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Scope Inquiry
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March 7, 2013

MEMORANDUM FOR: Gary Taverman
Senior Advisor
for Antidumping and Countervailing Duty Operations

FROM: James C. Doyle
Director, Office 9
Antidumping and Countervailing Duty Operations

SUBJECT: Signature Birthday Candles Final Scope Ruling: Antidumping
Duty Order on Petroleum Wax Candles from the People's
Republic of China ("PRC")

Summary

On January 11, 2012, the U.S. Department of Commerce ("Department") received a scope ruling request regarding birthday candles imported and sold by Signature Brands, LLC ("Signature").¹ On June 4, 2012, we initiated a formal scope inquiry.

On October 5, 2012, using an analysis under 19 CFR 351.225(k)(2) ("(k)(2)"), we preliminarily determined that five of Signature's 22 candle models were excluded from the scope as birthday candles, while the remaining 17 were not.² For this final scope ruling, the Department continues to find that five of Signature's 22 candle models are excluded from the scope, because they meet the requirements discussed herein. The Department's final determination regarding which candles should, or should not, be found within the scope of the Order³ (all in accordance with (k)(2)) are explained infra.⁴

¹ Signature's original request was filed on December 23, 2011. However, on January 11, 2012, given that the submission was missing several exhibits referenced in its request, Signature corrected this filing deficiency. Therefore, the Department established that the filing date of this scope ruling request is January 11, 2012.

² See Memorandum to the file from James C. Doyle, Office 9 Director, to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duties Operations, Import Administration: Signature Birthday Candles Preliminary Scope Ruling: Petroleum Wax Candles from the PRC Antidumping Duty Order, dated October 9, 2012 ("Preliminary Ruling").

³ See Antidumping Duty Order: Petroleum Wax Candles from the People's Republic of China, 51 FR 30686 (August 28, 1996) ("Order"). The Department has an internet website that allows interested parties to access prior scope determinations regarding the order. This website lists all scope determinations from 1991 to the present. It can be accessed at <http://ia.ita.doc.gov/download/candles-prc-scope/index.html> and is updated periodically to include newly issued scope determinations.

⁴ See Department's Position section.

Background

On July 26, 2011, we released the Clarification Final Results.⁵ During the two-year course of the Department's scope clarification proceedings, we gave parties multiple opportunities to comment on all aspects of the scope of the Order. Comments on the birthday candle exclusion language during this process were minimal (as noted further below).

On January 11, 2012, Signature filed a scope request asking that the Department find that 22 models of "birthday" candles it imports are outside the scope of the Order pursuant to a 19 CFR 351.225(k)(1) ("(k)(1)") analysis. Signature argued that its candles could be excluded under a (k)(2) analysis as well. Parties met with Department officials, and submitted comments and rebuttals from January 30, 2012, through June 19, 2012. On June 4, 2012, we initiated a formal scope inquiry. Parties then submitted comments and rebuttals on June 12, and June 19, 2012, respectively. During the Preliminary Ruling, the Department also requested that parties submit additional factual information pertaining to the physical characteristics of birthday candles in order to refine that aspect of the (k)(2) analysis.

Parties then submitted new factual information comments and rebuttals to factual information on October 19, and October 26, 2012, respectively. In addition, parties submitted case and rebuttal briefs on November 19, and November 28, 2012, respectively.

Legal Framework

When a request for a scope ruling is filed, the Department examines the scope language of the order at issue and the description of the product contained in the scope ruling request.⁶ Pursuant to the Department's regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from the investigations, and prior scope determinations made for the same product.⁷ If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling as to whether the merchandise is covered by an order.

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 factors are: (1) the physical characteristics of the merchandise; (2) the expectations of the ultimate purchasers; (3) the ultimate use of the product; (4) the channels of trade in which the product is sold; and (5) the manner in which the product is advertised and displayed. The determination as to which

⁵ Due to a large volume in scope requests at that time, the Department determined that it needed to clarify its interpretation of the Order's scope for analyzing candle scope requests and applying this clarification to pending/future scope requests. As such, the Department decided to make the scope more administrable by establishing a more concise clarification of the scope language. During this process, the Department provided interested parties with the opportunity to present comments and rebuttals on the language of the scope. After a detailed review of the comments submitted by interested parties, the Department decided that the exclusion from the scope would only apply to three types of candles: birthday, utility, and figurine candles. See Petroleum Wax Candles from the People's Republic of China: Final Results of Request for Comments on the Scope of the Antidumping Duty Order, 76 FR 46277 (August 2, 2011) ("Clarification Final Results"), and accompanying Issues and Decision Memorandum ("Clarification Final Results Memo").

⁶ See Walgreen Co. v. United States, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁷ See 19 CFR 351.225(k)(1).

analytical framework is most appropriate in any given scope inquiry is made on a case-by-case basis after consideration of all evidence before the Department.

In this case, the Department has considered Signature's request in accordance with (k)(1) and finds that the descriptions of the products contained in these sources are not dispositive with respect to Signature's candles. Although birthday candles were a specifically contemplated exclusion during the investigation, they were not defined in the petition, the initial investigation, nor in other previous determinations, aside from the Clarification Final Results.⁸ Because the birthday candle exclusion was not defined in the sources listed in (k)(1), and because Signature submitted a wide array of candles for consideration, we find that an analysis under (k)(1) would not be dispositive with respect to the candles at issue. In order to adequately address the realities of the candles market while recognizing the inclusivity of the scope language, we continue to find that an analysis of Signature's 22 candles under (k)(2) is necessary to delineate what candles are encompassed by the exclusion for birthday candles. As a result, the Department will evaluate Signature's request in accordance with (k)(2).

Scope History

In its petition filed on September 4, 1985, the National Candle Association ("NCA") requested that the less-than-fair-value antidumping duty investigation ("LTFV 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.⁹

The Department used this same language to define the scope of the investigation in its notice of initiation. This language carried forward without significant change through the preliminary and final determinations of the LTFV investigation 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.¹⁰

⁸ See Clarification Final Results Memo, at 11 (finding that birthday candles continue to be an exclusion from the scope).

⁹ See Antidumping Petition on Petroleum Wax Candles from the People's Republic of China (September 4, 1985) ("Petition"), at 7.

¹⁰ See Petroleum Wax Candles from the People's Republic of China: Initiation of Antidumping Duty Investigation, 50 FR 39743 (September 30, 1985); see also 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); Petroleum Wax Candles from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 51 FR 25085 (July 10, 1986); and Order.

The Department's interpretation of scope coverage during the early history of the Order was that birthday candles, birthday numeral candles, and "novelty candles"¹¹ (candles in the shape of identifiable objects, or with holiday, religious, or special-occasion themes) were outside the scope of the Order.¹² On August 21, 2009, the Department solicited comments from the general public on the best method to consider whether novelty candles should or should not be included within the scope of the Order given the uncertainty of the novelty exception's origin and the extremely large number of scope determinations requested by outside parties.¹³ After a thorough analysis of record evidence from the LTFV investigation, the Department reached its final determination regarding the proper interpretation of the scope of the Order on July 26, 2011¹⁴ (discussed in the Analysis section, *infra*). The Department notes that the Clarification Final Results were designed to clarify the scope language in light of hundreds¹⁵ of scope rulings made under a variety of different factors that evolved over the years based on information from the original investigation and the Department's own research.

The Department notes that prior to the Clarification Final Results, the exclusion language at issue simply stated that birthday candles were excluded, with no further explanation. At the Clarification Preliminary Results, the Department researched the record of the investigation in order to find parameters that defined birthday candles. However, the Department did not find record evidence of which parameters define a birthday candle. In order to clarify the scope language, the Department established size parameters for every kind of candle, whether subject or non-subject. For birthday candles, the exclusion language the Department wrote was: "Birthday candles are typically small, thin, pillar-shaped candles that range from 2 inches to 3.5 inches in height, 0.18 inch to 0.25 inch in width, and packaged in quantities of 10 to 24."¹⁶ Subsequently, five months after the Clarification Final Results, Signature filed its scope request.

Comments¹⁷

Signature's Views

Signature notes that based on the Clarification Final Results, the Department should exclude birthday candles under a (k)(1) analysis. All of the 22 candle models fall outside of the scope as these are all, in fact, birthday candles under a (k)(1) analysis.¹⁸ To bolster its argument, Signature asserts that the industry standards for manufacturing birthday candles are reflected by

¹¹ For further information regarding the history of the novelty candle exclusion, see Clarification Final Results Memo, at 16, citing Petroleum Wax Candles from the People's Republic of China: Preliminary Results of Request for Comments on the Scope for Petroleum Wax Candles from the People's Republic of China, 75 FR 49475, 49478 (August 13, 2010) ("Clarification Preliminary Results").

¹² See Clarification Final Results Memo, at 2.

¹³ See Petroleum Wax Candles from the People's Republic of China: Request for Comments on the Scope of the Antidumping Duty Order and the Impact on Scope Determinations, 74 FR 42230 (August 21, 2009).

¹⁴ See Clarification Final Results.

¹⁵ See Footnote 3. Also, the Department has another website that lists all scope determinations from 1986 to 1991. It can be accessed at <http://ia.ita.doc.gov/download/candles-prc-scope/99-15445.txt>.

¹⁶ See Clarification Final Results Memo, at 11.

¹⁷ For a summary of parties' comment before the Preliminary Ruling, see Preliminary Ruling, at 4-9, dated October 9, 2012.

¹⁸ See, e.g., Signature's Scope Request, at 1, dated January 11, 2012; Signature Case Brief, at 10, dated October 19, 2012; Signature Rebuttal Brief, at 22, dated November 28, 2012.

the ASTM {American Society for Testing and Materials} definition, which states that¹⁹ a birthday candle is a candle whose sole purpose is to be used on a birthday cake. Further, Signature states that the ASTM does not set limits upon size and styles,²⁰ and as such, all 22 candle models sold by Signature should be excluded under a (k)(1) analysis.

On the other hand, Signature also asserts that, even if the Department finds the factors under a (k)(1) analysis are not dispositive, all of its 22 candle models should also be excluded under a (k)(2) analysis, under the following five factors:²¹ (1) physical characteristics; (2) expectation of the ultimate purchaser; (3) ultimate use of the product; (4) channels of trade in which the product is sold; and (5) manner in which product is advertised and displayed. Specifically, Signature contends {in rebuttal to Petitioner's bestowed physical characteristics} that the following physical characteristics should be used for defining what constitutes a birthday candle:

1. the height should not exceed 4 inches (or alternatively, 5 inches, based on the declaration from a Target Corporation²² executive);²³
2. the diameter or thickness should not exceed 0.375 inches;²⁴
3. the weight of each candle should not exceed 25 grams;²⁵
4. birthday candles could burn for up to an hour;²⁶
5. the package count should be 24 or less;²⁷
6. the labeling may or may not suggest that the product is in fact a birthday candle;
7. birthday candles do not contain stearic acid (stearin).²⁸

Moreover, Signature asserts that labeling should not be a necessary condition in defining a birthday candle. Regardless of whether candles are labeled as "birthday" or "party" candles, Signature argues that their intended use is for the celebration of a birthday occasion²⁹ and there is no legal requirement that a birthday candle should be labeled as such.³⁰ Also, Signature argues the Preliminary Ruling was incorrect because the Department found 17 candle models included within the scope of the Order simply because they were not labeled as birthday candles, despite

¹⁹ See Signature Rebuttal Brief, at 7, 26, 28, and 40, dated November 28, 2012.

²⁰ See id. at 26. See also Signature's Submission, in Attachment 1, at 16, dated June 12, 2012.

²¹ For Signature's views pertaining to its candle models being excluded under a (k)(2) analysis, see, e.g., Preliminary Ruling, at 5-7, dated October 9, 2012; Signature Case Brief, at 10-14, dated November 19, 2012; Signature Rebuttal Brief, at 23-30, dated November 28, 2012.

²² See Signature Factual Info, at 3 and Attachment 3, dated October 19, 2012 (Attachment 3 contains a declaration from Shawn Smith Senior Product Manager for Stationary, Cards and Party for Target Corporation ("Target Declaration")). The Department notes that in the Target Declaration, Signature asserts that the height should not exceed five inches. However, in its rebuttal brief, Signature asserts that birthday candles should not exceed four inches (see Signature's Rebuttal Brief, at 21, dated November 28, 2012).

²³ Signature asserts that the fact that there may be some overlap in height between the subject merchandise and birthday candles is no justification to unlawfully limit the birthday candles exclusion. See Signature's Rebuttal Brief, at 13, 24, and 26, dated November 28, 2012.

²⁴ See id., at 21.

²⁵ See id., at 21, and 22.

²⁶ See id., at 23.

²⁷ See id., at 20, 22, and 30.

²⁸ See Signature's Factual Info Rebuttal, at 11, 12, and Exhibit 5, dated October 31, 2012; see also Signature's Rebuttal Brief, at 2, 18, 21, 26, 27, and 39, dated November 28, 2012.

²⁹ See Signature's Rebuttal Brief, at 28, 30, and 32, dated November 28, 2012.

³⁰ See Signature Case Brief, at 13, dated November 19, 2012.

the fact that they had the same physical characteristics as those five candle models that were excluded.³¹

In addition, Signature contends that the packaging reflects the fact that birthday candles are small, thin, and light-weight. Specifically, birthday candles are sold in cardboard or plastic containers with a hole on their top so they can be hung on a display rack, and that packaging is also used when birthday candles are sold online. In contrast, Signature states that subject candles are usually much heavier and displayed on shelving units.³²

Petitioner's Views

Petitioner asserts that only one of the candles sold by Signature falls outside of the scope (i.e., the “Happy Birthday” letter candle) because the remaining 21 are not intended solely for the birthday occasion.³³ Petitioner argues that the remaining candles are sometimes labeled as birthday candles, but other times are not. In rebuttal to Signature’s proffered arguments about physical characteristics, Petitioner suggests the following criteria for defining a birthday candle:

1. the height should not exceed three inches;³⁴
2. the diameter or thickness not to exceed 0.25 inches;³⁵
3. the weight should not exceed 1.68 grams;³⁶
4. the burn time should not exceed 20 minutes;³⁷
5. the package count should be between 10-24;³⁸
6. the labeling should conspicuously suggest that the product is in fact a birthday candle.³⁹

Specifically, Petitioner holds that the height range in the birthday candle exclusion in the Clarification (i.e., 3.5 inches) is too long. Based on the test data submitted by Petitioner,⁴⁰ it believes that candles over three inches in height, yield a much longer burn time; as such, these candles could not be characterized as “small” or “short burn time.” Also, Petitioner found through conducting independent tests that there is a correlation between burn time, height, diameter/thickness/width, and weight of a candle. As such, Petitioner proposes that 20 minutes or less is enough burn time.⁴¹ Lastly, Petitioner asserts that labeling as a factor should be applied in addition to other finite and objective characteristics that make a birthday candle.⁴² Specifically, Petitioner believes that the labeling of birthday candles is the factor demonstrating the expectation of the ultimate purchaser and ultimate use of the product.^{43,44}

³¹ See id., at 14.

³² See id., at 38.

³³ See Petitioner Rebuttal Brief at 5, dated November 28, 2012.

³⁴ See Petitioner Case Brief at 10, dated October 19, 2012.

³⁵ See id.

³⁶ See id.

³⁷ See id.

³⁸ See id.

³⁹ See id.

⁴⁰ See id.

⁴¹ See, e.g., Petitioner Factual Info, at 3, 4, and 12, dated October 19, 2012; Petitioner Case Brief, at 2, 6, 10, 13, 19, 25, 26, 30, and 39, dated November 19, 2012; Petitioner Rebuttal Brief, at 22, dated November 28, 2012.

⁴² See Petitioner Rebuttal Brief, at 27, dated November 28, 2012.

⁴³ See, e.g., Petitioner Case Brief, at 6, 8 (Footnote 14), 23, 27 and 29, dated November 19, 2012; Petitioner Rebuttal Brief, at 17 and 18 dated November 28, 2012.

Analytical Framework of the Birthday Candles Exclusion

In the Preliminary Ruling, the Department noted that in the exclusion language, the word “typically” precedes the physical characteristics of what constitutes a birthday candle. As such, the Department observed that this word may have imparted a certain degree of imprecision into the exclusion language stated in the Clarification Final Results, although it was the Department’s intent to clarify the birthday candle exclusion. As a result, the Department recognized that the word “typically” generated some confusion as to what constitutes a birthday candle. This confusion led to varying interpretations, as expressed in parties’ comments, ranging from reflecting manufacturing tolerances, to a more open-ended interpretation that anything simply called a birthday candle falls within the exclusion.⁴⁵

The Department also recognized that given the variety of candles Signature provided, as well as the volume of information provided by parties, these considerations suggested that birthday candles encompassed a wider variety of products than candles with the dimensions provided for in the final results of the Clarification. As such, the Department still found it necessary to delineate clearer factors as to what constitutes a birthday candle.

In order to further clarify what constitutes a birthday candle, the Department provided a thorough analysis of the factors outlined in (k)(2). Moreover, when refining the definition of certain physical characteristics being used during the Preliminary Ruling (*i.e.*, small, thin, lightweight, and short burn time), the Department requested input from parties about these physical characteristics, consistent with a scope ruling for Circular Welded Carbon Pipe from the PRC⁴⁶ involving finished electrical conduits.

The Department preliminarily determined that all 22 of Signature’s candles met the physical characteristics of birthday candles. Nonetheless, the Department preliminarily ruled that of the 22 candles, only five candles were labeled as “birthday candles” such that they satisfied the birthday candle exclusion criteria.

Thus, the Department’s analysis in the Preliminary Ruling relied in part on whether a birthday candle is labeled as such, because two of the five (k)(2) factors (*i.e.*, expectations of the ultimate purchaser, and the manner in which products are advertised/displayed) reflect this consideration. The five candles we excluded all fulfilled this labeling factor, while the remaining 17 did not.

For this final ruling, the Department observes that analysis of the following (k)(2) factors clarifies what constitutes a birthday candle within the meaning of the exclusion:

⁴⁴ The Department agrees with Petitioner that the birthday candle labeling is a factor in generating the expectation of the merchandise only being used for the celebration of the birthday occasion (*see* Analysis).

⁴⁵ Regarding parties’ interpretations of the word “typically,” *see* Preliminary Ruling at 4, and 7.

⁴⁶ *See* Antidumping and Countervailing Duty Orders on Circular Welded Carbon Quality Steel Pipe from the People’s Republic of China: Final Scope Ruling on Finished Electrical Conduit Imported by All Tools, Inc., at 1, May 21, 2012 (“Circular Welded Carbon Pipe from the PRC”). In Circular Welded Carbon Pipe from the PRC, the Department used a scope ruling to define a product that, while specifically excluded from the order, had no clear definition. During this birthday candles scope preliminary ruling, the Department similarly provided clearer factors as to what types of candles fall within the birthday candle exclusion. This way, the Department will both ensure proper enforcement of the Order while also recognizing the evolution of the candles market.

1) Physical Characteristics

For this final ruling, the Department establishes the physical parameters of what constitutes a birthday candle based on record evidence. Regarding the physical characteristics, the Department observes that both parties had opposing views pertaining to defining the upper limits of the measurements of birthday candles (i.e., for height, diameter/thickness, weight, burn time, and package count). Hence, in order to define the physical characteristics, we evaluated the factual information on the record and the parties' arguments, and find that the following physical characteristics must be satisfied in order to qualify for the birthday candle exclusion:

- The height must not exceed 4.25 inches.⁴⁷ The height parameter applies to the candle portion of the merchandise (including the stem portion, described below), and not, for instance, to the combined height of the base and candle (e.g., the musical birthday candle which has a plastic base).
- The diameter or thickness must not exceed 3/8 (0.375) inches.⁴⁸ Although birthday candles have an irregular shape, the diameter/thickness parameter applies to the stem portion (whether or not made of wax or something else) that holds the candle aloft in the birthday confection).
- The weight of each candle must not exceed 8.13 grams.⁴⁹
- Burn time must be one hour or less.⁵⁰ This feature is in contrast to subject candles which tend to have longer burn times.⁵¹
- Birthday candles are sold in multiple-candle packages in which the count should be from 3-24.⁵²
- Birthday candles must be conspicuously labeled as such.⁵³
- Birthday candles must not contain stearin.⁵⁴
- The Department notes that birthday candles are unscented, as the chemicals used for scent could be harmful if ingested.⁵⁵ The Department also notes that scent is one of the main features in a vast array of subject candles.

⁴⁷ See Signature Factual Info, at Exhibit 2, dated October 19, 2012. (The submission shows Signature's Stacked Stripe candle's height is 4.25 inches, which is the upper height limit on the record for one of Signature's candles.)

⁴⁸ See, e.g., Signature's Factual Info Rebuttal, at 4 (Footnote 2), dated October 31, 2012; Signature's Rebuttal Brief, at 21, dated November 28, 2012. The submission shows the upper diameter or thickness limit for one of Signature's candles.

⁴⁹ See Petitioner Factual Info, at Exhibit B, Table 7, dated October 19, 2012. (The record does not contain weights for most of Signature's candles, and 25 grams is based upon Signature's experience in the birthday candle industry. Of the candles weighed by Petitioner, the heaviest candle was 8.13 grams, as noted in this submission.)

⁵⁰ See Petitioner Factual Info, at Exhibit B, Table 7, dated October 19, 2012. Testing indicates that birthday candles can burn up to an hour.

⁵¹ See Signature's Rebuttal Brief, at 17, 18, and 23, dated November 28, 2012.

⁵² See id., at 20, 22, and 30. While using Signature's upper limit as a guideline, the Department has further specified that birthday candles must be sold in multiple candle packs of at least three candles based upon the merchandise presented by Signature.

⁵³ See Petitioner Case Brief at 10, dated October 19, 2012.

⁵⁴ See Signature's Factual Info Rebuttal, at 11, and 12, and Exhibit 5, dated October 31, 2012; see also Signature's Rebuttal Brief, at 2, 18, 21, 26, 27, and 39, dated November 28, 2012. The Department notes that stearin makes burn time longer, hence adding an unnecessary manufacturing cost and characteristic to the birthday candle. While a lack of stearin is not unique to birthday candles, it is one physical characteristic that can still be useful, along with the physical characteristics shown above and other (k)(2) factors, in distinguishing birthday candles from subject candles.

- Birthday candles are food-safe. In order for birthday candles to achieve the food-safe grade, birthday candles must be in compliance with federal restrictions on cadmium content in surface coatings. The U.S. Consumer Product Safety Board has established a restriction ban on the cadmium content in all accessible surface coatings to a maximum of 0.004 percent, or 40 particles per million (“ppm”).⁵⁶
- Birthday candles must be in compliance with federal restrictions on lead content in surface coatings. The U.S. Consumer Product Safety Commission has established a restriction ban on the lead content in all accessible surface coatings to a maximum of 0.009 percent, or 90ppm.⁵⁷
- The Department observes that birthday candles with candle holders use food-safe plastic candle holders. These plastic candle holders are compliant with regulations from the FDA.⁵⁸

Therefore, based on a detailed examination of the record, the Department establishes that these physical characteristics must be satisfied in order for a candle model to qualify for the birthday candle exclusion. Based on record evidence, the Department finds that these characteristics reasonably reflect the array of birthday candles available in the marketplace and accurately portray a definition for birthday candles. We also note that these physical characteristics are consistent with the intention to maintain a narrow birthday candle exclusion, such that the overall scope interpretation, as explained in the Final Scope Clarification, is preserved.

2) *Expectation of the Ultimate Purchasers*

- While labeling is not necessarily dispositive of purchaser expectation, the Department notes that in order to distinguish birthday candles from subject candles and to satisfy the “birthday candle” exclusion, in addition to meeting the other factors and considerations described in this decision, the package must clearly be labeled as birthday candles. The Department also notes that birthday candles cannot be labeled as generic novelty candles, party candles, or any other label.⁵⁹

⁵⁵ See, e.g., Signature’s Comments, at 3, 4, and Exhibit 2, dated May 16, 2012 (Exhibit 2 contains Signature’s Testing Protocol); Signature’s Submission at 7, dated June 12, 2012; Signature’s Scope Ruling Request at 10, dated January 11, 2012; Signature’s Rebuttal Brief, at 2, 15, 21, 27 and 33, dated November 28, 2012.

⁵⁶ See, e.g., Signature’s Testing Protocol, citing U.S. Consumer Product Safety Board (“CPSB”): Test Method CPSC-Oi-E1003-09.1; Signature’s Rebuttal Brief, at 2, 16, 21, and 27, dated November 28, 2012; Signature Factual Info, at 3 and Attachment 3, dated October 19, 2012 (Attachment 3 contains the Target Declaration); Signature Factual Info Rebuttal, at 3, dated October 31, 2012; Signature Case Brief, at 11, dated November 19, 2012.

⁵⁷ See, e.g., Signature’s Testing Protocol, citing 16 CFR 1303, U.S. Consumer Product Safety Commission (“CPSC”): Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead-Containing Paint; Signature’s Rebuttal Brief, at 2, 16, 21, and 27, dated November 28, 2012; Signature Factual Info, at 3 and Attachment 3, dated October 19, 2012 (Attachment 3 contains the Target Declaration); Signature Factual Info Rebuttal, at 3, dated October 31, 2012; Signature Case Brief, at 11, dated November 19, 2012.

⁵⁸ See, e.g., Signature’s Testing Protocol, citing 21 CFR 175-177, Chapter 1: U.S. Department of Health and Human Services, Food and Drug Administration (“FDA”); Subchapter B: Food for Human Consumption, Indirect Food Additives; Signature’s Rebuttal Brief, at 2, 16, 21, and 27, dated November 28, 2012.

⁵⁹ In other words, such generic labeling would do nothing to inform the ultimate purchaser and would instead be in opposition to the specific exclusion at issue, which is for birthday candles.

- The Department finds that purchasers of birthday candles expect that such candles will be disposable in nature. In other words, the consumer's expectation is that the birthday candle(s) will have a one-time use for that specific birthday occasion.⁶⁰
- The Department notes that birthday candle consumers expect that the candles will complement, in a decorative manner, the cake, cupcake, or other confection for the birthday occasion, as opposed to the expectations of the ultimate purchasers of subject candles, which could be any number of things (e.g., home decoration, religious purposes, aroma, etc.).⁶¹

Birthday candles are characterized by the ultimate purchaser as having a specific expectation for their use. That is, candles labeled and sold as birthday candles are expected to be used for the specific occasion of a birthday celebration. This feature is in contrast to subject candles, whose purchasers can have any number of expectations depending on the candle type. This factor can thus be used to distinguish birthday candles from subject candles.

3) *Ultimate Use of the Product*

- The ultimate use of birthday candles is specifically to decorate a cake, cupcake, or other confection for the birthday occasion.⁶²

Birthday candles have a clearly defined use that differentiates them from subject candles. Specifically, birthday candles are used to decorate a cake for the birthday occasion whereas subject candles are not and may be used for a variety of other purposes.

4) *Channels of Trade in Which the Product is Sold*

- The Department finds that birthday candles are sold in supermarkets/groceries, party stores, drug stores, and big box stores.⁶³
- In addition, the Department notes that birthday candles are also available online for purchase.⁶⁴

The Department observes that there is some overlap in the channels of trade in which both birthday candles and subject candles are sold. Therefore, this factor does not provide a clear way to distinguish birthday candles from subject candles.

5) *Manner in Which the Product is Advertised and Displayed*

- The Department finds that birthday candles are advertised and displayed in the baking section of grocery stores and supermarkets.⁶⁵
- The Department notes that birthday candles may also be advertised and displayed in the birthday section of party stores.⁶⁶

⁶⁰ See, e.g., Signature's May 16, 2012, submission, at 3-4.

⁶¹ See *id.*; Preliminary Ruling, at 13, 14, 15, and 17.

⁶² See, e.g., Signature's May 16, 2012, submission, at 4-5; Preliminary Ruling, at 14.

⁶³ See, e.g., Signature's Signature's Scope Ruling Request, at 13; Signature's May 16, 2012, submission, at 5; Preliminary Ruling, at 11, dated October 9, 2012.

⁶⁴ See Signature's Scope Ruling Request, at 13 and Signature's May 16, 2012, submission, at 5; Preliminary Ruling, at 11, dated October 9, 2012.

⁶⁵ See, e.g., Signature's Scope Ruling Request, at 13 Signature's May 16, 2012, submission, at 5; Preliminary Ruling, at 12, dated October 9, 2012.

- In other retail establishments (e.g., drug stores) birthday candles are advertised and displayed in the birthday section. Also, birthday candles are clearly advertised and displayed as such online.⁶⁷
- The Department also observes that in any of the above situations, birthday candles are advertised and displayed along with other birthday items (e.g., cake decoration materials, decorative icing, birthday cards, etc.).⁶⁸
- In any of the channels of trade in which birthday candles are sold, the candles must be clearly labeled as birthday candles. This is also the case for birthday candles that are sold online.

Even when there is an overlap in the channels of trade between birthday candles and subject candles, birthday candles are displayed and advertised in separate sections and in a distinct manner from that of subject candles, regardless of the channel of trade in which the candles are sold. The Department also notes that the birthday candle label is a key feature in discerning birthday candles from other novelty and party candles (designed by Signature to be placed on a cake)⁶⁹ which are also advertised and displayed within the baking section.

Furthermore, Signature argues that the birthday candles have unique packaging with a hole in the top in order to be hung from display racks, and that this is reflective of the fact that the birthday candles are small, thin, and light-weight. The Department finds that such packaging is not necessarily exclusive to birthday candles, as in-scope candles may show the same characteristic, and birthday candles may in fact be displayed on shelves instead of hanging from racks.⁷⁰ As such, the Department will not use this characteristic in defining what constitutes a birthday candle.

Concerning the labeling factor, the Department agrees with Petitioner, in part. The Department agrees that the labeling factor is a necessary condition “when applied to other finite and objective characteristics.”⁷¹ However, the Department notes that the labeling factor is not a stand-alone condition used to determine whether a candle should be excluded as a birthday candle. By properly considering all the physical characteristics together with the other (k)(2) factors in this analysis, the Department ensures a proper enforcement of the Order. For instance, in the Preliminary Ruling, the Department established that “the package should clearly be labeled as birthday candles” and noted that “birthday candles cannot be labeled as generic novelty candles, party candles, or any other label.”⁷² As a result, the Department ruled that 17 of the 22 models imported by Signature were not excluded from the scope of the Order as the record showed no evidence of these being labeled as birthday candles, albeit the Department had established that these candles shared the same physical characteristics as birthday candles.

⁶⁶ See, e.g., Signature’s Scope Ruling Request, at 13 Signature’s May 16, 2012, submission, at 5; Preliminary Ruling, at 12, dated October 9, 2012.

⁶⁷ See, e.g., Signature’s Scope Ruling Request, at 13 Signature’s May 16, 2012, Attachment 4; Preliminary Ruling, at 12, dated October 9, 2012.

⁶⁸ See, e.g., Signature’s Scope Ruling Request, at 13 Signature’s May 16, 2012, submission, at 5; Preliminary Ruling, at 12, dated October 9, 2012.

⁶⁹ See Signature’s Scope Ruling Request, at 9 and 10, dated January 11, 2012.

⁷⁰ See, e.g., Petitioner’s Rebuttal Factual Info, at Exhibit A, dated October 26, 2012.

⁷¹ See Petitioner’s Case Brief, at 27, November 19, 2012.

⁷² See Preliminary Ruling, at 11.

Record evidence (*i.e.*, physical samples and photos) demonstrates that the labeling of the same candle type can vary, such that it is sometimes labeled as a “birthday candle” and other times is not.⁷³ To the extent that a candle is labeled as a birthday candle and meets the other criteria outlined above, it would qualify for the birthday exclusion because it satisfies the (k)(2) factors. The exclusion for birthday candles was meant to be narrow, and emphasis on whether a candle is labeled as a “birthday” candle is a reasonable way to differentiate birthday candles that meet the exclusion from other small candles that do not. We note that in this scope ruling, the Department continues to make its ruling on the 22 candles that it ruled on in the preliminary scope ruling, as those are the candles for which a ruling was requested.

In addition, as stated in the Preliminary Ruling, a broad birthday candle exclusion contradicts the inclusive language of the scope.⁷⁴ The Department continues to find that in order for birthday candles to be differentiated from subject candles, the package should clearly be labeled as birthday candles, in addition to meeting all the other considerations and factors in this decision.⁷⁵ Therefore, in order meet the definition of the exclusion, birthday candles cannot be labeled as generic novelty candles, party candles, or any other label. In this regard, the Department notes that during the Clarification Final Results, the inclusive⁷⁶ interpretation of the scope was intended to clarify that the scope of the Order should cover **not only** the enumerated shapes/types, but also **all** other candle shapes not specifically mentioned in the scope’s language.

Lastly, this final ruling will serve as the Department’s guideline for what constitutes a birthday candle for the purpose of the birthday candle exclusion. For instance, interested parties and other users of this information will note that, although other cake-top candles may possess many of the same physical characteristics as birthday candles, they are not labeled as “birthday candles.” For this reason, these candles do not communicate to the consumer that their use is for the celebration of the birthday occasion, as indicated by the ASTM’s definition of a birthday candle.⁷⁷ Consequently, other cake-top candles’ failure to communicate to the consumer the ultimate use of the product impacts the four (k)(2) factors considered herein (*i.e.*, (a) the physical characteristics of the merchandise; (b) the expectations of the ultimate purchasers; (c) the ultimate use of the product; and (d) the manner in which the product is advertised and displayed) and ultimately means that these other cake-top candles do not meet the birthday candle exclusion.⁷⁸

⁷³ See, e.g., Signature Scope Ruling Request, in Attachment 3, dated January 11, 2012; Signature’s Submission, in Attachment B, dated May 7, 2012; Signature’s Submission, in Attachment 4, dated May 16, 2012. Also, the Department notes that on October 19, 2012, Signature submitted additional factual information pertaining to the birthday candle labeling for 13 of its candle models. See Signature Factual Info, in Attachment 1, dated October 19, 2012.

⁷⁴ See id., at 9 and 10.

⁷⁵ See id., at 11.

⁷⁶ See Clarification Final Results Memo, at 3, Footnote 11.

⁷⁷ See Signature Rebuttal Brief, at 7, 26, 28, and 40, dated November 28, 2012. See also Signature’s Submission, in Attachment 1, at 16, dated June 12, 2012.

⁷⁸ In the Preliminary Ruling, the Department explained how other cake top candles do not meet each of the (k)(2) factors. See Preliminary Ruling, at 15-17, dated October 9, 2012.

Department’s Position with Respect to Signature’s Candles

The Department preliminarily determined that all 22 of Signature’s candles met the physical characteristics necessary for further consideration for exclusion from the Order. Nonetheless, the Department preliminarily ruled that of the 22 candles, only five candles were labeled as “birthday candles” such that they satisfied the birthday candle exclusion criteria.

Applying the above (k)(2) analysis to the specific Signature candles subject to this scope inquiry, the Department continues to find that five of Signature’s 22 birthday candles are excluded from the order while the remaining 17 are included, as explained further below:⁷⁹

| | Name of Candle | Barcode | Included or Excluded |
|-----|-------------------------------------|-----------------|----------------------|
| 1. | Cupcake Birthday Candles | 0-71169-79969-2 | Excluded |
| 2. | Happy Birthday Candles | 0-71169-20895-8 | Excluded |
| 3. | Party Musical Birthday Candle | 0-71169-15700-3 | Excluded |
| 4. | Pencil Birthday Candles | 0-71169-15640-2 | Excluded |
| 5. | Sparkling Daisy Birthday Candles | 0-71169-81416-6 | Excluded |
| 6. | Black and White Candles | 0-71169-10700-8 | Included |
| 7. | Building Block Candle (Thick model) | 0-71169-81418-0 | Included |
| 8. | Building Block Candle (Thin model) | 0-71169-81418-0 | Included |
| 9. | Cars Candles | 0-71169-22412-5 | Included |
| 10. | Coil Candle | 0-71169-81419-7 | Included |
| 11. | Crazy Curl Candle | 0-71169-10510-3 | Included |
| 12. | Daisy Candle | 0-71169-20898-9 | Included |
| 13. | Magic Wand Candle | 0-71169-22510-8 | Included |
| 14. | Metallic Rings Candle | 0-71169-81451-7 | Included |
| 15. | Neon Crazy Curl Candle | 0-71169-15662-4 | Included |
| 16. | Pearlescent Candle | 0-71169-81218-6 | Included |
| 17. | Squiggle Candle | 0-71169-15667-9 | Included |
| 18. | Stacked Stripes | 0-71169-10511-0 | Included |
| 19. | Starlight Candle | 0-71169-20896-5 | Included |
| 20. | Super Star Candles | 0-71169-15899-4 | Included |
| 21. | Sweet Scoop Candle | 0-71169-79081-1 | Included |
| 22. | Winnie the Pooh Candle | 0-71169-22500-9 | Included |

⁷⁹ See, e.g., Signature Scope Ruling Request, in Attachment 3, dated January 11, 2012; Signature’s Submission, in Attachment B, dated May 7, 2012; Signature’s Submission, in Attachment 4, dated May 16, 2012. Also, the Department notes that on October 19, 2012, Signature submitted additional factual information pertaining to the birthday candle labeling for 13 of its candle models. See Signature Factual Info, in Attachment 1, dated October 19, 2012. For this final ruling, the Department continues to issue its ruling on the 22 candles that were ruled on in the preliminary ruling, because those are the candles for which a scope ruling was requested. As such, the Department considers the record evidence for the birthday candle labeling factor based on the submissions and the physical samples provided by Signature on May 7, 2012.

Physical Characteristics

- a. These candle models are small, thin and lightweight and, thus, suitable for placing on top of a cake, cupcake, or other confection for the birthday occasion.⁸⁰
- b. These candle models have a burn time of one hour or less.⁸¹
- c. These candle models are unscented.⁸²
- d. The height of these candle models does not exceed 4.25 inches.⁸³
- e. The diameter or thickness of the candle's stem portion does not exceed 3/8 or 0.375 inches.⁸⁴
- f. The weight of each of these candle models does not exceed 8.13 grams.⁸⁵
- g. The candles are sold in multiple candle packages containing three-24 candles.⁸⁶
- h. The five excluded candles are clearly labeled as birthday candles, while the 17 included ones are not.⁸⁷
- i. These candle models do not contain stearic acid (stearin).⁸⁸
- j. These candle models are food-safe in accordance with federal guidelines.
 - These candles are in compliance with the federal ban on cadmium content.⁸⁹
 - These candles are in compliance with the federal ban on lead content.⁹⁰
 - For the candle models that use a candle holder, these use a plastic that is food-safe in compliance with FDA regulation.⁹¹

For all these reasons, the Department finds that the five excluded candle models have certain physical characteristics that distinguish birthday candles from subject candles. Here, the five excluded candle models are all labeled as birthday candles and fulfill all of the physical characteristics necessary to distinguish them from subject candles.

⁸⁰ See, e.g., Signature's Submission, at 3, dated April 2, 2012; Signature's Scope Ruling Request, at 10, dated January 11, 2012.

⁸¹ See Signature's Rebuttal Brief, at 23, dated November 28, 2012.

⁸² See, e.g., Signature's Comments, at 3, 4, and Exhibit 2, dated May 16, 2012 (Exhibit 2 contains Signature's Testing Protocol). Signature's Submission at 7, dated June 12, 2012; Signature's Scope Ruling Request at 10, dated January 11, 2012; Signature's Rebuttal Brief, at 2, 15, 21, 27 and 33, dated November 28, 2012.

⁸³ See Signature Factual Info, at Exhibit 2, dated October 19, 2012.

⁸⁴ See, e.g., Signature's Factual Info Rebuttal, at 4 (Footnote 2), dated October 31, 2012; Signature's Rebuttal Brief, at 21, dated November 28, 2012.

⁸⁵ See Petitioner Factual Info, at Exhibit B, Table 7, dated October 19, 2012.

⁸⁶ See Analysis Section: Physical Characteristics.

⁸⁷ See the physical samples Signature submitted on May 7, 2012, and the Department's Preliminary Ruling.

⁸⁸ See Analysis Section: Physical Characteristics.

⁸⁹ See, e.g., CPSB: Test Method CPSC-Oi-E1003-09.1, as noted in Signature's Testing Report; Signature Case Brief, at 11, dated November 19, 2012; Signature's Rebuttal Brief, at 2, 16, 21, and 27, dated November 28, 2012; Signature Factual Info, at 3 and Attachment 3, dated October 19, 2012 (Target Declaration); Signature Factual Info Rebuttal, at 3, dated October 31, 2012.

⁹⁰ See, e.g., CPSC: Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead-Containing Paint, 16 CFR 1303, as noted in Signature's Testing Report; Signature's Rebuttal Brief, at 2, 16, 21, and 27, dated November 28, 2012; Signature Factual Info, at 3 and Attachment 3, dated October 19, 2012 (Target Declaration); Signature Factual Info Rebuttal, at 3, dated October 31, 2012; Signature Case Brief, at 11, dated November 19, 2012.

⁹¹ See, e.g., FDA: Chapter 1, Subchapter B: Food for Human Consumption, Indirect Food Additives, 21 CFR 175-177, as noted in Signature's Test Report; Signature's Rebuttal Brief, at 2, 16 and 21 dated November 28, 2012.

In contrast, the Department finds that, while the remaining 17 cake-top candle models meet most of the physical requirements that distinguish birthday candles from subject candles, they are not clearly labeled as such, but are instead labeled as generic party or novelty candles. Thus, these 17 candle models do not fulfill all of the physical characteristics necessary to distinguish them from subject candles.

Expectation of the Ultimate Purchasers

- k. The five excluded candle models are clearly labeled as “birthday candles” while the others are not.⁹²
- l. Consumers expect that the five excluded candle models would be placed on a birthday confection⁹³ for a one-time celebration,⁹⁴ while for the remaining 17 candles, there is no expressed specific consumer expectation.

The Department finds that the five excluded candle models are characterized by the ultimate purchaser as having a specific expectation for their use (*i.e.*, specifically labeled and used for the celebration of a birthday), as opposed to subject candles (*e.g.*, home décor, atmosphere), whose purchasers can have any number of expectations depending on the candle type. This factor can thus be used to distinguish birthday candles from subject candles.

Furthermore, the Department finds that the 17 included cake-top candle models fail to expressly generate the expectation that they are used **specifically** to celebrate the birthday occasion. In contrast, the Department notes that the expectation of the ultimate purchaser of a candle clearly labeled as a birthday candle is specific to the celebration of the birthday occasion. This factor is key in discerning those candles used specifically for the celebration of a birthday occasion from those candles used for other types of celebrations. As such, the Department finds that the 17 included cake-top candle models do not generate the specific expectation of celebrating the birthday occasion.

Ultimate Use of the Product

- m. Consumers use the five excluded candle models for the specific purpose of decorating a birthday cake,⁹⁵ cupcake, or other birthday confection,⁹⁶ as demonstrated by the birthday candle label, whereas the 17 included cake-top candles can be used in a one-time, disposable manner for a number of occasions, as they are generically labeled as “party,” “novelty” candles, etc.⁹⁷

The Department finds the five excluded candle models are used for the **specific** purpose of decorating a birthday cake, birthday cupcake, or other birthday confection (as demonstrated by the birthday candle label). Therefore, the excluded birthday candles have a clearly defined use as they are labeled as birthday candles, differentiating them from other small, subject merchandise candles, as well as any other candle simply labeled as a novelty or party candle.

⁹² See the physical samples Signature submitted on May 7, 2012, and the Department’s Preliminary Ruling..

⁹³ See Signature’s Rebuttal Brief, at 28, dated November 28, 2012.

⁹⁴ See Signature’s Scope Ruling Request, at 10, dated January 11, 2012.

⁹⁵ See Signature’s Rebuttal Brief, at 40, dated November 28, 2012.

⁹⁶ See Signature’s Scope Ruling Request, at 11, dated January 11, 2012.

⁹⁷ See the physical samples Signature submitted on May 7, 2012, and the Department’s Preliminary Ruling.

Conversely, as demonstrated by the labeling on the package,⁹⁸ the 17 included candle models are not specifically used for the purpose of decorating a birthday cake, birthday cupcake, or other birthday confection. Therefore, in contrast with excluded birthday candles, these 17 candle models do not have a clearly defined use that differentiates them from subject candles. As such, the Department cannot assess whether the ultimate use of these 17 cake-top candle models is specifically for commemorating a birthday celebration.

Manner in Which the Product is Advertised and Displayed

- n. These birthday and cake-top candle models are advertised and displayed in the baking section of grocery stores and supermarkets.⁹⁹
- o. These birthday and cake-top candle models may also be advertised and displayed in the birthday or baking sections of party stores.¹⁰⁰
- p. When these birthday and cake-top candle models are sold in other retail establishments (e.g. drug stores, etc.) they are advertised and displayed in the birthday or baking sections (i.e., separated from other subject candles which are advertised and displayed in the home decoration section).¹⁰¹
- q. Record evidence shows that the five excluded candle models are clearly advertised and displayed as “birthday candles” when sold online, while record evidence does not show that the 17 included cake-top candle models are clearly advertised and displayed as a “birthday candle” when sold online (i.e., as opposed to a party, novelty, or generic non-excluded figurine).¹⁰²
- r. The five excluded candle models, in any of the channels of trade discussed above, are labeled as birthday candles¹⁰³ and are advertised and displayed along with other birthday items (e.g. cake decoration materials, decorative icing, birthday cards, etc.).¹⁰⁴ The remaining 17 included cake-top candle models may be similarly advertised and displayed, but are not labeled as birthday candles.

The Department finds that even when there is an overlap in the channels of trade between birthday candles and subject candles, these five candle models are displayed and advertised in separate sections of a store (i.e., baking section, as opposed to the home decoration section). In addition, the Department notes that these five candle models are advertised and displayed in a distinct manner from that of subject candles, regardless of the channel of trade in which the candles are sold. The Department notes that because these five candle models were labeled as birthday candles,¹⁰⁵ these are adequately advertised and displayed as birthday candles. Furthermore, the birthday candle label allows the excluded candle models to be distinguished from the other party or novelty candles even when they are all displayed within the baking aisle.

⁹⁸ See *supra* (Expectation of the Ultimate Purchasers).

⁹⁹ See Signature’s Scope Ruling Request, at 13, dated January 11, 2012.

¹⁰⁰ See *id.*

¹⁰¹ See *id.*

¹⁰² See Signature Submission at Exhibit B, dated May 7, 2012; see also Signature Submission at Exhibit 4, dated May 16, 2012.

¹⁰³ See, and the Department’s Preliminary Ruling.

¹⁰⁴ See *id.* at 13.

The Department notes that for birthday candles and the 17 included cake-top candle models, there is some overlap in the manner in which both are advertised and displayed. Specifically, these 17 candle models, as well as birthday candles, are displayed in the baking aisle, as opposed to the home décor section. However, given the fact the these 17 candle models are not clearly labeled as birthday candles, the Department cannot assess whether these are generic party candles or other novelty candles, as they lack such distinction. As a result, these 17 candle models cannot be distinctively defined as birthday candles, and therefore are within the scope of the Order.

On the other hand, the Department notes that to the extent that any candle in this scope inquiry is labeled as a birthday candle and meets the other criteria outlined above, it would qualify for the birthday exclusion because it satisfies the (k)(2) factors.¹⁰⁵ The exclusion for birthday candles was meant to be narrow, and emphasis on whether a candle is labeled as a "birthday" candle is a reasonable way to differentiate birthday candles that meet the exclusion from other small candles that do not meet the exclusion.

Conclusion

We find that five of Signature's 22 candle models, are labeled as birthday candles, and as such, fulfill all of the physical requirements for the birthday candle exclusion established herein, including the requirement that the candles be labeled as birthday candles, and thus are excluded from the scope of the Order. However, we find that the remaining 17 candle models are included by the scope of the Order, as these are not clearly labeled as birthday candles and do not fulfill the (k)(2) criteria.

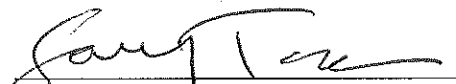
RECOMMENDATION

We recommend finding that Signature's five candle models that are labeled as birthday candles, fulfill all of the requirements for the birthday candle exclusion. We also recommend the Department find that the remaining 17 candles are within the scope of the Order. Going forward, we recommend using the criteria developed herein to determine what constitutes a birthday candle that would be excluded from the scope of the Order.

If you agree, we will notify the U.S. Bureau of Customs and Border Protection of our determination.

Agree

Disagree



Gary Taverman

Senior Advisor

for Antidumping and Countervailing Duty Operations

3/17/13
Date

¹⁰⁵ See supra (Analysis Section).