characteristic surface configuration of a thing, the outline or contour. . . . An

object is more specific, something perceptible by one or more senses, especially, vision or touch, a material thing. Id. Furthermore, we have also previously determined that a ball or sphere with a flat bottom is not identifiable as a ball or sphere for purposes of the novelty candle exception because balls and spheres do not, in fact, have flat bottoms. See Avon (April 8, 2002).

The Department also disagrees with New Spectrum that these candles are exclusively associated with a generally recognized holiday. The Department finds nothing about the texture, colors, or decorations that denote any exclusive affiliation to a particular recognized holiday. The stripes and dots are minimally decorative, small, and singularly placed on the candle. The Department finds that the stripes and dots are not inherently associated with the Christmas holiday or any other generally recognized holiday. Therefore, we conclude that these candles do not qualify for the novelty candle exception because these candles are not exclusively associated with a generally recognized holiday. In addition, because the molded decorations are insufficient to impart any specific holiday quality to these products, whether the molded decorations can be removed without causing irreparable damage to the candle is not relevant to the Department's determination. These candles do not possess any characteristics set out in the July 1987 novelty candle exception that would render these candles not included within the scope of the Order. For the aforementioned reasons, these candles comprising candle Group 6 are subject to the scope of the Order.

Candle Group 7

Citronella Scented Garden Torch Candle-Corn on the Cob on a Garden Stake
(MT-217-c/MT-267-C);

Citronella Scented Garden Torch Candle-Eggplant on a Garden Stake (MT-217-e/MT-267-E);

Citronella Scented Garden Torch Candle-Orange Pepper on a Garden Stake
(MT-217-o/MT-267-O);

Citronella Scented Garden Torch Candle-Green Pepper on a Garden Stake
(MT-217-g/MT-267-G);

Citronella Scented Garden Torch Candle-Red Pepper on a Garden Stake (MT-217-r/MT-267-R);

Citronella Scented Garden Torch Candle-Mixed Peppers on a Garden Stake
(MT-217-bp/MT-267-BP); and

Citronella Scented Garden Torch Candle-Mixed Fruit on a Garden Stake
(MT-217-hp/MT-267-HP)

New Spectrum Comments: New Spectrum describes these candles as corn on the cob and other fruits and vegetable citronella “candle on a garden stake” (2.5 inches in diameter and 9 inches in height), with a non-lead wick. New Spectrum contends that these candles are novelty citronella garden torch candles. New Spectrum further contends that the “corn on the cob” and the other fruit and vegetable candles are identifiable objects, and can be recognized as such from all angles.

NCA Comments: The NCA noted in its comments that the Department has previously excluded citronella candles from the scope of the Order.

New Spectrum Rebuttal Comments: New Spectrum had no further comments on its citronella garden torch candles.

Analysis: The Department previously determined that citronella candles do not fall within the scope of the Order because the presence of citronella oil changes a candle from a decoration or light source (i.e., a standard petroleum wax candle) into an insect repellent. See Final Scope Ruling: Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China (A-570-504); Spectrum Brands (May 20, 2004). Therefore, the candles comprising candle Group 7 are not included within the scope of the Order.

Candle Group 8

Set of 3 Floating Gerbera Flowers (MT-201-A);
Set of 4 Flowers (MT-263);
Set of 6 Flowers (MT-264); and
Set of 6 Flowers (MT-268)

New Spectrum Comments: New Spectrum describes these candles as floating gerbera flower petroleum wax candles (2.75 inches in diameter and 1 inch in height), with non-lead wicks. New Spectrum contends that these candles are novelty candles, for use as decorations. New Spectrum further contends that the flowers, with open flower blossoms and individually carved petals, are identifiable objects, and can be recognized as such from all angles.

NCA Comments: The NCA contends that the Department has found that round floating candles are within the scope of the Order, citing Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People's Republic of China (A-570-504); Meijer Distribution, Inc. (September 30, 1999) (Meijer Scope Ruling) and Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People's Republic of China (A-570-504); Endar Corp. (December 24, 1998) (Endar Scope Ruling). The NCA claims that New Spectrum's candles are round floating candles that fall within the scope of the Order. According to the NCA, the subject candles' molded decorative flower on top of each candle does not change an in-scope round into an out-of-scope candle. The NCA maintains that, in a recent ruling, the Department concluded that "despite the additional molded decorative flower, the candle remains a votive, and an unidentifiable object." See Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People's Republic of China (A-570-504); Endar Corporation (May 21, 2002) (Endar Scope Ruling) and Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People's Republic of China (A-570-504); Cherrydale Farms (October 5, 2000) (Cherrydale Scope Ruling). Therefore, the NCA claims, for these reasons the subject candles are specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum states in rebuttal that the NCA has not justified the inclusion of these candles within the scope of the Order.

Analysis: These candles are reported to be three open flowers sold in a boxed set with molded and painted decorations depicting an open daisy. The central disc and disc florets are painted yellow, green, and black. These candles do not appear to be in any of the shapes listed in the

scope of the Order. However, these candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that they are excluded by the novelty candle exceptions for candles in the shape of an identifiable object or for candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department disagrees with New Spectrum that the candles are shaped like identifiable objects when viewed from most angles. When viewed from the bottom and sides, the Department is unable to identify the crenulated petals, the central disc or the disc florets. From the bottom, the Department is not able to discern any characteristic of the candles which would indicate that the candles are open flowers because the molded flower decorations and paint are not repeated on the bottom of the candles. Thus, when viewed from the bottom and side angles, the Department is unable to identify these candles as flowers. Only when viewed from above do these candles appear to be flowers. As such, they do not meet the standard for identifiable objects: recognizable from multiple angles. Accordingly, these candles do not fall within the July 1987 novelty candle exception because they are not identifiable objects. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 8 are subject to the scope of the Order.

Candle Group 9

Set of 3 Green Floating Frogs (MT-273)

New Spectrum Comments: New Spectrum describes these candles as a set of “green floating frog” petroleum wax candles (2.75 inches in diameter and 1.5 inches in height), with non-lead wicks. New Spectrum contends that these candles are novelty candles, for use as decorations. New Spectrum further contends that the frogs, sitting on green wax lily pads, are identifiable objects, and can be recognized as such from all angles.

NCA Comments: The NCA claims that New Spectrum’s green floating frog candles are floating round candles with molded frog decorations on top. The NCA argues that this candle is similar to the candle in the Endar Scope Ruling (May 21, 2002) in that the molded frog is on the top of the candle. The NCA further contends that the subject candle is also similar to the “floating bug” candles in Cherrydale Scope Ruling (October 5, 2000), where the Department determined that the candles were “short rounds covered under the scope of the Order,” and that the “bug designs found at the top of the candle do not alter the candle’s fundamental shape, that of a round.” The NCA holds that despite the additional molded frog on top of the candle, it remains a round candle and an unidentifiable object. Therefore, the NCA claims, for these reasons and those discussed with respect to New Spectrum’s “round with Christmas flowers” candle, the subject candles are specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum argues that these candles are better described as three-dimensional frogs floating on lily pads. Thus, New Spectrum contends that the subject candles are clearly identifiable as such and should be excluded from the Order.

Analysis: These candles are reported to be a set of three frogs seated on lily pads with painted and molded decorations depicting a common frog. The frogs and lily pad are green with painted yellow and black eyes, a painted mouth, and black painted spots. These candles do not appear to be any of the shapes listed in the scope of the Order. However, these candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that they not included within the scope of the Order pursuant to the novelty candle exception because these candles are in the shape of an identifiable object or that these candles are exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department agrees with New Spectrum that the candles are shaped like identifiable objects—frogs, sitting on lily pads, and are identifiable as such from most angles. When viewed from the sides and the top, the Department recognizes the frog seated on the lily pad, including the painted eyes, the mouth, and the overall shape of the frog. Moreover, there is no portion of the candle which could be viewed as one of the shapes specifically identified in the scope of the Order. Accordingly, when viewed from most angles, the candles are identifiable as frogs seated on lily pads. Thus, these candles fall within the July 1987 novelty candle exception because they are identifiable objects. See J.C. Penney Scope Ruling (May 21, 2001). For the aforementioned reason, the candles comprising candle Group 9 are outside the scope of the Order.

Candle Group 10

Set of 5 Jack-O-Lantern Pumpkins (MT-237)

New Spectrum Comments: New Spectrum describes these candles as a set of 5 jack-o-lantern pumpkin candles (1.5 inches in diameter and 2.5 inches in height), with cotton wicks. New Spectrum contends that these candles are novelty candles, for use as Halloween decorations. Further, New Spectrum claims that the subject candles are identifiable objects—jack-o-lanterns, and can be recognized as such from all angles.

NCA Comments: The NCA claims that New Spectrum’s “jack-o-lantern pumpkin” candles are wax-filled containers, and all wax-filled containers fall within the scope of the Order. The NCA argues that the fact the subject candle has a molded decoration on top does not change the in-scope candle into an out-of-scope candle. In addition, the NCA adds that the subject candle can be used throughout the fall season and is not limited to use only during Halloween. According to the NCA, this candle is specifically covered by the scope of the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum argues that these candles are in the shape of a pumpkin and recognizable as such and should be excluded from the Order. New Spectrum further notes that the addition of an aluminum base for safe and secure burning does not alter this fact. New Spectrum claims that jack-o-lanterns are clearly associated with Halloween.

Analysis: These candles, which are wax-filled containers with painted and molded decorations depicting pumpkins, have painted and molded eyes and a mouth and a stem. The candles are colored orange and black and white. The Department finds that these candles are wax-filled containers, which are specifically listed by the inclusive language of the Order’s scope. In

addition, the candle is a petroleum wax candle. Accordingly, these candles will be subject to the Order, unless the Department finds that these candles are not included within the scope because these candles qualify for the novelty candle exception or these candles are exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

In Meijer Scope Ruling (December 22, 2003), the Department determined that a wax-filled container in the form of a jack-o-lantern was subject to the scope of the Order because the characteristics of the jack-o-lantern were not visible from most angles. Therefore, we disagree with New Spectrum that the characteristics of the candle as a jack-o-lantern are visible from most angles. Specifically, the eyes, nose, and mouth, the essential characteristics of a jack-o-lantern, are not visible when the candle is viewed from the sides, top, or bottom. Moreover, as noted above, the candle is a specific shape listed in the scope of the Order. See Meijer Scope Ruling (December 22, 2003). For the aforementioned reasons, the candles comprising candle Group 10 are subject to the scope of the Order.

Candle Group 11

Set of Cherry, Half Peach, and Lemon (MT-269)

New Spectrum Comments: New Spectrum describes these candles as a set of “cherry, half peach, and lemon” candles (1.5 inches in diameter and 2.5 inches in height), with cotton wicks. New Spectrum contends that these candles are novelty candles, for use as decorations. New Spectrum claims that the subject candles are identifiable objects—cherries, half peaches, and lemons, and can be recognized as such from all angles.

NCA Comments: With regard to New Spectrum’s “cherry, half peach and lemon” candles, the NCA argues that these candles are wax-filled containers, which are specifically described within the scope of the Order. According to the NCA, the Department found that the addition of a molded flower on top of a candle did not change the in-scope candle into an out-of-scope candle, citing Endar Scope Ruling (May 21, 2002). The NCA claims that the addition of the cherry, half peach, and lemon on top of these candles does not change the wax-filled containers into identifiable objects. The NCA states that all wax-filled containers fall within the scope of the Order. Furthermore, the NCA maintains that the cherry, half peach, and lemon designs are ubiquitous and can be used throughout the year; they are not specifically designed for use only on a specific holiday. Therefore, the NCA claims, for these reasons and those discussed with respect to New Spectrum’s “round with Christmas flowers” candle, the subject candles are specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum reiterates that these candles are in the shape of fruits and recognizable as such and should be excluded from the Order. According to New Spectrum, the addition of an aluminum base for safe and secure burning does not alter this fact.

Analysis: These candles are a set of five round wax-filled metal containers depicting two lemons, two halves of a peach and one cherry made from petroleum wax. There is one fruit per candle. The purported fruit rises above the sides of the containers. Each of the candles has molded and painted decorations depicting the parts or whole of each fruit, including two leaves

on the cherries, and pits inside each of the peaches. All five pieces of fruit sit on painted circular shapes that also rise above the sides of the container. The Department finds that these candles are wax-filled containers, which is a shape listed by the inclusive language of the Order's scope. In addition, the candle is a petroleum wax candle. Accordingly, these candles are subject to the scope of the Order.

The Department has previously held that the application of molded decorations applied to the surface of an in-scope candle does not transform the candle into an identifiable object, which is outside the scope of the Order. See, e.g., American Greetings Scope Ruling (May 4, 2000). The decorations applied to these candles are not sufficient to transform these wax-filled containers into any identifiable objects which would be excluded from the Order. We disagree with New Spectrum that we should examine the molded decorations alone to determine whether they are identifiable objects. The Department's practice is to examine the candle as a whole. See Atico Scope Ruling (March 25, 2003). Therefore, we conclude that these candles are not subject to the novelty candle exception for candles in the shape of an identifiable object. Despite the fact that the candles rise above their metal cases, they remain wax-filled containers, a shape listed by the inclusive language of the Order's scope. See J.C. Penney Scope Ruling (May 21, 2001). Thus, the Department finds that these candles do not qualify for the July 1987 novelty candle exception. For the aforementioned reasons, the candles comprising candle Group 11 are subject to the scope of the Order.

Candle Group 12

White Wedding Hearts and Bells (A-245-S);
White Wedding Hearts and Bells (A-245-L); and
Pearlized Hearts and Roses (A161P)

New Spectrum Comments. New Spectrum describes these candles as white wedding hearts and bells or pearlized hearts and rose candles (3.5 inches in diameter and 2.25 inches in height), with a cotton wick. New Spectrum contends that these are novelty candles, for use as a wedding or an anniversary decoration. Further, New Spectrum claims that these candles are shaped like identifiable objects—wedding hearts and bells or hearts and roses, and can be recognized as such from all angles.

NCA Comments: According to the NCA, New Spectrum's "white wedding heart and bells" candle is a round or a pillar, which are specifically included within the scope of the Order. The NCA argues that the molded decoration of a heart and a bell or heart and roses do not change this in-scope candle into an out-of-scope candle, citing American Greetings Scope Ruling (May 4, 2000). The NCA contends that the Department has previously determined that the heart design is ubiquitous and is not designed specifically for use only during a special holiday, citing Russ Berrie. Furthermore, the NCA maintains that the bell design is also ubiquitous and can be used throughout the year. The NCA holds that there is nothing inherent in the design of this candle that would limit its use for a wedding or anniversary. Therefore, the NCA claims, for these reasons and those discussed with respect to New Spectrum's "round with Christmas flowers" candle, the subject candle is specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: According to New Spectrum, with regard to its “white wedding heart and bells” candle, hearts and bells have traditionally been associated with weddings and anniversaries and thus the candles should be excluded from the Order. Further, New Spectrum claims that it intends to sell the subject candles specifically for anniversaries and weddings and does not believe that they will be used for other occasions.

Analysis: These candles are reported as circular candles with molded and painted decorations depicting bells and hearts. These candles do not appear to be any of the shapes listed in the Order. However, these candles are petroleum wax candles. Accordingly, these candles are subject to the Order, unless the Department finds that these candles are not included within the scope of the Order, because they qualify for the novelty candle exceptions for candles in the shape of an identifiable object, or because these are candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department disagrees with New Spectrum that these candles are in the shape of identifiable objects. When viewed from most angles, these candles are not identifiable as bells, hearts, or roses. When viewed from the top and sides, the surface texture, overall shape, and molded decorations are not sufficient to identify the bells, hearts, or roses. The Department also disagrees with New Spectrum that these candles are exclusively associated with a generally recognized holiday. The Department finds nothing about the texture, colors, or decorations that denotes any exclusive relation to a particular recognized holiday. Moreover, the Department finds that the bells and hearts are not associated with any generally recognized holiday. Weddings and anniversaries are not generally recognized holidays. Although New Spectrum asserts that weddings are holidays, under its new practice, the Department no longer considers the requestor’s intended use of the candles for purposes of determining whether a candle is exclusively associated with a generally recognized holiday. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 12 are subject to the scope of the Order.

Candle Group 13

White Wedding Birds on Flowers (A-249-S);
White Wedding Birds on Flowers (A-249-L)

New Spectrum Comments: New Spectrum describes these candles as white wedding birds on flowers (2.5 inches in diameter and 3 inches in height), with a non-lead wick. New Spectrum contends that these are novelty candles, for use as a wedding or anniversary decoration. New Spectrum claims that the subject candle is shaped like identifiable objects—doves and flowers, and can be recognized as such from all angles.

NCA Comments: The NCA claims that New Spectrum’s “wedding birds on flowers” candle is a round, which falls specifically within the scope of the Order. The NCA contends that the molded decorative birds and flowers do not change this in-scope candle into an out-of-scope candle. Furthermore, the NCA maintains that the bird and flower design is ubiquitous and can be used throughout the year. In addition, the NCA adds that these candles are not specifically designed for use only during weddings and anniversaries. Therefore, the NCA claims, for these

reasons and those discussed with respect to New Spectrum’s “round with Christmas flowers” candle, these candles are specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum argues in rebuttal that the NCA has not justified the inclusion of this candle in the Order.

Analysis: These candles are circular candles with molded and painted decorations depicting two birds resting against one another on a bed of flowers and leaves which sit on circular molded support. The Department finds that these candles are rounds or pillars, which are shapes listed by the inclusive language of the Order’s scope. In addition, these candles are made of petroleum wax. Accordingly, these candles will be subject to the Order.

We disagree with New Spectrum that these candles are in the shape of identifiable objects. The Department has previously held that the application of molded decorations applied to the surface of an in-scope candle does not transform the candle into an identifiable object, which is outside the scope of the Order. See, e.g., American Greetings Scope Ruling (May 4, 2000). From most angles the Department, is not able to identify the birds. Specifically, when viewed from the sides and from the top and bottom, we find that the birds and flowers are not identifiable as such. From the sides and top, we are not able to identify the characteristics of birds such as wings or a beak. We disagree with New Spectrum that we should examine the molded decorations alone to determine whether they are identifiable objects. The Department’s practice is to examine the candle as a whole. See Atico Scope Ruling (March 25, 2003). Moreover, anniversaries and weddings are not holidays. Therefore, we conclude that these candles are not in the shape of an identifiable object.

The Department also disagrees with New Spectrum that these candles are exclusively associated with a generally recognized holiday. The Department finds nothing about the texture, colors, or decorations that denotes any exclusive affiliation to a particular recognized holiday. The Department finds that the birds and flowers are not associated with any generally recognized holiday. Weddings are not generally recognized holidays. Although New Spectrum asserts that weddings are holidays, under the new practice, the Department no longer considers the requestor’s intended use of the candles for purposes of determining whether a candle is exclusively associated with a generally recognized holiday. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 13 are subject to the scope of the Order.

Candle Group 14

Gold Dragon (DS-001)

New Spectrum describes this candle as a gold dragon petroleum wax candle (7.5 inches in diameter and 3.25 inches in height), with a non-lead wick. New Spectrum contends that this candle is a novelty candle, for use as a decoration. New Spectrum contends that the subject candle is shaped like an identifiable object—dragon, and can be recognized as such from all angles.

NCA Comments: The NCA claims that New Spectrum’s gold dragon candle is a column candle which is specifically covered by the Order. See Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China (A-570-504); Barthco Trading Consultants, Inc. (April 30, 2001) (Barthco Trading Scope Ruling). The NCA argues that the flat bottom of this candle precludes it from being an unidentifiable object, as dragons do not have a flat bottom that can be seen from all sides. Furthermore, the NCA maintains that the dragon design is ubiquitous and can be used throughout the year. In addition, the NCA contends that the subject candle is not specifically designed for use only during a specific holiday or event. Therefore, the NCA claims, for these reasons and those discussed with respect to New Spectrum’s “round with Christmas flowers” candle, the subject candle is specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum states that this candle is clearly identifiable as a dragon and should be excluded from the Order. Further, New Spectrum maintains that the inclusion of a flat base is for stability and safety reasons.

Analysis: This candle is reported as a candle molded and painted to depict a dragon. This candle does not appear to be any of the shapes listed in the order. However, this candle is a petroleum wax candle. Accordingly, this candle will be subject to the Order, unless the Department finds that this candle is not included within the scope of the Order because it qualifies for the novelty candle exception for candles in the shape of an identifiable object, or because these are candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department agrees with New Spectrum that the candle is shaped like an identifiable object—a dragon, and it is identifiable as such from most angles. When viewed from most angles this candle appears to be a dragon, including characteristics commonly associated with dragons such as the tail and jaw. Moreover, there is no portion of the candle which could be viewed as one of the shapes specifically identified in the scope of the Order. Thus, this candle qualifies for the July 1987 novelty candle exception because it is an identifiable object, and therefore is not included within the scope of the Order. See J.C. Penney Scope Ruling (May 21, 2001).

Candle Group 15

Set of 3 White Ducks in Crate (L-09-M-W);
Set of 3 Yellow Ducks in Crate (L-09-M-Y)

New Spectrum Comments: New Spectrum describes these candles as a set of white duck petroleum wax candles (1.75 inches in diameter and 3 inches in height), with non-lead wicks. New Spectrum contends that these are novelty candles, for use as decorations. New Spectrum further contends that the subject candles are shaped like identifiable objects—ducks, and can be recognized as such from all angles.

NCA Comments: The NCA argues that these candles are short pillar candles that fall specifically within the scope of the Order. According to the NCA, each candle has a flat bottom

and ducks do not have flat bottoms. Therefore, the NCA contends that the subject candles are not identifiable objects. NCA holds that these candles are specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum maintains that these candles are clearly identifiable as ducks and should be excluded from the Order. Furthermore, New Spectrum states that the inclusion of the flat base is for stability and safety reasons.

Analysis: These candles are a set of three candles molded and painted to depict ducks. These candles are white in color with molded yellow painted bills and feet; the wings are molded into the sides of the candles. One duck sits with a closed beak, a second duck stands with a closed beak, and a third duck sits with its head pushed forward and its beak open. These candles do not appear to be any of the shapes listed in the Order. However, these candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that these candles are not included within the scope of the Order because they qualify for the novelty candle exceptions for candles in the shape of an identifiable object, or because these are candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department agrees with New Spectrum that the candles are shaped like identifiable objects—ducks, and are identifiable as such from most angles. When viewed from most angles the Department is able to identify the bill, feet, and wings of the ducks. In addition, the candles have the overall shape and coloring of ducks when viewed from most angles. Moreover, there is no portion of the candle which could be viewed as one of the shapes specifically identified in the scope of the Order. Thus, these candles qualify for the July 1987 novelty candle exception because they represent identifiable objects. See J.C. Penney Scope Ruling (May 21, 2001). For the aforementioned reasons, the candle comprising candle Group 15 is outside the scope of the Order.

Candle Group 16

Silver Snail (MT-213S);
Gold Snail (MT-213G)

New Spectrum Comments: New Spectrum describes these candles as silver or gold snail petroleum wax candles (4.25 inches in diameter and 2.5 inches in height), with a non-lead wick. New Spectrum contends these candles are novelty candles, for use as a decoration. New Spectrum further contends that these candles are shaped like identifiable objects—snails, and can be recognized as such from all angles.

NCA Comments: The NCA argues that these candles are short column candles that are specifically within the scope of the Order. According to the NCA, each candle has a flat bottom and snails have round shells, not shells with flat bottoms, and therefore, they are not identifiable objects. Therefore, the NCA contends that these candles are not identifiable objects. Furthermore, the NCA maintains that the snail design is ubiquitous and can be used throughout the year.

New Spectrum Rebuttal Comments: In rebuttal, New Spectrum says that this candle is clearly an identifiable object and should be excluded from the Order. Furthermore, New Spectrum states that the inclusion of the flat base is for stability and safety reasons.

Analysis: This candle is molded and painted to depict a snail. This candle does not appear to be in any of the shapes listed in the Order. However, this candle is a petroleum wax candle. Accordingly, it will be subject to the Order, unless the Department finds that it is excluded by the novelty candle exception for candles in the shape of an identifiable object or for candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department agrees with New Spectrum that these candles are shaped like an identifiable object—a snail, and are identifiable as such from most angles. When viewed from the side and top angles these candles appear to be a snail, including characteristics commonly associated with snails, such as the shell and antennae. Moreover, there is no portion of the candle which could be viewed as one of the shapes specifically identified in the scope of the Order. Thus, these candles qualify for the July 1987 novelty candle exception because they are identifiable objects. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 16 are outside the scope of the Order.

Candle Group 17

Set of 16 Dice-Yellow, Purple, Green, and Blue (MT-241-G);
Set of 16 Dice-Yellow, Purple, Green, and Blue (MT-241-M); and
Set of 16 Dice-Yellow, Purple, Green, and Blue (MT-241-B-F)

New Spectrum Comments: New Spectrum describes these candles as a set of 16 dice candles (1 inch wide and 1 inch in height), with cotton wicks. New Spectrum contends that these candles are novelty candles, for use as decorations. Further, New Spectrum claims that the subject candles are identifiable objects—dice, and can be recognized as such from all angles.

NCA Comments: According to the NCA, New Spectrum’s dice candles are 1-inch square candles with no decorations. The NCA states that the Department has previously determined that cube-shaped candles fall within the scope of the Order. See Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China (A-579-504); Mervyns (December 9, 1996) (Mervyns Scope Ruling) and Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China (A-570-504); Enesco Corporation (October 30, 1996) (Enesco Scope Ruling). According to the NCA, the subject candle is a straight-sided column or pillar, which falls specifically within the scope of the Order. The NCA maintains that the candle is not in the shape of an identifiable object. Furthermore, there is nothing inherent in the design which limits its use to a specific holiday or event. The NCA argues that this candle is specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum concedes that its “set of 16 dice” candles fall within the scope of the Order.

Analysis: We agree with the NCA that these candles are pillars which fall specifically within the scope of the Order. Moreover, New Spectrum concedes that these candles are within the scope of the Order. Thus, we find that the candles comprising candle Group 17 are within the scope of the Order.

Candle Group 18

Bunny (MT-252)

New Spectrum Comments: New Spectrum describes this petroleum wax candle as a bunny candle (4 inches in diameter and 3 inches in height), with a cotton wick. New Spectrum contends that the bunny candle is a novelty candle, for use as a decoration. New Spectrum claims that the subject candle is shaped like an identifiable object—a bunny, and can be recognized as such from all angles.

NCA Comments: The NCA claims that New Spectrum’s “bunny” candle has a flat bottom, and bunnies do not have flat bottoms. The NCA argues that the subject candle is a short column candle, which falls specifically within the scope of the Order. Furthermore, the NCA maintains that the subject candle’s bunny design is ubiquitous and can be used throughout the year. In addition, the NCA contends that this candle is not specifically designed for use only on a specific holiday or event. The NCA argues that this candle is specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: According to New Spectrum, with regard to its “bunny” candle, this candle is clearly identifiable as a bunny and the inclusion of the flat base is for stability and safety reasons. New Spectrum maintains that bunnies have traditionally been associated with Easter and should be excluded from the Order.

Analysis: This candle is molded and painted to depict a bunny. This candle does not appear to be any of the shapes listed in the Order. However, this candle is a petroleum wax candle. Accordingly, this candle will be subject to the Order, unless the Department finds that this candle is not included within the scope of the Order because it qualifies for the novelty candle exception for candles in the shape of an identifiable object, or because this candle is exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department agrees with New Spectrum that the candle is shaped like an identifiable object—a bunny, and is identifiable as such from most angles. When viewed from the side and top angles, this candle appears to be a bunny, including characteristics commonly associated with bunnies, such as floppy ears, a cotton tail, whiskers, and a nose. Moreover, there is no portion of the candle which could be viewed as one of the shapes specifically identified in the scope of the Order. Thus, these candles fall within the July 1987 novelty candle exception as identifiable objects. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candle comprising candle Group 18 is outside the scope of the Order.

Candle Group 19

Set of Jack-O-Lantern Pumpkin (MT-257PK); Bat (MT-257BT); and Ghost (MT-257GT)

New Spectrum: New Spectrum describes these candles as jack-o-lantern pumpkin, bat, and ghost candles (2 inches wide and .05 inches in height), with cotton wicks. New Spectrum contends these candles are novelty candles, for use as decorations. Further, New Spectrum claims that the subject candles are identifiable objects—a jack-o-lantern pumpkin, bat, and ghost, and can be recognized as such from all angles.

NCA Comments: With regard to New Spectrum’s “jack-o-lantern, bat, and ghost” candles, the NCA argues that these candles have flat bottoms, and pumpkins, bats, and ghosts do not have flat bottoms; therefore, they are not identifiable objects. In addition, the NCA maintains that the subject candles, jack-o-lantern, bat, and ghost designs are ubiquitous and can be used throughout the year. Furthermore, the NCA contends that these candles are not specifically designed for use only during a specific holiday or event. The NCA holds that these candles fall specifically within the scope of the Order and cannot be excluded.

New Spectrum Rebuttal Comments: With regard to its jack-o-lantern, bat, and ghost candles, New Spectrum argues that these candles are clearly identifiable objects: jack-o-lantern pumpkins, bats, and ghosts. Moreover, New Spectrum that traditionally these icons have been exclusively associated with Halloween and should be excluded from the Order.

Analysis: These candles a set of three candles with molded and painted decorations depicting a jack-o-lantern, a bat, and a ghost. The jack-o-lantern is orange with painted and molded eyes, mouth and nose. A molded stem is also painted green. The ghost is white with painted and molded eyes, eyebrows, and mouth. The ghost is smiling with outstretched arms. The bat is black with painted and molded eyes. These candles do not appear to be any of the shapes listed in the scope of the Order. However, these candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that these candles are not included within the scope of the Order because they qualify for the novelty candle exception for candles in the shape of an identifiable object, or because these are candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department disagrees with New Spectrum that these candles are in the shape of identifiable objects. When viewed from the sides or the bottom, none of the characteristics of the jack-o-lantern, ghost, or bat, such as eyes, teeth, or wings, are visible to the Department. The Department is not able to identify any characteristics of the bat, ghost, jack-o-lantern, such as the previously identified eyes, teeth or wings, from the side or the bottom, because the decorations are not continued on the bottom or sides. When viewed from the sides or the bottom, the shapes are too crudely molded or carved to be recognized as the objects suggested by New Spectrum. When viewed from the side, only the primary colors (i.e., orange, white, and black) of each candle are visible. When viewing the candle from various angles, the candle lacks sufficient details to indicate any of the three objects described by New Spectrum. When viewed from most

angles, these candles are not identifiable as the objects suggested by New Spectrum. See, e.g., J.C. Penney Scope Ruling (May 21, 2001). The Department finds that these candles are only identifiable as the objects listed by New Spectrum when viewed from the top. Therefore, we conclude that these candles do not qualify for the novelty candle exception because these candles are not in the shape of an identifiable object. See Meijer Scope Ruling (December 22, 2003). Thus, the Department finds that the candles comprising candle Group 19 do not qualify for the July 1987 exception, and are subject to the scope of the Order.

Candle Group 20

Set of 2 White Chicks with Egg Holders (MT-259-W);
Set of 2 Lilac Chicks with Egg Holders (MT-259-PU)

New Spectrum Comments: New Spectrum describes these candles as a set of 2 white chicks with egg holders (2.75 inches in diameter and 3 inches in height), with cotton wicks. New Spectrum contends that these candles are novelty candles, for use as decorations. New Spectrum claims that the subject candles are identifiable objects—white chicks in eggs, and can be recognized as such from all angles.

NCA Comments: The NCA claims that New Spectrum’s “white chicks with egg holder” candles are in the shape of a taper or a wax-filled container, which are specifically covered by the Order. According to the NCA, the Department found that similarly shaped candles are “not in the shape of a distinct identifiable object; rather, this candle is in the shape of a round that gradually tapers to a point at the top” and that this candle “constitutes a taper, a delineated shape within the scope of the Order,” citing the Atico Scope Ruling (April 8, 2002). Furthermore, the NCA maintains that the decoration on the white chick with egg holder candles is ubiquitous and does not limit its use to a specific holiday or event. Therefore, the NCA claims that, because the candles are a taper or a wax-filled container, they fall specifically within the scope of the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum states that it does not believe that the NCA has justified the inclusion of these candles in the Order. New Spectrum claims that these candles are clearly identifiable as chicks in egg-shaped holders and should be excluded from the Order. Furthermore, New Spectrum notes that traditionally these icons have been associated with the Easter season only.

Analysis: These candles are wax-filled containers molded and painted to depict chicks in egg holders. The Department finds that these candles are wax-filled containers, which is a shape listed by the inclusive language of the Order’s scope. In addition, these candles are petroleum wax candles. Accordingly, these candles are subject to the Order.

The Department has previously held that the application of molded decorations applied to the surface of an in-scope candle does not transform the candle into an identifiable object, which is outside the scope of the Order. See, e.g., American Greetings Scope Ruling (May 4, 2000). The decorations applied to these candles are not sufficient to transform these wax-filled containers into any identifiable object which would be excluded from the Order. We disagree with New

Spectrum that we should examine the molded decorations alone to determine whether they are identifiable objects. The Department's practice is to examine the candle as a whole. See Atico Scope Ruling (March 25, 2003). Therefore, we conclude that these candles are not subject to the novelty candle exception because these are not candles in the shape of an identifiable object. Despite the fact that the candles rise above their cases, they remain wax-filled containers, a shape listed by the inclusive language of the Order's scope. See J.C. Penney Scope Ruling (May 21, 2001). Thus, the Department finds that these candles do not qualify for the July 1987 novelty candle exception as identifiable objects. Further, the Department disagrees with New Spectrum's argument that we should consider the intended use of the candles and find that the objects on these candles are exclusively associated with a generally recognized holiday—Easter. Under the new practice, we no longer consider the alleged use of the candles for decorations. See J.C. Penney Scope Ruling (May 21, 2001). The motif depicted by these candles, chicks and eggs, is not one exclusively associated with the Easter holiday. Thus, the Department finds that these candles do not qualify for the July 1987 exception. Thus, we find that the candles comprising candle Group 20 are subject to the scope of the Order.

Candle Group 21

Set of 4 Metallic Red Hearts (MT-261)

New Spectrum Comments: New Spectrum contends that its “set of 4 metallic red heart” candles (1 inch in diameter and 1 inch in height), with cotton wicks, are novelty candles, for use as decorations. Further, New Spectrum claims that the subject candles are identifiable objects—hearts, and can be recognized as such from all angles.

NCA Comments: The NCA argues that the Department has previously determined that a similar candle is “not recognizable as a heart when viewed from the top, bottom, front, back, and sides,” citing the Atico Scope Ruling (April 8, 2002). In addition, the NCA contends that the heart design is ubiquitous and can be used throughout the year. NCA holds that these candles fall within the scope of the Order and cannot be excluded.

New Spectrum Rebuttal Comments: Referring to its “set of four metallic red hearts” candles, New Spectrum states that it does not believe that the NCA has justified the inclusion of these candles in the Order. New Spectrum claims that these candles are clearly identifiable as valentine hearts and should be excluded from the Order. Furthermore, New Spectrum notes that traditionally hearts have associated with special occasions and, in particular, Valentines day.

Analysis: These candles are reported as a set of four candles molded and painted to depict hearts. The candles are painted with a metallic red paint. These candles do not appear to be a shape listed in the language of the Order. However, the candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that these candles are not included within the scope of the Order because they qualify for the novelty candle exceptions for candles in the shape of an identifiable object or because these are candles exclusively associated with a generally recognized holiday. See e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department disagrees with New Spectrum that these candles are in the shape of an identifiable object. When viewing these candles from the sides, top, and bottom, we are unable to identify any of the characteristics of hearts. The heart shape is only viewable from the front and back. The surface texture and metallic red color are not indicative of hearts when viewed from multiple angles. The overall shape of the candle as a heart is not recognizable from multiple angles. We have also previously concluded that similar candles were not recognizable as hearts from multiple angles. See Atico Scope Ruling (April 8, 2002). Therefore, we conclude that these candles are not subject to the novelty candle exception because these candles are not in the shape of an identifiable objects.

The Department also disagrees with New Spectrum that these candles are exclusively associated with a generally recognized holiday. Valentine’s Day is not a holiday recognized by the Department. The Department finds nothing about the texture, colors, or decorations that denotes any exclusive relation to a particular recognized holiday. The Department finds that the heart shape and the metallic red color are not exclusively associated with any generally recognized holiday. Under the new practice, the Department no longer considers the requestor’s intended use of the candles for purposes of determining whether a candle is exclusively associated with a generally recognized holiday. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 21 are subject to the scope of the Order.

Candle Group 22

Red Ladybug in Wood Crate (MT-266);
Set of 3 Ladybugs (Green, Yellow, and Red) in Wood Crate (MT-265);
Set of 4 Small Ladybugs (Green, Purple, Orange, and Red) on Gold Plate (MT-226); and
Set of 6 Small Ladybugs (Yellow, Pink, Green, Purple, Orange, and Red) (MT-262)

New Spectrum Comments: New Spectrum describes these candles as a red, green, yellow, purple, orange, and pink ladybug, petroleum wax candles (4 inches in diameter and 1.75 inches in height), with a cotton wick. New Spectrum contends these are novelty candles, for use as a decoration. New Spectrum argues that the subject candle is shaped like an identifiable object–ladybug, sitting on a green wax leaf, and can be recognized as such from all angles.

NCA Comments: The NCA argues that these are floating round candles. The NCA contends that the Department has found that floating round candles are within the scope of the Order. In addition, according to the NCA, the “lady bug” candle is a round candle, which falls specifically within the scope of the Order. The NCA further contends that the molded decoration of a ladybug on the top of the round, does not change an in-scope candle into an out-of-scope candle. Moreover, the NCA argues that the Department has held that the addition of the molded decoration on the top of the candle does not change the candle, and it remains an unidentifiable object, citing the See Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China (A-579-504); Endar Corporation (April 7, 1999) (Endar Scope Ruling) and the Cherrydale Scope Ruling (October 5, 2000). According to the NCA, the design of the ladybug is not a design that limits the use of the candle to a specific holiday or occasion. Therefore, the NCA claims that, for these reasons and those discussed with respect to

New Spectrum's "green floating frogs" candle, the subject candle is specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum states that it does not believe that the NCA has justified the inclusion of this candle in the Order. New Spectrum claims that this candle is clearly identifiable as a ladybug and should be excluded from the Order.

Analysis: This candle is molded in the shape of a lady bug sitting on a green leaf and decorated with the characteristics of a ladybug, including red wings with small black dots, a black head, six brown feet and two molded and painted antennae. This candle does not appear to be one of the shapes identified in the Order. However, the candle is a petroleum wax candle. Accordingly, these candles will be subject to the Order, unless the Department finds that these candles are not included within the scope of the Order because they qualify for the novelty candle exceptions for candles in the shape of an identifiable object or because these are candles exclusively associated with a generally recognized holiday. See e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department agrees with New Spectrum that these candles are shaped like an identifiable object— a ladybug, sitting on a green leaf, and is identifiable as such from the sides and top angles. When viewed from most angles, the Department is able to identify the characteristics of a ladybug such as the black dots on red wings, small black head, and the antennae. Moreover, these candles do not include any portion which could reasonably be considered one of the shapes identified in the Order. Accordingly, these candles qualify for the July 1987 novelty candle exception because they are in the shape of an identifiable object. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 22 are outside the scope of the Order.

Candle Group 23

Set of 3 Vegetables-Carrot, Onion, and Asparagus (MT-272)

New Spectrum Comments: New Spectrum describes these candles as a set of vegetables: carrot, onion, and asparagus petroleum wax candles (2.25 inches in diameter and 3.25 inches in height), with a cotton wick. New Spectrum contends these candles are novelty candles for use as decorations. New Spectrum argues that the subject candles are shaped like identifiable objects— bundles of carrots, onions, and asparagus, and can be recognized as such from all angles.

NCA Comments: The NCA claims that New Spectrum's carrot, onion, and asparagus candles are round or pillar candles, which specifically fall within the scope of the Order. The NCA contends that carrots, onions, and asparagus do not have flat ends. Furthermore, the NCA argues that the Department has previously held that a pattern resembling variegated kernels of corn etched into the sides of a taper does not sufficiently alter the fundamental shape of the candle as a taper to make it a candle in the shape of an identifiable object. In addition, according to the NCA, the Department in American Greetings Scope Ruling (May 4, 2000) found that the candle "is still in the form of a taper, with or without the decorative etch design, distinguishing this product from other identifiable rulings in the past." Id. Furthermore, the NCA maintains that the

American Greetings Scope Ruling (May 4, 2000) is determinative with respect to these candles. The NCA also argues that the carrot, onion, and asparagus candles are not specifically designed for use only with respect to a specific holiday or event. NCA argues that these candles are specifically within the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum states that it does not believe that the NCA has justified its arguments for the inclusion of these candles in the Order. In addition, New Spectrum claims that these candles are clearly identifiable as the vegetables they are molded after and should be excluded from the scope of the Order. Moreover, New Spectrum argues that the flat bottoms are for stability and safety and that indeed, vegetables are often sold in similar bundles with their ends cut off.

Analysis: This candle group consists of a set of three candles molded and decorated into bundles of carrots, onions, and asparagus. The orange part of the carrot-bundle candle represents carrots themselves, while the green portion of the candle represents the leafy vegetation on top of the carrots. The white portion of the onion-bundle candle represents the bulbous vegetables, and the green portion represents the stalks of the onions. The asparagus-bundle candle is light and dark green; the color variations represent the various stalks of asparagus. The top of the candle is dark green and represents the crowns of the asparagus; the top of the stalk is dark green with buds and the bottom of the stalk is light green.

The carrot, onion, and asparagus bundles each have a molded and painted brown cord securing the bundle together. These candles are all made of petroleum wax. Accordingly, these candles would, therefore, be subject to the Order, unless the Department finds that these candles are not included within the scope of the Order because these candles qualify for an exception. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department agrees with New Spectrum that the candles are shaped like identifiable objects—bundles of carrots, onions, and asparagus. When viewed from the sides, and top, these candles are identifiable as the objects that they are purported to be. With respect to the carrot-bundle candle, the Department finds that the green leafy top is sufficiently indicative of the leafy stems of actual carrots. The carrot-bundle candle is identifiable as a bundle of carrots due to the orange color and the overall shape of the candle, which is wide at the top near the leafy stem, and narrows a bit at the base of the candle like an actual carrot. The Department finds that when viewed from multiple angles, including the sides and top, the candle is identifiable as a bundle of carrots. With respect to the onion-bundle candle, the Department also finds that the green, leafy stalks protrude from the upper half of the candle, which are indicative of the stalk of an actual onion. The lower half of the candle is bulbous and is irregularly round-shaped like an actual onion. The white coloring of the lower half of the candle is indicative of a peeled onion, because it is slightly translucent. In addition, the green coloring of the stalk is indicative of the stalks of actual onions. With respect to the asparagus-bundle candle, the Department finds that when viewed from multiple angles, the color and size of the individual asparagus spears are representative of actual asparagus spears. When viewed from multiple angles, the molded and painted surface decorations are triangular in shape and pointed like the small spears on the side of an actual asparagus. The overall shape of each of the spears comprising the bundle is representative of asparagus because the sides are slightly uneven instead of perfectly straight like

asparagus. In addition, when viewed from multiple angles, the molded and painted band encircling each of the vegetable groupings is indicative of a cord used to secure these types of vegetables at the supermarket. Thus, these candles qualify for the July 1987 novelty candle exception because they are identifiable objects. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 23 are outside the scope of the Order.

Candle Group 24

Set of 5 Chocolates with Chocolate Scent (MT-205-CH-F)

New Spectrum Comments: New Spectrum describes these candles as a set of 5 chocolate petroleum wax candles (1.5 inches in diameter and 1 inch in height), with a chocolate scent and cotton wicks. New Spectrum contends these candles are novelty candles, for use as decorations. New Spectrum further contends that the subject candles are shaped like identifiable objects—chocolate shells, hearts, bon-bons, and stars, and can be recognized as such from all angles.

NCA Comments: The NCA argues that the candles have flat bottoms and are not in the shape of identifiable objects when viewed from the sides. In addition, the NCA contends that there is nothing in the design of these candles to suggest that they are chocolates, pointing out that one of the candles is even white in color. Moreover, the NCA argues that the subject chocolate candles are small straight-sided pillars or round candles that fall specifically within the scope of the Order, citing the Atico Scope Ruling (April 8, 2002) and the Avon Scope Ruling (April 8, 2002). Therefore, the NCA claims that, for these reasons and those discussed with respect to all of New Spectrum’s previously discussed candles, these candles are covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum argues that the NCA has not justified the inclusion of these candles in the Order. Furthermore, New Spectrum argues that the NCA’s statement that “these candles have flat bottoms and are not in the shape of identifiable objects” is wrong. New Spectrum contends that these candles are clearly identifiable as different icons that are common to premium chocolate shapes and should be excluded from the Order. New Spectrum also claims that the flat bottoms are for safety and security.

Analysis: These candles are a set of five cube, star, and circular pieces with molded and painted surface decorations depicting chocolate candies. The candles are painted white, light brown, and dark brown purportedly to depict white chocolate, milk chocolate, and dark chocolate. Several of the candles have painted and molded surface decorations of stripes and dots. The Department finds that these candles are pillars and rounds, which are shapes listed by the inclusive language of the Order’s scope. In addition, these candles are made of petroleum wax. Accordingly, these candles are subject to the Order.

The Department disagrees that these candles are in the shape of an identifiable object. The Department has previously held that the application of molded decorations applied to the surface of an in-scope candle does not transform the candle into an identifiable object, which is outside the scope of the Order. See, e.g., American Greetings Scope Ruling (May 4, 2000). The

decorations applied to these candles are not sufficient to transform these pillars and rounds into any identifiable object which would be excluded from the Order. When viewed from the sides and bottom angles, these candles are not identifiable as chocolate candies as suggested by New Spectrum. See, e.g., J.C. Penney Scope Ruling (May 21, 2001). When viewed from the side and bottom angles, the Department is not able to identify the molded and painted surface decorations as chocolate candies. When viewed from the side and bottom angles, the colors are not indicative of chocolate candies. The decorations and moldings are too crudely done for the Department to recognize these candles as chocolate candies when viewed from the sides and bottom angles. The Department finds that these candles are only identifiable as the objects listed by New Spectrum, when viewed from the top. Accordingly, we conclude that these candles are not subject to the novelty candle exception for candles in the shape of an identifiable object. The Department disagrees with New Spectrum's argument that we should examine the intended use; under the new practice, the Department no longer considers the alleged use of the candles for decorations. See J.C. Penney Scope Ruling (May 21, 2001). Thus, the Department finds that these candles do not qualify for the July 1987 exception. Thus, we find that the candles comprising candle Group 24 are subject to the scope of the Order.

Candle Group 25

Set of 4 Yellow Pears with Pear Scent (MT-218-Set-F);
Set of 4 Yellow Pears with Pear Scent (MT-218-Set-W);
Large Yellow Pear (MT-218-F); and
Large Brown Pear (MT-218-BR-F)

New Spectrum Comments: New Spectrum describes these candles as a set of pears, petroleum wax candles (1.5 inches in diameter and 1.75 inches in height), with a pear scent and cotton wicks. New Spectrum contends these candles are novelty candles, for use as decorations. New Spectrum further contends that the subject candles are shaped like identifiable objects—pears, and can be recognized as such from all angles.

NCA Comments: NCA contends that these candles are tapers, a shape covered by the scope of the Order, citing the Atico Scope Ruling (April 8, 2002) and the Avon Scope Ruling (April 8, 2002). Therefore, the NCA claims, for these reasons and those discussed with respect to New Spectrum's "white chick with egg holder" candles, these subject candles fall within the scope of the Order and must not be excluded.

New Spectrum Rebuttal Comments: New Spectrum maintains that the NCA has not justified the inclusion of these candles in the Order. Moreover, New Spectrum argues that the subject candles are clearly identifiable as pears and should be excluded from the Order.

Analysis: These candles are reported as a set candles with painted and molded surface decorations depicting yellow and brown pears. The wick which is painted black serves as a stem. These candles are colored flat yellow and brown with painted surface decorations intended to depict brown or yellow pears. These candles do not appear to be any of the shapes listed in the Order. However, the candles are petroleum wax candles. Accordingly, these candles will be

subject to the Order, unless the Department finds that they are excluded by the novelty candle exception for candles in the shape of an identifiable object or for candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department disagrees with New Spectrum that these candles are in the shape of an identifiable object. When viewed from the side and bottom angles, these candles are not identifiable as the objects suggested by New Spectrum. See, e.g., J.C. Penney Scope Ruling (May 21, 2001). When viewed from the side angles, the Department is not able to identify the painted wick as a stem. When viewed from the bottom, the Department is not able to see the stem at all. In addition, the color and surface texture are not indicative of pears as suggested by New Spectrum. The Department finds that the pear shape is only identifiable from the top, when a person has a clear view of the stem of the pear. When viewed from the sides or the bottom, the Department is not able to identify the candles as pears. The painted and molded surface decorations are too crudely done to enable the Department to identify these candles as pears when viewed from the sides and the bottom. The decorations do not resemble actual pears. Thus, since the pear shape is not identifiable as such from the side and bottom angles, the Department finds that the candles do not qualify for the July 1987 exception. The Department disagrees with New Spectrum's arguments; under the new practice, the Department no longer considers the intent of the candle, *i.e.*, the alleged use of the candles for decorations. See J.C. Penney Scope Ruling (May 21, 2001). Thus we find that the candles comprising candle Group 25 are subject to the scope of the Order.

Candle Group 26

Set of 3 Green Apples in Wood Crate with Green Apple Scent (MT-240-GR-Set-W);
Set of 3 Green Apples in Wood Crate with Green Apple Scent (MT-240-GR-Set-F); and
Single Green Apple (MT-240-GR-F)

New Spectrum Comments: New Spectrum describes these candles as a set of apple petroleum wax candles (2 inches in diameter and 1.75 inches in height), with a green apple scent and cotton wicks. New Spectrum contends that these candles are novelty candles, for use as decorations. New Spectrum argues that the subject candles are shaped like identifiable objects—apples, and can be recognized as such from all angles.

NCA Comments: The NCA claims that New Spectrum's "green apple" candles are round or taper candles, which are specifically provided for within the scope of the Order, citing the Avon Scope Ruling (April 8, 2002). Therefore, the NCA claims that, for the reason discussed in regard to New Spectrum's "round with Christmas flowers" candle and "white chicks with egg holders" candles, these candles are round candles which are specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum maintains that the NCA has not justified the inclusion of these candles in the Order. Moreover, New Spectrum argues that the subject candles are clearly identifiable as apples and should be excluded from the Order.

Analysis: These candles are a set or individual spherical green candles with molded and painted surface decorations depicting green apple varieties. The wick is painted black and serves as the stem. These candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that these candles are not included within the scope of the Order because they qualify for the novelty candle exception, because these candles are in the shape of an identifiable object, or because these are candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department disagrees with New Spectrum that these candles are in the shape of identifiable objects. When viewed from most angles, these candles are not identifiable as the objects suggested by New Spectrum. See, e.g., J.C. Penney Scope Ruling (May 21, 2001). When viewed from most angles, the Department is not able to identify the painted wick as a stem. In addition, the color and surface texture are not indicative of apples as suggested by New Spectrum. The Department finds that the apple shape is only identifiable from the top, when a person has a clear view of the stem of the apples. Thus, since the apple shape is not identifiable as such from most angles, the Department finds that the candles do not qualify for the July 1987 exception. The Department disagrees with New Spectrum's arguments that we should consider the intended use of the candles; under the new practice, the Department no longer considers the alleged use of the candles for decorations. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 26 are subject to the scope of the Order.

Candle Group 27

Set of 2 Strawberries Dipped in Chocolate with Strawberry Chocolate Scent (MT-258)

New Spectrum Comments: New Spectrum describes these candles as a set of strawberries dipped in chocolate, petroleum wax candles (2 inches in diameter and 1.75 inches in height), with a strawberry-chocolate scent and cotton wicks. New Spectrum contends that these candles are novelty candles, for use as decorations. New Spectrum further contends that the subject candles are shaped like identifiable objects—strawberries dipped in chocolate, and can be recognized as such from all angles.

NCA Comments: With regard to New Spectrum's "strawberries dipped in chocolate" candles, the NCA argues that for the reasons discussed in regard to New Spectrum's "round with Christmas flowers" candle and "white chicks with egg holders" candles, these candles are round candles which are specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: In rebuttal, New Spectrum maintains that the NCA has not justified the inclusion of these candles in the Order. Moreover, New Spectrum argues that the subject candles are clearly identifiable as two strawberries dipped in chocolate and associated with a gourmet treat and should be excluded from the Order.

Analysis: These candles are a set of two ovoid shaped candles with molded and painted decorations depicting a strawberry dipped in chocolate. The part of the candle purporting to be the strawberry is painted red. The surface of the red strawberry is decorated with molded

strawberry seeds which are painted yellow. The top of the candle is decorated with a stem and leaves which are painted green. The bottom of the candle is dimpled and painted dark brown. These candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that these candles are not included within the scope of the Order because they qualify for the novelty candle exception for candles in the shape of an identifiable object, or because these are candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department agrees with New Spectrum that the candles are shaped like identifiable objects—strawberries dipped in chocolate, and are identifiable as such from most angles. When viewed from the sides, top and bottom angles, the Department is able to identify the characteristics of a strawberry. From the top, bottom, and side angles, the Department recognizes the colors as strawberry and chocolate. In addition, the green stem and leaves characteristic of a strawberry are visible from most angles. When viewed from most angles, the surface texture and molded seed decorations are indicative of a strawberry dipped in chocolate. Thus, these candles qualify for the July 1987 novelty candle exception because they are identifiable objects. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 27 are outside the scope of the scope of the Order.

Candle Group 28

Vanilla Ice Cream in Peach Bowl with Chocolate Syrup and Sprinkles (MT-271 PH); and
Vanilla Ice Cream in Lime Bowl with Chocolate Syrup and Sprinkles (MT-271-GR)

New Spectrum Comments: New Spectrum describes these candles as vanilla ice cream in a peach or lime bowl, with chocolate syrup and sprinkles, petroleum wax candles (3.5 inches in diameter and 5 inches in height), with a cotton wick. New Spectrum contends that these are novelty candles for use as decoration. Further, New Spectrum claims that the subject candle is an identifiable object—vanilla ice cream in a peach or lime bowl with chocolate syrup and sprinkles, and can be recognized as such from all angles.

NCA Comments: The NCA claims that New Spectrum’s vanilla ice cream in a peach or lime bowl candle is a round candle, which is specifically covered by the Order. In addition, the NCA argues the surface of the vanilla ice cream in a peach or lime bowl does not sufficiently alter the fundamental shape of the candle to make it into the shape of an identifiable object. NCA argues that this candle is covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum argues that the NCA has not justified the inclusion of this candle in the Order. According to New Spectrum, this candle is clearly identifiable as an ice cream sundae and should be excluded from the scope of the Order.

Analysis: These candles are reported as candles with molded and painted decorations depicting an ice cream sundae. When viewed from the sides and bottom, the lower half of the candles depicts an ice cream sundae dish with molded sides narrowing to a stem and then expanding to a wider base. The surface of the lower portion is molded in channels and painted yellow. When

viewed from the sides and top, the upper ice cream portion of the candle is molded and painted to resemble scoops of ice cream or whipped cream. The top of the ice cream is covered with a molded decoration which is painted brown to represent chocolate sauce or hot-fudge. The dark brown portion of the candle is covered with molded dots which have been painted in multiple colors intended to simulate “jimmies.” These candles do not appear to be one of the shapes listed in the Order. These candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that these candles are not included within the scope of the Order because they qualify for the novelty candle exception for candles in the shape of an identifiable object, or because these are candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department agrees with New Spectrum that the candles are shaped like identifiable objects—ice cream sundaes and are identifiable as such from the side and top angles. When viewed from the side and top angles, the Department is able to identify the container as an ice cream sundae, the channels and the narrowing stem and wider base are indicative of an ice cream sundae. In addition, the colors and decorations on the ice cream and chocolate sauce portion of the candle are viewable from the sides and top angles and indicative of an ice cream sundae with “jimmies.” Thus, these candles qualify for the July 1987 novelty candle exception because they are identifiable objects. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 28 are outside the scope of the Order.

Candle Group 29

Angel Holding Flowers (L-39);
Angel with Long Harp (L-07-1); and
Angel with Short Harp (L-07-2)

New Spectrum Comments: New Spectrum describes these candles as an angel holding flowers or a long or short harp, petroleum wax candles (4 inches in diameter and 3.75 inches in height), with a cotton wick. New Spectrum contends that these are novelty candles, for use as a decoration. Further, New Spectrum claims that the subject candle is shaped like an identifiable object—an angel holding flowers or a harp, and can be recognized as such from all angles.

NCA Comments: With regard to New Spectrum’s angel holding flowers candle, the NCA argues that this is a round or pillar candle that falls specifically within the scope of the Order. In addition, the NCA contends that an angel figurine would not have a flat bottom. Furthermore, the NCA claims that the decorative effect does not change this in-scope candle into an out-of-scope candle. See American Greetings Scope Ruling (May 4, 2000).

New Spectrum Rebuttal Comments: New Spectrum argues that the NCA has not justified the inclusion of this candle in the Order. Furthermore, New Spectrum states that this candle is clearly identifiable as an angel with flowers and should be excluded from the Order. According to New Spectrum, the inclusion of a flat base is for stability and safety.

Analysis: These candles are molded and decorated to resemble cherubim. These candles are human-like figures posed kneeling with a large child-like faces. Wings which are painted gold protrude from the back of the figures. The figures hold bouquets of flowers or a long or short harps in their hands, which are also painted gold. The figures appears to be clothed. These candles do not appear to be one of the shapes listed in the Order. However, these candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that these candles are not included within the scope of the Order because they qualify for the novelty candle exception because these candles are in the shape of an identifiable object, or because these are candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department agrees with New Spectrum that the candles are shaped like identifiable objects—cherubim and are identifiable as such from most angles. When viewed from the sides and top angles, the wings and child-like faces are visible and indicative of cherubim. The overall shape of each figure and the large child-like faces are indicative of a cherub. Thus, the cherub shape is identifiable from the side and top angles. Moreover, no portion of these candles can be deemed one of the shapes listed in the Order. Accordingly, these candles qualify for the July 1987 novelty candle exception because they are identifiable objects. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 29 are not included within the scope of the scope of the Order.

Candle Group 30

Set of 3 Gold Roses (A-198);
Set of 3 Pearlized Roses (A-198-P); and
Set of 3 Silver Roses (A-198-S)

New Spectrum Comments: New Spectrum describes these candles as a set of three gold or pearlized or silver rose petroleum wax candles (3 inches in diameter and 1.5 inches in height), with a cotton wick. New Spectrum contends that these candles are novelty candles, for use as decorations. New Spectrum further contends that the subject candles are shaped like identifiable objects—flowers, and can be recognized as such from all angles.

NCA Comments: The NCA claims that New Spectrum’s “gold roses” candles are round candles that fall within the scope of the Order. In addition, the NCA argues that the molded decorative flower on top of the candles does not change an in-scope round into an out-of-scope candle. According to the NCA, in a recent ruling, the Department concluded that “despite the additional molded decorative flower, the candle remains a votive, and an unidentifiable object,” Endar Scope Ruling (May 21, 2002). Therefore, the NCA claims that, for the reasons discussed in regard to New Spectrum’s “round with Christmas flowers” candle, these candles are specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum argues that the NCA has not justified the inclusion of these candles in the Order. Furthermore, New Spectrum states that each candle is

clearly identifiable as a rose flower and should be excluded from the Order. According to New Spectrum, the inclusion of a flat base is for stability and safety.

Analysis: These candles are three round candles with molded and painted petals depicting an open flower similar to a rose. The petals are triangular in shape and have surface creases. The candles are painted gold or pearl or silver. These candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that these candles are not included within the scope of the Order because they qualify for the novelty candle exception for candles in the shape of an identifiable object, or because these are candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department disagrees with New Spectrum that the candles are shaped like identifiable objects when viewed from most angles. When viewed from the sides and the top angles, the Department is not able to identify the surface creases on the petals and the triangular shapes of the petals which are indicative of roses. When viewed from the bottom, the candles only appears to be a triangle shape without sufficient detail to allow the candles to be identified as a flower. Thus, when viewed from most angles the Department is not able to identify these candles as flowers. In addition, the colors are not indicative of roses. The Department is not able to identify the silver, gold or pearl color as roses, because roses are never silver or gold but commonly red and a variety of other colors or combinations. Accordingly, these candles do not qualify for the July 1987 novelty candle exception because they are not identifiable objects. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 30 are subject to the scope of the Order.

Candle Group 31

Multi-Colored Tropical Bird (A-154C);
Multi-Colored Tropical Bird (A-154A);
Multi-Colored Tropical Bird (A-154B); and
Multi-Colored Tropical Bird (A-154C)

New Spectrum Comments: New Spectrum describes these candles as a tropical bird-shaped petroleum wax candle (2 inches in diameter and 3 inches in height), with a cotton wick. New Spectrum contends that these candles are novelty candles, for use as a decoration. New Spectrum further contends that the subject candle is shaped like an identifiable object—a bird, and can be recognized as such from all angles.

NCA Comments: With regard to New Spectrum’s tropical bird candle, the NCA argues that a bird figurine would not have a flat bottom as this candle does. Furthermore, the NCA contends that the “tropical bird” candle is a round or pillar candle, which is specifically included within the scope of the Order. In addition, the NCA claims that the decorative effect does not change an in-scope candle into an out-of-scope candle, citing the Endar Scope Ruling (May 21, 2002), the American Greetings Scope Ruling (May 4, 2000), and the Atico Scope Ruling (April 8, 2002). NCA holds that this candle is specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum argues that the NCA has justified the inclusion of this candle in the Order. Furthermore, New Spectrum states that this candle is clearly identifiable as a tropical bird with multi-colors and should be excluded from the Order, and that the inclusion of a flat base is for stability and safety.

Analysis: This candle is molded and painted to resemble a toucan bird. A small protruding beak is painted red with orange stripes. The body is painted metallic green. Wings and facial features are molded with a painted black outline. The wings are held close to the body. The figure's head is turned to one side of the body. This candle does not appear to be one of the shapes listed in the Order. However, this candle is a petroleum wax candle. Accordingly, these candles will be subject to the Order, unless the Department finds that they are not included within the scope of the Order because they qualify for the novelty candle exception because these candles are in the shape of an identifiable object, or because these are candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department disagrees with New Spectrum that the candle is shaped like an identifiable object when viewed from most angles. When viewed from the sides, the top, and the bottom, the Department is not able to identify the painted wings and beak which are indicative of tropical birds. When viewed from the side and bottom angles, the overall shape is too crude for the Department to distinguish a bird shape. The surface decorations and colors are crude renderings of bird anatomy, which the Department does not recognize when viewed from the side, top and bottom angles. Thus, when viewed from most angles, the Department is not able to identify these candles as tropical birds. Accordingly, these candles do not qualify for the July 1987 novelty candle exception because they are identifiable objects. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 31 are subject to the scope of the Order.

Candle Group 32

Lilac Rose (MT-207-LV-F)

Ivory Rose (MT-207-IV-F)

New Spectrum Comments: New Spectrum describes this candles as a lilac or ivory rose, petroleum wax candle (3 inches in diameter and 3 inches in height), with a cotton wick. New Spectrum contends this candle is a novelty candle, for use as a decoration. New Spectrum further contends that the subject candle is shaped like an identifiable object—a flower, and can be recognized as such from all angles.

NCA Comments: The NCA claims that New Spectrum's lilac rose candle is a round candle that falls within the scope of the Order. In addition, NCA maintains that the molded decorative flower on top of the candle does not change an in-scope round into an out-of-scope candle. According to the NCA, recently the Department concluded that “despite the additional molded decorative flower, the candle remains a votive, and an unidentifiable object,” citing the Endar Scope Ruling (May 21, 2002). Therefore, the NCA claims that, for the reasons discussed in regards to New Spectrum's round with Christmas flowers candle, this candle is specifically covered by the Order and cannot be excluded.

New Spectrum Rebuttal Comments: New Spectrum did not submit rebuttal comments regarding these candles.

Analysis: These candles are individual round candles with molded petals depicting an open flower similar to a rose. The petals are triangular in shape but have no surface decorations. The candles are lavender or ivory colored. However, these candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that these candles are not included within the scope of the Order because they qualify for the novelty candle exceptions because these candles are in the shape of an identifiable object, or because these are candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department disagrees with New Spectrum that the candles are shaped like identifiable objects when viewed from most angles. When viewed from the sides and the top, the Department is not able to identify the petals and the triangular shapes of the petals which are indicative of roses because the petals do not look like rose petals. When viewed from the bottom the Department is not able to identify the triangular shape of the petals because the petals are not visible. The petals and overall shape of the candles are crude renderings of a flower, which the Department does not recognize as a flower when viewed from most angles. Thus, when viewed from most angles the Department is not able to identify these candles as flowers. Accordingly, these candles do not qualify for the July 1987 novelty candle exception because these candles are not identifiable objects. See J.C. Penney Scope Ruling (May 21, 2001). Thus, we find that the candles comprising candle Group 32 are subject to the scope of the Order.

Candle Group 33

White Christmas Tree with Glitter and Multi-Colored Decorations (MT-235C);
White Christmas Tree with Glitter and Multi-Colored Decorations (MT-235A); and
Pearlized Christmas Tree with Glitter and Multi-Colored Decorations (L-15-P)

New Spectrum Comments: New Spectrum describes these candles as a white or pearlized Christmas trees with glitter and multi-colored decorations, petroleum wax candles (3.25 inches in diameter and 4 inches in height), with a cotton wick. New Spectrum contends these candles are novelty candles, for use as a Christmas decoration. Further, New Spectrum claims that the subject candle is an identifiable object—a white Christmas tree with glitter and multi-colored decorations, and can be recognized as such from all angles.

NCA Comments: With regard to New Spectrum’s white Christmas tree candle, the NCA argues that the candle is a round which tapers towards the top and, therefore, is a taper candle which specifically falls within the scope of the Order. In addition, the NCA maintains that the textured surface does not alter the fundamental shape of the candle as a taper to make it a candle in the shape of an identifiable object, citing the American Greetings Scope Ruling (May 4, 2000), and the Atico Scope Ruling (April 8, 2002). Furthermore, the NCA claims that the white Christmas tree candle does not look like a Christmas tree and is not specifically designed for use only during the Christmas season.

New Spectrum Rebuttal Comments: New Spectrum argues that the NCA has not justified the inclusion of this candle in the Order. According to New Spectrum, the subject candle is clearly identifiable as a decorated Christmas tree and should be excluded from the Order. Moreover, New Spectrum contends that the surface is not merely textured—the entire candle is sculpted into a fully three-dimensional Christmas tree. New Spectrum also maintains that Christmas trees are associated only with the Christmas season.

Analysis: These candles are circular shaped candles with a wide base narrowing at the top of the candle depicting a white tree with painted decorations. The candle is molded in the shape of an evergreen pine tree. The candle is painted white or pearl and the surface is covered with dots. The dots are painted red, green, and gold. The surface of the candles are covered with a patina of glitter. The Department finds that these candles are tapers because they are wide at the bottom and narrow at the top. Taper is a shape listed by the inclusive language of the Order's scope. In addition, the candle is a petroleum wax candle. Accordingly, these candles will be subject to the Order, unless the Department finds that they are excluded by the novelty candle exceptions because these candles are in the shape of an identifiable object, or because these candles are exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

We agree with New Spectrum that these candles are an identifiable object; the candle is molded in the shape of an evergreen pine tree and it is identifiable as a tree when viewed from multiple angles. See J.C. Penney Scope Ruling (May 21, 2001). When viewed from the side, the branches of the tree are readily apparent. The painted dots depicting ornamentation are also visible from all angles, except the bottom. Although the candle is white, we found that the color could represent snow or plastic and does not detract from the candle being an identified as a tree. The overall shape, color, and surface texture are indicative of a decorated tree when viewed from the top and side angles. Thus, this candle qualifies for the July 1987 novelty candle exception because it is in the shape of an identifiable object, namely, a tree. Thus, we find that the candles comprising candle Group 33 are not included within the scope of the Order.

Candle Group 34

Santa Claus with Toys and Decorations (MT-274)

New Spectrum Comments: New Spectrum describes this candle as a Santa Claus with toys and decorations candle (4 inches in diameter and 6.25 inches in height), with a cotton wick. New Spectrum contends that this candle is a novelty candle, for use as a Christmas decoration. Further, New Spectrum claims that the subject candle is an identifiable object—Santa Claus with toys and decorations, and can be recognized as such from all angles.

NCA Comments: The NCA notes that this candle would be outside of the scope of the Order, but not because it is an identifiable object, but because it has a Santa Claus design, which is limited to use during the Christmas holiday.

New Spectrum Rebuttal Comments: New Spectrum did not file rebuttal comments.

Analysis: This candle depicts an overweight, man, with a long white beard and hair. The figure is dressed in a knit hat and sweater. The hat is adorned with gold painted stars and leaves. The figure is holding presents, including a doll, and candy canes. The bottom of the candle is adorned with molded decorations resembling a ribbon, bow, bells, and holly leaves. This candle does not appear to be one of the shapes listed in the Order. However, these candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that these candles are not included within the scope of the Order because they qualify for the novelty candle exceptions because these candles are in the shape of an identifiable object, or because these are candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

We agree with New Spectrum that this candle is an identifiable object—a human male figure with toys and decorations, and can be recognized as such from most angles. See J.C. Penney Scope Ruling (May 21, 2001). When viewed from most angles the white beard and hair, and facial features are discernible and visible and characteristic of a human figure. The overall shape of the figure, along with the presents, especially the red and white striped candy cane and doll are representative of gifts. Thus, this candle qualifies for the July 1987 novelty candle exception because it is an identifiable object. Thus, we find that the candle comprising candle Group 34 is not included within the scope of the Order.

Candle Group 35

Green Decorated Christmas Tree (MT-236)

New Spectrum Comments: New Spectrum describes this candle as a green decorated Christmas tree-shaped petroleum wax candle (3.25 inches in diameter and 7 inches in height), with a cotton wick. New Spectrum contends that this candle is a novelty candle, for use as a Christmas decoration. Further, New Spectrum claims that the subject candle is an identifiable object—a green decorated Christmas tree, and can be recognized as such from all angles.

NCA Comments: With regard to New Spectrum’s “green Christmas tree” candle, NCA notes that this candle has a design that would limit its use to the Christmas holiday and, therefore, is outside the scope of the Order.

Analysis: This candle has a wide circular base and narrows at the top of the candle and depicts a decorated tree with presents underneath. The candle is painted green and the surface is covered with dots, lines, and bows. The lines are painted gold, while the dots and bows are painted red. The top of the candle is crowned with a star which is painted gold. At the bottom of the candle is a bas-relief of squares, rectangles, spheres, and columns, painted to resemble wrapped presents. Some of the shapes on the bas-relief presents have molded bows and ribbons which are painted different colors than the wrapping paper covering the presents. The Department finds that these candles are tapers, because they are wide at the bottom and narrow at the top. Taper is a shape listed by the inclusive language of the Order’s scope. In addition, the candle is a petroleum wax candle. Accordingly, this candle will be subject to the Order, unless the Department finds that this candle is not included within the scope of the Order because it qualifies for the novelty candle exception because it is a candle in the shape of an identifiable object, or because the candle is

exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

We agree with New Spectrum that this candle is an identifiable object—a green decorated tree, with presents sitting beneath it and can be recognized as such from most angles. See, J.C. Penney Scope Ruling (May 21, 2001). When viewed from the top and side angles, the Department recognizes the branches of the tree. The surface decorations, including the bas-relief presents, which can be seen from the sides and bottom angles, are representative of a tree with presents underneath. When viewed from the sides and top angles, the Department recognizes the dots, lines and bows as tree decorations. The overall triangular shape of the candle and the decorations and presents are indicative of trees with presents underneath. Thus, this candle falls within the July 1987 novelty candle exception because it is an identifiable object. Thus, we find that the candle comprising candle Group 35 is not included within the scope of the scope of the Order.

Candle Group 36

Set of 3 Christmas Snowmen and 2 Santa Tea Lights (MT-223)

New Spectrum Comments: New Spectrum describes these candles as a set of three Christmas snowmen and two Santa tea light petroleum wax candles (1.5 inches in diameter and 2.5 inches in height), with cotton wicks. The candles are three-dimensional forms in which the portion of the candle rising above the metal tea light containers is molded and painted to resemble a snowman or Santa Claus figure. The snowman is white with a molded and painted face and hat. The Santa Claus figure is wearing a red and white trimmed suit and hat. New Spectrum contends that these are novelty candles for use as Christmas decorations. Further, New Spectrum claims that the subject candles are identifiable objects—Christmas snowmen and Santa Claus, and can be recognized as such from all angles.

NCA Comments: The NCA claims that New Spectrum’s Christmas snowmen and Santa candles are wax-filled containers, which fall specifically within the scope of the Order, citing the Final Scope Ruling – Antidumping Duty Order on Petroleum Wax Candles From the People’s Republic of China (A-570-504); Simcha Candle Co. (February 12, 1993) (Simcha Scope Ruling). The NCA notes that the Santa Claus design would make the tea lights outside the scope of the Order; however, the snowman design is ubiquitous to winter and is not specifically limited to use during the Christmas season. Thus, the NCA contends that the tea lights with the Santa Claus design are outside the scope of the Order, and the tea lights with the snowman design fall within the scope of the Order. Therefore, the NCA claims that, because three of the five candles in the set fall within the scope of the Order, the entire set should be covered by the Order.

New Spectrum Rebuttal Comments: New Spectrum argues that these candles are identifiable Christmas decorative objects that can be identified from all angles. New Spectrum contends that its candles are novelty candles used for Christmas decoration. Therefore, the Department should find these candles outside the scope of the Order.

Analysis: These candles are a set of five round figures with molded and painted decorations depicting snowman and Santa candles. Each candle is contained in a small metal container. The

Department finds that these candles are wax-filled containers, which are listed in the Order. In addition, the candles are petroleum wax candles. Accordingly, these candles will be subject to the Order, unless the Department finds that these candles are not included within the scope of the Order because they qualify for the novelty candle exceptions because they are in the shape of an identifiable object, or because these are candles exclusively associated with a generally recognized holiday. See, e.g., J.C. Penney Scope Ruling (May 21, 2001).

The Department has previously held that the application of molded decorations applied to the surface of an in-scope candle does not transform the candle into an identifiable object, which is outside the scope of the Order. See, e.g., American Greetings Scope Ruling (May 4, 2000). The decorations applied to these candles are not sufficient to transform these wax-filled container into any identifiable object which would not be included within the Order. We disagree with New Spectrum that we should examine the molded decorations alone to determine whether they are identifiable objects. The Department's practice is to examine the candle as a whole. See Atico Scope Ruling (March 25, 2003). Therefore, we conclude that these candles are not subject to the novelty candle exception because these candles are not in the shape of an identifiable object. Despite the fact that the candles rise above their metal cases, they remain wax-filled containers and listed in the Order. See J.C. Penney Scope Ruling (May 21, 2001). Thus, the Department finds that these candles do not qualify for the July 1987 exception. Thus, we find that the candles comprising candle Group 36 are subject to the scope of the Order.

Recommendation

Based on the proceeding analysis, we recommend that the Department find that New Spectrum's candles listed in Attachment I are outside the scope of the scope of the Order and that the candles listed in Attachment II are subject to the scope of the Order. If you agree, we will send the attached letter to the interested parties, and will notify the CBP of our determination.

_____ Agree

_____ Disagree

Barbara E. Tillman
Acting Deputy Assistant Secretary
for Import Administration

Date

Attachment I
Candles Qualifying for the Novelty Candle Exception

Candle Group 7

Citronella Scented Garden Torch Candle–Corn on the Cob on a Garden Stake
(MT-217-c/MT-267-C)

Citronella Scented Garden Torch Candle-Eggplant on a Garden Stake (MT-217-e/MT-267-E)

Citronella Scented Garden Torch Candle-Orange Pepper on a Garden Stake
(MT-217-o/MT-267-O)

Citronella Scented Garden Torch Candle-Green Pepper on a Garden Stake
(MT-217-g/MT-267-G)

Citronella Scented Garden Torch Candle-Red Pepper on a Garden Stake
(MT-217-r/MT-267-R)

Citronella Scented Garden Torch Candle-Mixed Peppers on a Garden Stake
(MT-217-bp/MT-267-BP)

Citronella Scented Garden Torch Candle-Mixed Fruit on a Garden Stake
(MT-217-hp/MT-267-HP)

Candle Group 9.

Set of 3 Green Floating Frogs (MT-273)

Candle Group 14.

Gold Dragon (DS-001)

Candle Group 15.

Set of 3 White Ducks in Crate (L-09-M-W)

Set of 3 Yellow Ducks in Crate (L-09-M-Y)

Candle Group 16.

Silver Snail (MT-213S)

Gold Snail (MT-213G)

Candle Group 18.

Bunny (MT-252)

Candle Group 22.

Red Ladybug in Wood Crate (MT-266)

Set of 3 Ladybugs (Green, Yellow, and Red) in Wood Crate (MT-265)

Set of 4 Small Ladybugs (Green, Purple, Orange, and Red) on Gold Plate (MT-226)

Set of 6 Small Ladybugs (Yellow, Pink, Green, Purple, Orange, and Red) (MT-262)

Candle Group 23.

Set of 3 Vegetables-Carrot, Onion, and Asparagus (MT-272)

Candle Group 27.

Set of 2 Strawberries Dipped in Chocolate with Strawberry Chocolate Scent (MT-258)

Candle Group 28.

Vanilla Ice Cream in Peach Bowl with Chocolate Syrup and Sprinkles (MT-271 PH)

Vanilla Ice Cream in Lime Bowl with Chocolate Syrup and Sprinkles (MT-271-GR)

Candle Group 29.

Angel Holding Flowers (L-39)

Angel with Long Harp (L-07-1)

Angel with Short Harp (L-07-2)

Candle Group 33.

White Christmas Tree with Glitter and Multi-Colored Decorations (MT-235C)

White Christmas Tree with Glitter and Multi-Colored Decorations (MT-235A)

Pearlized Christmas Tree with Glitter and Multi-Colored Decorations (L-15-P)

Candle Group 34.

Santa Claus with Toys and Decorations (MT-274)

Candle Group 35.

Green Decorated Christmas Tree (MT-236)

Attachment II

Candles Included Within the Scope of the scope of the Order

Candle Group 1:

Round-Blue Pearl with Silver Christmas Flowers (L05-S-PBBS)
Round-Blue Pearl with Silver Christmas Flowers (L05-L-PBBS)
Round-Pearl Color with Gold Christmas Flowers (L-05SP)
Round-Pearl Color with Gold Christmas Flowers (L-05LP)
Round-Pearl White with Dots and String (L-26SP)
Round-Pearl White with Dots and String (L-26SY)
Round-Pearl Color with Flower (L-29SP)
Round-Pearl Color with Flower (L-29LP)
Round-Yellow Color with Flower (L-29SY)
Round-Yellow Color with Flower (L-29LY)

Candle Group2.

Round-Blue with Hummingbird and Flowers (MT-203-B)
Round-Lilac with Hummingbird and Flowers (MT-203-LV)
Round-Lilac with Palm Leaf (MT-209-LV)

Candle Group 3.

Round-Pearl White with Glitter and Honeycomb (MT-216P-C))
Round-Pearl White with Glitter and Honeycomb (MT-216P-A)
Round-Pearl White with Glitter and Honeycomb (MT-216P-B)
Round-Pearl Blue with Glitter and Honeycomb (MT-216PLB-A)
Round-Pearl Blue with Glitter and Honeycomb (MT-216PLB-B)
Round-Pearl Blue with Glitter and Honeycomb (MT-216PLB-C)

Candle Group 4.

Ball of Gold Rope (L-02G)
Ball of Pearl Colored Rope (L-02P)
Column of Gold Rope (AL-01SG)
Column of Gold Rope (AL-01LG)
Column of Pearl Colored Rope (AL-03SP)

Candle Group 5.

Round Christmas Ornament, Blue with Glitter and Silver Christmas Flowers (L-06BS)
Round Christmas Ornament, Pearl Color w/ Glitter and Silver Christmas Flowers (L-06P)
Round Christmas Ornament, Pearl Baby Blue Color w/ Glitter and Silver Christmas Flowers (L-06-PBB-S)

Round Christmas Ornament, Pearl Green Color with Glitter and Silver Christmas Flowers (L-06PGR)

Round Christmas Ornament, Gold with Bows (L-10G)

Candle Group 6.

Round Christmas Ornament, Blue with Silver Stripes and Gold Dots (L-45-B)

Round Christmas Ornament, Burgundy with Gold Stripes (L-45-B)

Round Christmas Ornament, Green with Gold Stripes (L45-GR)

Candle Group 8.

Set of 3 Floating Gerbera Flowers (MT-201-A)

Set of 4 Flowers (MT-263)

Set of 6 Flowers (MT-264)

Set of 6 Flowers (MT-268)

Candle Group 10.

Set of 5 Jack-O-Lantern Pumpkins (MT-237)

Candle Group 11.

Set of Cherry, Half Peach, and Lemon (MT-269)

Candle Group 12.

White Wedding Hearts and Bells (A-245-S)

White Wedding Hearts and Bells (A-245-L)

Pearlized Hearts and Roses (A161P)

Candle Group 13.

White Wedding Birds on Flowers (A-249-S)

White Wedding Birds on Flowers (A-249-L)

Candle Group 17.

Set of 16 Dice–Yellow, Purple, Green, and Blue (MT-241-G)

Set of 16 Dice–Yellow, Purple, Green, and Blue (MT-241-M)

Set of 16 Dice–Yellow, Purple, Green, and Blue (MT-241-B-F)

Candle Group 19

Set of Jack-O-Lantern Pumpkin (MT-257PK), Bat (MT-257BT), and Ghost (MT-257GT)

Candle Group 20.

Set of 2 White Chicks with Egg Holders (MT-259-W)
Set of 2 Lilac Chicks with Egg Holders (MT-259-PU)

Candle Group 21

Set of 4 Metallic Red Hearts (MT-261)

Candle Group 24

Set of 5 Chocolates with Chocolate Scent (MT-205-CH-F)

Candle Group 25

Set of 4 Yellow Pears with Pear Scent (MT-218-Set-F)
Set of 4 Yellow Pears with Pear Scent (MT-218-Set-W)
Large Yellow Pear (MT-218-F)
Large Brown Pear (MT-218-BR-F)

Candle Group 26

Set of 3 Green Apples in Wood Crate with Green Apple Scent (MT-240-GR-Set-W)
Set of 3 Green Apples in Wood Crate with Green Apple Scent (MT-240-GR-Set-F)
Single Green Apple (MT-240-GR-F)

Candle Group 30.

Set of 3 Gold Roses (A-198)
Set of 3 Pearlized Roses (A-198-P)
Set of 3 Silver Roses (A-198-S)

Candle Group 31.

Multi-Colored Tropical Bird (A-154C)
Multi-Colored Tropical Bird (A-154A)
Multi-Colored Tropical Bird (A-154B)
Multi-Colored Tropical Bird (A-154C)

Candle Group 32.

Lilac Rose (MT-207-LV-F)
Ivory Rose (MT-207-IV-F)

Candle Group 36.

Set of 3 Christmas Snowmen and 2 Santa Tea Lights (MT-223)