

UNITED STATES INTERNATIONAL TRADE COMMISSION

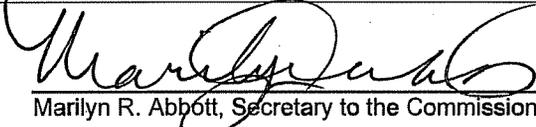
**SUMMARY VOTING SHEET
FOR RESPONSE ADEQUACY AND EXPEDITED OR FULL FIVE-YEAR REVIEW**

Subject	Reference Information	
<i>Petroleum Wax Candles from China: Investigation No. 731-TA-282 (Third Review)</i>	Control No.	INV-10-545

Individual Responses (A = Adequate, I = Inadequate)	Okun	Lane	Pearson	Aranoff	Williamson	Pinkert	Commis- sion
Domestic (U.S. Association)							
National Candle Association	<input type="checkbox"/> A						
Group Responses (A = Adequate, I = Inadequate)	Okun	Lane	Pearson	Aranoff	Williamson	Pinkert	Commis- sion
DOMESTIC	<input type="checkbox"/> A						
RESPONDENT	<input type="checkbox"/> I						

Expedited or Full Review	Okun	Lane	Pearson	Aranoff	Williamson	Pinkert	Commis- sion
EXPEDITED: DOMESTIC GROUP INADEQUATE	<input type="checkbox"/>						
EXPEDITED: RESPONDENT GROUP INADEQUATE	<input checked="" type="checkbox"/> X						
FULL	<input type="checkbox"/>						

SECRETARY'S CERTIFICATION OF COMMISSION ACTION

 Marilyn R. Abbott, Secretary to the Commission	Date
	10/04/10

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONER SIMULTANEOUS NOTATIONAL VOTING SHEET
FOR RESPONSE ADEQUACY AND EXPEDITED OR FULL FIVE-YEAR REVIEW

Subject		Reference Information	
Petroleum Wax Candles from China: Investigation No. 731-TA-282 (Third Review)		Control No	INV-10-545
Signature of Initiator	<i>George L. Deyman, for Catherine DeFilippo</i> Director, Office of Investigations	Date Out	09-22-10
		Date Due	10-04-10

COMMENTS

See attached memorandum for staff recommendations. Staff assigned are Mary Messer, investigator (205-3193) and Gracemary Roth-Roffy, attorney-advisor (205-3117).

STAFF CONCURRENCES

Office	Signature	Date	Office	Signature	Date
INV	<i>Mary Messer</i>	9/22/10	GC	<i>E W CC-11H-161</i>	9-22-10

COMMISSIONER ACTION

Staff recommendation	Commissioner finding		Individual Responses (A = Adequate, I = Inadequate)
	Adequate	Inadequate	



CONCUR WITH STAFF RECOMMENDATIONS

U.S. Association



National Candle Association

Commissioner finding		Group Responses (A = Adequate, I = Inadequate)
Adequate	Inadequate	



DOMESTIC



RESPONDENT

UNITED STATES INTERNATIONAL TRADE COMMISSION

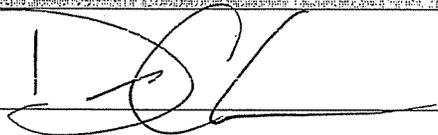
COMMISSIONER SIMULTANEOUS NOTATIONAL VOTING SHEET
FOR RESPONSE ADEQUACY AND EXPEDITED OR FULL FIVE-YEAR REVIEW--Continued

Subject	Reference Information	
Petroleum Wax Candles from China: Investigation No. 731-TA-282 (Third Review)	Control No.	INV-10-545

COMMISSIONER ACTION--Continued

Commissioner finding	Expedited or Full Review
<input type="checkbox"/>	EXPEDITED: DOMESTIC GROUP INADEQUATE
<input checked="" type="checkbox"/>	EXPEDITED: RESPONDENT GROUP INADEQUATE
<input type="checkbox"/>	FULL

COMMISSIONER SIGNATURE

	Date
	9/30/10

UNITED STATES INTERNATIONAL TRADE COMMISSION

**COMMISSIONER SIMULTANEOUS NOTATIONAL VOTING SHEET
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STAFF CONCURRENCES

Office	Signature	Date	Office	Signature	Date
INV	<i>Mary Messer</i>	9/22/10	GC	<i>E. W. CC-111-161</i>	9-22-10

COMMISSIONER ACTION

Staff recommendation	Commissioner finding		Individual Responses (A = Adequate, I = Inadequate)
	Adequate	Inadequate	



CONCUR WITH STAFF RECOMMENDATIONS

U.S. Association



National Candle Association

Commissioner finding		Group Responses (A = Adequate, I = Inadequate)
Adequate	Inadequate	



DOMESTIC



RESPONDENT

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONER SIMULTANEOUS NOTATIONAL VOTING SHEET
FOR RESPONSE ADEQUACY AND EXPEDITED OR FULL FIVE-YEAR REVIEW--Continued

Subject	Reference Information
Petroleum Wax Candles from China: Investigation No. 731-TA-282 (Third Review)	Control No. INV-10-545

COMMISSIONER ACTION--Continued

Commissioner finding	Expedited or Full Review
<input type="checkbox"/>	EXPEDITED: DOMESTIC GROUP INADEQUATE
<input checked="" type="checkbox"/>	EXPEDITED: RESPONDENT GROUP INADEQUATE
<input type="checkbox"/>	FULL

COMMISSIONER SIGNATURE

<i>Charlotte R. Lane</i>	Date <i>10-1-10</i>
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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Office	Signature	Date	Office	Signature	Date
INV	<i>Mary Messer</i>	9/22/10	GC	<i>E W CC-17H-161</i>	9-22-10

COMMISSIONER ACTION

Staff recommendation	Commissioner finding		Individual Responses (A = Adequate, I = Inadequate)
	Adequate	Inadequate	

CONCUR WITH STAFF RECOMMENDATIONS

U.S. Association

National Candle Association

Commissioner finding		Group Responses (A = Adequate, I = Inadequate)
Adequate	Inadequate	

DOMESTIC
 RESPONDENT

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONER SIMULTANEOUS NOTATIONAL VOTING SHEET
FOR RESPONSE ADEQUACY AND EXPEDITED OR FULL FIVE-YEAR REVIEW--Continued

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COMMISSIONER ACTION--Continued

Commissioner finding	Expedited or Full Review
<input type="checkbox"/>	EXPEDITED: DOMESTIC GROUP INADEQUATE
<input checked="" type="checkbox"/>	EXPEDITED: RESPONDENT GROUP INADEQUATE
<input type="checkbox"/>	FULL

COMMISSIONER SIGNATURE

Daniel R. Pearson

Date

10-4-10

UNITED STATES INTERNATIONAL TRADE COMMISSION

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COMMISSIONER ACTION

Staff recommendation	Commissioner finding		Individual Responses (A = Adequate, I = Inadequate)
	Adequate	Inadequate	



CONCUR WITH STAFF RECOMMENDATIONS

U.S. Association



National Candle Association

Commissioner finding		Group Responses (A = Adequate, I = Inadequate)
Adequate	Inadequate	



DOMESTIC



RESPONDENT

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONER SIMULTANEOUS NOTATIONAL VOTING SHEET
FOR RESPONSE ADEQUACY AND EXPEDITED OR FULL FIVE-YEAR REVIEW--Continued

Subject	Reference Information	
Petroleum Wax Candles from China: Investigation No. 731-TA-282 (Third Review)	Control No.	INV-10-545

COMMISSIONER ACTION--Continued

Commissioner finding	Expedited or Full Review
<input type="checkbox"/>	EXPEDITED: DOMESTIC GROUP INADEQUATE
<input checked="" type="checkbox"/>	EXPEDITED: RESPONDENT GROUP INADEQUATE
<input type="checkbox"/>	FULL

COMMISSIONER SIGNATURE

Shara L. Cranoff

Date

10/1/10

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONER SIMULTANEOUS NOTATIONAL VOTING SHEET
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COMMISSIONER ACTION

Staff recommendation	Commissioner finding		Individual Responses (A = Adequate, I = Inadequate)
	Adequate	Inadequate	

CONCUR WITH STAFF RECOMMENDATIONS

U.S. Association

A National Candle Association

Commissioner finding		Group Responses (A = Adequate, I = Inadequate)
Adequate	Inadequate	

DOMESTIC

RESPONDENT

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONER SIMULTANEOUS NOTATIONAL VOTING SHEET
FOR RESPONSE ADEQUACY AND EXPEDITED OR FULL FIVE-YEAR REVIEW--Continued

Subject	Reference Information
Petroleum Wax Candles from China: Investigation No. 731-TA-282 (Third Review)	Control No: INV-10-545

COMMISSIONER ACTION--Continued

Commissioner finding	Expedited or Full Review
<input type="checkbox"/>	EXPEDITED: DOMESTIC GROUP INADEQUATE
<input checked="" type="checkbox"/>	EXPEDITED: RESPONDENT GROUP INADEQUATE
<input type="checkbox"/>	FULL

COMMISSIONER SIGNATURE

Jaya Williamson

Date

9-30-10

UNITED STATES INTERNATIONAL TRADE COMMISSION

**COMMISSIONER SIMULTANEOUS NOTATIONAL VOTING SHEET
FOR RESPONSE ADEQUACY AND EXPEDITED OR FULL FIVE-YEAR REVIEW**

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Signature of Initiator	<i>George L. Deyman for Catherine DeFilippo</i> Director, Office of Investigations	Date Out	09-22-10
		Date Due	10-04-10

COMMENTS

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STAFF CONCURRENCES

Office	Signature	Date	Office	Signature	Date
INV	<i>Mary Messer</i>	9/22/10	GC	<i>E W CC-17H-161</i>	9-22-10

COMMISSIONER ACTION

Staff recommendation	Commissioner finding		Individual Responses (A = Adequate, I = Inadequate)
	Adequate	Inadequate	

CONCUR WITH STAFF RECOMMENDATIONS

U.S. Association

A National Candle Association

Commissioner finding		Group Responses (A = Adequate, I = Inadequate)
Adequate	Inadequate	

DOMESTIC
 RESPONDENT

UNITED STATES INTERNATIONAL TRADE COMMISSION

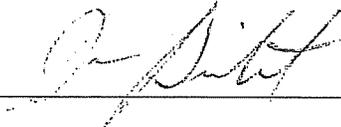
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FOR RESPONSE ADEQUACY AND EXPEDITED OR FULL FIVE-YEAR REVIEW--Continued

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COMMISSIONER ACTION--Continued

Commissioner finding	Expedited or Full Review
<input type="checkbox"/>	EXPEDITED: DOMESTIC GROUP INADEQUATE
<input checked="" type="checkbox"/>	EXPEDITED: RESPONDENT GROUP INADEQUATE
<input type="checkbox"/>	FULL

COMMISSIONER SIGNATURE

	Date
	9/27/10

OFFICE OF INVESTIGATIONS



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

September 22, 2010

MEMORANDUM

INV-HH-094

TO: THE COMMISSION

FROM: *George DeGeroni*
for Catherine DeFilippo
Director, Office of Investigations

SUBJECT: Petroleum Wax Candles from China: Investigation No. 731-TA-282
(Third Review)--Recommendation on Adequacy of Responses to Notice
of Institution

The Commission received one submission from the National Candle Association ("NCA") in response to its notice of institution in the subject review.^{1 2} The NCA was given an opportunity to remedy and explain deficiencies in its response. A summary of the individual response in this review (following the opportunity to remedy and explain deficiencies) is detailed in the tabulation on the attached page.³ A summary of the number of responses and an estimate of coverage is shown on the following page.⁴ I recommend that the Commission find the response of the NCA to be individually adequate.

¹ The NCA is represented by the law firm of Barnes & Thornburg LLP.

² The NCA is a U.S. trade association, a majority of whose members manufacture candles in the United States. In its response, the NCA provided a list of its 40 members that manufacture candles in the United States.

³ As part of its response to the notice of institution, the NCA was asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product and the subject merchandise. Also attached to this memo are the responses received from purchaser surveys mailed to the purchasers identified in the adequacy phase of this review.

⁴ The Commission did not receive any responses from Chinese producers or importers of the subject merchandise.

Type of interested party	Number	Coverage
Domestic (U.S. trade association)	1	[80]% ⁵

Definitions of Domestic Like Product and Domestic Industry

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

In its response to the Commission's notice of institution in this third five-year review, the NCA indicated that it agrees with the Commission's definitions of the domestic like product and the domestic industry as stated in the Commission's full second five-year review: candles with fiber or paper-cored wicks and containing any amount of petroleum wax, except for candles containing more than 50 percent beeswax.

U.S. Industry

The original antidumping investigation resulted from a petition filed on behalf of the NCA on September 4, 1985. In that investigation, the Commission reported that there were over 100 producers of candles in the United States and identified 47 firms that accounted for approximately 95 percent of domestically produced candles. During the first review instituted in January 1999, the Commission noted that there were over 200 domestic producers of candles and the NCA reported that its 39 members that produced candles represented about 75 percent of the total production of petroleum wax candles in the United States. In its response to the Commission's notice of institution in the second five-year review, the NCA provided a list of over 400 domestic producers of candles. The U.S. industry data presented in the Commission's report in its full second five-year review of the order were based on the useable questionnaire responses of 39 U.S. producers that accounted for approximately 63 percent of U.S. production in 2003.

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

⁵ The NCA estimates that its domestic producer members together accounted for approximately [80] percent of total U.S. candle production during 2009.

NCA provided a listing of 58 current U.S. producers and reported that they are unaware of any related parties.

Subject Merchandise

In its continuation order, Commerce defined the subject merchandise as

The products covered by this order are certain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: tapers, spirals and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers. The products were originally classifiable under the Tariff Schedules of the United States item 755.25, Candles and Tapers. The products are currently classifiable under the Harmonized Tariff Schedule item number 3406.00.00. The Department determined {that} several products were excluded from the scope of this order. For a complete list of the Department's scope rulings, please check our website at <http://www.ia.ita.doc.gov/download/candles-prc-scope>. Also, additional scope determinations are pending. The written description remains dispositive.⁶

Subject Imports and the Subject Foreign Industry

The staff report in the Commission's final investigation leading to the antidumping duty order subject to this review indicated that approximately [99] percent of the subject imports from China during 1985 were exported by the China Native Products Corp., an import/export entity. In that final investigation, the NCA identified 44 factories and the China Native Products Corp. identified 11 factories in China that produced candles for export. Many of the candle producers in China were rural enterprises that operated largely outside centralized control. In addition, the Commission identified in that original investigation over 175 possible importers of the subject merchandise from China, most of which were reported to have imported only small quantities.

In its response to the Commission's notice of institution in the first review of the order, the NCA identified 25 manufacturers/exporters of the subject merchandise in China and 96 U.S. firms that imported the subject merchandise into the United States. In its response to the Commission's notice of institution in the second five-year review, the NCA provided a listing of over 125 U.S. importers of candles from China and approximately 70 manufacturers/exporters of candles in China. During the Commission's full second five-year review, eight Chinese companies provided limited data to the Commission on their candle operations in China. In addition, useable responses were received from 47 U.S. importers that accounted for 22 percent

⁶ 70 FR 19508, September 29, 2005.

of total candle imports from China during 1999 and slightly more than 50 percent of the quantity of candle imports from China during 2004.

In its response to the Commission's notice of institution in this third five-year review, the NCA listed more than 200 current importers and foreign producers of the subject merchandise in China. Imports entering the United States under the appropriate HTS subheading for petroleum wax candles from China amounted to 15.709 million pounds (\$33.2 million, landed duty-paid) in calendar year 2009.⁷

Party Comments on Adequacy

The Commission received one submission from the NCA commenting on the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or a full review. In its comments, the NCA argued that its response to the Commission's notice of institution in this second review was adequate and that given the failure of any Chinese candle producer or importer to respond to the Commission's notice of institution, the respondent interested party group response was inadequate. Because no respondent interested party responded to the Commission's notice of institution, the NCA urged the Commission to conduct an expedited review.

Other Issues for Consideration

The Commission's Notice of Final Rulemaking ("NOFR") emphasizes that the statute accords the Commission the discretion to conduct full reviews even when the responses of domestic and/or respondent interested parties are inadequate. It provides for circumstances in which the Commission may exercise its discretion to conduct a full review notwithstanding inadequate interested party responses.

One circumstance that may be pertinent to this review concerns changes in likely conditions of competition. Changes in conditions of competition that the Commission has cited in prior reviews as warranting conducting a full review notwithstanding inadequate interested party group responses include the increased presence of nonsubject imports in the U.S. market, developments in the subject countries, scope modifications by Commerce, and changes to bilateral or multilateral agreements concerning the product. In this third five-year review of the order concerning imports of petroleum wax candles from China, the NCA has outlined in its response to the Commission's notice of institution numerous changes in the conditions of competition that the candle industry has undergone since the second continuation of the order. Significant changes outlined by the NCA include the following: (1) the implementation of a provisional order by the European Union ("EU") in November 2008 and the imposition of a definitive antidumping duty order by the EU on imports of candles from China in May 2009; (2) the closure of at least seven U.S. candle producers, which had been members of the NCA, since 2004 and the closure of numerous other smaller U.S. candle producers which were not

⁷ Commerce currently classifies the subject merchandise under HTS subheading 3406.00.00.

members of the NCA; (3) a request for an anticircumvention inquiry was filed by the NCA in 2004 and an anticircumvention ruling was made by Commerce in 2006; (4) the request by the NCA in February 2009 for a determination by U.S. Customs and Border Protection that wickless wax candles imported from China be properly classified under HTS subheading 3406.00.000 and subject to the antidumping duty order; (5) the emergence of the severe recession in late 2007 and the continuation of recessionary conditions caused a "marked" decline in the demand for candles; (6) the decline in the volume of candle imports from China as a result of the substantial increase in the antidumping duty margin during the period of the current review and as a result of the halting of the "massive" circumvention engaged in by Chinese candle producers; (7) the significant increase in the supply of candles to the U.S. market by certain new foreign country suppliers (e.g., Vietnam and India); (8) the prominent role of China as a supplier of paraffin wax, a key raw material, to the United States; (9) the large number of scope exclusion requests; and (10) the investigation by Commerce of illegal transshipments of Chinese candles with false country of origin declarations, including transshipments from Macau, the Netherlands, Austria, Israel, the Philippines, Poland, Korea, Taiwan, Vietnam, and Thailand.

Commerce's Review

Commerce is conducting an expedited review with respect to petroleum wax candles from China and intends to issue the final result of this review based on the facts available not later than November 8, 2010.

Commission's Adequacy Determinations in First and Second Reviews

The Commission published in the *Federal Register* its notice of institution of the first review of the order concerning imports of petroleum wax candles from China on January 4, 1999. In response to that notice, the Commission received a response from the NCA whose participating members accounted for the majority of domestic production of the domestic like product. The NCA's response contained data compiled by the association from the domestic producers who collectively accounted for 75 percent of domestic petroleum wax candle production during 1998. The Commission also received a response from Woodbridge Candles, which accounted for an additional share of domestic production of petroleum wax candles. The Commission did not receive any responses from respondent interested parties. The Commission determined that the domestic interested party group response was adequate and the respondent interested party group response was inadequate. Finding no other circumstances that would warrant conducting a full review, the Commission determined on April 8, 1999, that it should proceed to an expedited review of petroleum wax candles from China.

On August 2, 2004, the Commission published notice of the institution of its second five-year review of the antidumping duty order on petroleum wax candles from China. The Commission received a response to the notice of institution from the NCA and the Commission determined that the NCA's response was individually

adequate. Because the NCA's response accounted for a substantial percentage of U.S. production at that time, the Commission determined that the domestic interested party response was adequate. As was the case in the first review of the order, the Commission did not receive a response from any respondent interested party. Consequently, the Commission determined that the respondent interested party response was inadequate. However, in light of the relatively large number of scope rulings by Commerce since the issuance of the order, the Commission did not exercise its discretion to conduct an expedited review but found on November 5, 2004, that circumstances warranted conducting a full review. The Commission reasoned that conducting a full second five-year review would allow it to seek information concerning both the effect of the scope rulings and an accurate assessment of the likely effects of revocation of the order. In addition, the Commission reasoned that a full review would provide an opportunity for it to closely examine any domestic like product issues raised by the scope rulings.

Attachments

ATTACHMENT A
RESPONSE CHECKLIST

RESPONSE CHECKLIST¹ FOR U.S. PRODUCERS IN THE 5-YEAR REVIEW ON
PETROLEUM WAX CANDLES FROM CHINA

Item	National Candle Association ²
Nature of operation	✓
Statement of intent to participate	✓
Statement of likely effects of revoking the order	✓
U.S. producer list	✓
U.S. importer/foreign producer list	✓
List of 3-5 leading purchasers	✓
List of sources for national or regional prices	✓
Production:	
Quantity (1,000 pounds)	[194,912]
Percent of total	[80]
Capacity (1,000 pounds)	[502,443]
Commercial shipments:	
Quantity (1,000 pounds)	[170,385]
Value (\$1,000)	[496,263]
Internal consumption:	
Quantity (1,000 pounds)	[24,790]
Value (\$1,000)	[356,935]
Net sales (\$1,000)	[897,937]
COGS (\$1,000)	[439,851]
Gross profit or (loss) (\$1,000)	[457,282]
SG&A expenses (\$1,000)	[285,926]
Operating income or (loss) (\$1,000)	[169,356]
Changes in supply/demand	✓
Note.— The production, capacity and shipment data presented are for calendar year 2009. The financial data presented are for fiscal year ending December 31, 2009.	

¹ ✓ = response provided.

² The National Candle Association ("NCA") is a U.S. trade association, a majority of whose members manufacture candles in the United States. The 40 members of the NCA that currently manufacture candles in the United States were listed in the NCA's response to the Commission's notice of institution in this review. In addition, [one company among the NCA members reported importing petroleum wax candles from China. In 2009, MIDWEST-CBK Inc. ("Midwest") imported 28,866 pounds of subject merchandise, with a landed, duty-paid value of \$80,595. Commercial shipments of subject imports totaled 28,418 pounds, with a value of \$81,410. Based on the official U.S. import statistics, these imports accounted for 0.2 percent of total subject imports in 2009].

ATTACHMENT B
PURCHASER RESPONSES

As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic interested parties and it named the following four firms as the top purchasers of petroleum wax candles: Fred Meyer Stores, Target Corporation, Walgreen Company, and Wal-Mart Stores, Inc. Purchaser questionnaires were sent to these four firms and two firms ([Fred Meyer Stores] and [Target Corporation]) provided responses which are presented below.

1. a) **Have any changes occurred in technology; production methods; or development efforts to produce petroleum wax candles that affected the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?**
- b) **Do you anticipate any changes in technology; production methods; or development efforts to produce petroleum wax candles that will affect the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?**

Purchaser	Changes that have occurred	Anticipated changes
[Fred Meyer]	No.	No.
[Target Corp.]	No.	No.

2. a) **Have any changes occurred in the ability to increase production of petroleum wax candles (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that affected the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?**
- b) **Do you anticipate any changes in the ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that will affect the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?**

Purchaser	Changes that have occurred	Anticipated changes
[Fred Meyer]	No.	No.
[Target Corp.]	No.	No.

3. a) Have any changes occurred in factors related to the ability to shift supply of petroleum wax candles among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that affected the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?

b) Do you anticipate any changes in factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that will affect the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Fred Meyer]	No.	No.
[Target Corp.]	No.	No.

4. a) Have there been any changes in the end uses and applications of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?

b) Do you anticipate any changes in the end uses and applications of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Fred Meyer]	No.	No.
[Target Corp.]	No.	No.

5. a) Have there been any changes in the existence and availability of substitute products for petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?

b) Do you anticipate any changes in the existence and availability of substitute products for petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Fred Meyer]	No.	No.
[Target Corp.]	No.	No.

6. a) Have there been any changes in the level of competition between petroleum wax candles produced in the United States, petroleum wax candles produced in China, and such merchandise from other countries in the U.S. market or in the market for petroleum wax candles in China since 2005?

b) Do you anticipate any changes in the level of competition between petroleum wax candles produced in the United States, petroleum wax candles produced in China, and such merchandise from other countries in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Fred Meyer]	No.	No.
[Target Corp.]	No.	No.

7. a) Have there been any changes in the business cycle for petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?

b) Do you anticipate any changes in the business cycle for petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Fred Meyer]	No.	No.
[Target Corp.]	No.	No.

OFFICE OF INVESTIGATIONS



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

September 27, 2010

MEMORANDUM

INV-HH-095

TO: THE COMMISSION

FROM: Catherine DeFilippo 
Director, Office of Investigations

SUBJECT: Petroleum Wax Candles from China: Investigation No. 731-TA-282
(Third Review)–Supplement to Attachment B of Recommendation
Memo

Subsequent to the transmission of OINV's Recommendation on Adequacy of Responses to Notice of Institution (INV-HH-094) ("Recommendation Memo"), the Commission received an additional response to its adequacy phase purchaser questionnaire. Attached to this memo is a supplement to Attachment B of the Recommendation Memo, which includes information from the adequacy phase purchaser questionnaire response received from [Walgreen Co.].

As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic interested parties and it named the following four firms as the top purchasers of petroleum wax candles: Fred Meyer Stores, Target Corporation, Walgreen Company, and Wal-Mart Stores, Inc. The response of two firms, ([Fred Meyer Stores] and [Target Corporation]), were submitted previously. An additional response has been provided by the firm [Walgreen Company], which is presented below.

1.
 - a) **Have any changes occurred in technology; production methods; or development efforts to produce petroleum wax candles that affected the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?**
 - b) **Do you anticipate any changes in technology; production methods; or development efforts to produce petroleum wax candles that will affect the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?**

Purchaser	Changes that have occurred	Anticipated changes
[Walgreen Co.]	Yes. Walgreen Co.'s primary candle vender increased their output by 15 million pieces in 2007. In 2008 they reformulated their candles to include more than 50 percent vegetable waxes. They reduced their refineries from four to one.	No.

2.
 - a) **Have any changes occurred in the ability to increase production of petroleum wax candles (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that affected the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?**
 - b) **Do you anticipate any changes in the ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that will affect the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?**

Purchaser	Changes that have occurred	Anticipated changes
[Walgreen Co.]	No.	No.

3. a) Have any changes occurred in factors related to the ability to shift supply of petroleum wax candles among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that affected the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?

b) Do you anticipate any changes in factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that will affect the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Walgreen Co.]	No.	No.

4. a) Have there been any changes in the end uses and applications of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?

b) Do you anticipate any changes in the end uses and applications of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Walgreen Co.]	Yes. The use of outdoor candles increased two percent. The use of candles for bed and bathrooms declined one percent.	Yes. Candles used in connection with real estate, (sales and new home purchases), should increase.

5. a) Have there been any changes in the existence and availability of substitute products for petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?

b) Do you anticipate any changes in the existence and availability of substitute products for petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Walgreen Co.]	Yes. Since 2008, there has been an increase in candles made from vegetable and natural wax. Also, reed diffusers have become very popular.	No.

6. a) Have there been any changes in the level of competition between petroleum wax candles produced in the United States, petroleum wax candles produced in China, and such merchandise from other countries in the U.S. market or in the market for petroleum wax candles in China since 2005?
- b) Do you anticipate any changes in the level of competition between petroleum wax candles produced in the United States, petroleum wax candles produced in China, and such merchandise from other countries in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Walgreen Co.]	Yes. Global anti-dumping enforcement for candles from China caused increased demand for candles from Vietnam and Thailand	Yes. Anti-dumping enforcement caused candles to become more expensive and supply to go down. Demand from consumers decreased due to the U.S. economic downturn. If the U.S. economy makes a recovery, candle demand should increase.

7. a) Have there been any changes in the business cycle for petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?
- b) Do you anticipate any changes in the business cycle for petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Walgreen Co.]	Yes. The U.S. economic downturn negatively effected demand for candles in recent years.	No.

OFFICE OF INVESTIGATIONS



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

September 29, 2010

MEMORANDUM

INV-HH-096

TO: THE COMMISSION

FROM: *George DeFfilippo*
for Catherine DeFilippo
Director, Office of Investigations

SUBJECT: Petroleum Wax Candles from China: Investigation No. 731-TA-282
(Third Review)—Second Supplement to Attachment B of the
Recommendation Memo

Subsequent to the transmission of OINV's Recommendation on Adequacy of Responses to Notice of Institution (INV-HH-094) ("Recommendation Memo") and subsequent to the transmission of OINV's Supplement to Attachment B of the Recommendation Memo (INV-HH-095), the Commission received an additional response to its adequacy phase purchaser questionnaire. Attached to this memo is a second supplement to Attachment B of the Recommendation Memo, which includes information from the last outstanding adequacy phase purchaser questionnaire response received from [Wal-Mart Stores, Inc.].

As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic interested parties and it named the following four firms as the top purchasers of petroleum wax candles: Fred Meyer Stores, Target Corporation, Walgreen Company, and Wal-Mart Stores, Inc. The response of three firms, ([Fred Meyer Stores], [Target Corporation], and [Walgreen Company]), were submitted previously. An additional response has been provided by the firm [Wal-Mart Stores, Inc], which is presented below.

1.
 - a) **Have any changes occurred in technology; production methods; or development efforts to produce petroleum wax candles that affected the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?**
 - b) **Do you anticipate any changes in technology; production methods; or development efforts to produce petroleum wax candles that will affect the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?**

Purchaser	Changes that have occurred	Anticipated changes
[Wal-Mart Stores, Inc.]	No.	No.

2.
 - a) **Have any changes occurred in the ability to increase production of petroleum wax candles (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that affected the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?**
 - b) **Do you anticipate any changes in the ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that will affect the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?**

Purchaser	Changes that have occurred	Anticipated changes
[Wal-Mart Stores, Inc.]	No.	Yes. The Christmas program was shifted from imported ribbons to domestically produced ribbons due to costing and transportation issues.

3. a) Have any changes occurred in factors related to the ability to shift supply of petroleum wax candles among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that affected the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?

b) Do you anticipate any changes in factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that will affect the availability of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Wal-Mart Stores, Inc.]	Yes. We continue to work with suppliers to come up with candles that have a natural wax blend.	Yes. We continue to work with suppliers to come up with candles that have a natural wax blend.

4. a) Have there been any changes in the end uses and applications of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?

b) Do you anticipate any changes in the end uses and applications of petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Wal-Mart Stores, Inc.]	No.	No.

5. a) Have there been any changes in the existence and availability of substitute products for petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?

b) Do you anticipate any changes in the existence and availability of substitute products for petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Wal-Mart Stores, Inc.]	Yes.	Yes.

6. a) Have there been any changes in the level of competition between petroleum wax candles produced in the United States, petroleum wax candles produced in China, and such merchandise from other countries in the U.S. market or in the market for petroleum wax candles in China since 2005?
- b) Do you anticipate any changes in the level of competition between petroleum wax candles produced in the United States, petroleum wax candles produced in China, and such merchandise from other countries in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
[Wal-Mart Stores, Inc.]	Yes. Purchasing natural wax blend candles from Poland for the first time this year.	Yes. Purchasing natural wax blend candles from Poland for the first time this year.

7. a) Have there been any changes in the business cycle for petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China since 2005?
- b) Do you anticipate any changes in the business cycle for petroleum wax candles in the U.S. market or in the market for petroleum wax candles in China within a reasonably foreseeable time?

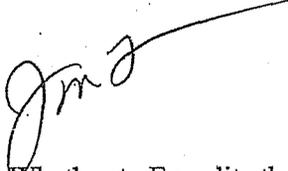
Purchaser	Changes that have occurred	Anticipated changes
[Wal-Mart Stores, Inc.]	No response.	No response.

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NO RESPONSE REQUIRED
September 22, 2010
GC-HH-162

MEMORANDUM

TO: THE COMMISSION¹

FROM: The General Counsel² 

SUBJECT: Adequacy Rulings and Whether to Expedite the Review in Petroleum Wax Candles From China, No. 731-TA-282 (Third Review).

CROSS-REFERENCES: INV-HH-094 (Sept, 22, 2010); GC-GG-039 (Feb. 25, 2009)

This memorandum addresses legal issues concerning the adequacy of responses to the Commission's notice of institution in the above-referenced review. The Commission received a single response filed by the National Candle Association ("NCA"), an association of U.S. producers of candles. No interested party, whether foreign producer, exporter or U.S. importer of subject merchandise, responded to the Commission's notice of institution with respect to the outstanding order on petroleum wax candles from China. We concur with OINV's recommendation that the Commission find that the response filed on behalf of NCA, a domestic interested party, to be individually adequate.³

I. Background

In August 1986, the Commission determined that an industry in the United States was being materially injured by reason of imports of petroleum wax candles from China that were being sold at less than fair value.⁴ On August 28, 1986, the Department of Commerce ("Commerce") issued an

¹ cc: Edwin J. Madaj, Catherine de Filippo, Mary A. Messer, Marilyn R. Abbott

² This memorandum was prepared by Gracemary R. Roth-Roffy (room 707S, tel. 205-3117).

³ OINV Memorandum INV-HH-094 (September 22, 2010) at 1.

⁴ Petroleum Wax Candles from the People's Republic of China, Inv. No. 731-TA-282 (Final), USITC Pub. 1888 (August 1986) (Original Determination"): Chairman Liebler and Vice Chairman

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antidumping duty order on imports of petroleum wax candles from China.⁵ The Commission instituted the first five-year review of the order in January 1999. The Commission expedited that review and subsequently made an affirmative determination.⁶

The Commission instituted the second review on August 2, 2004. On November 5, 2004, the Commission determined that the domestic interested party response was adequate, the respondent interested party response was inadequate, but that other circumstances warranted conducting a full review. Specifically, the Commission explained that a full review was warranted in light of the numerous scope rulings made by Commerce since the issuance of the order in 1986. According to the Commission, conducting a full review would allow it “to seek information concerning the effect of the scope rulings, make an accurate assessment of the likely effects of the order, and provide an opportunity to closely examine any like product issues raised by the scope rulings.”⁷

In July 2005, the Commission reached an affirmative determination in the second review. In so doing, the Commission defined the domestic like product to include candles containing any amount of petroleum wax except for candles containing more than 50 percent beeswax.⁸ In the original determination and first review determination, the Commission had defined the domestic like product as

Brunsdale dissented.

⁵ 51 Fed. Reg. 30686 (August 28, 1986).

⁶ Petroleum Wax Candles from China, Inv. No. 731-TA-282 (Review), USITC Pub. 3226 (August 1999) (“First Review”). Commissioners Crawford and Askey dissented.

⁷ Petroleum Wax Candles from China, Inv. No. 731-TA-282 (Second Review), USITC Pub. 3790 at 3 (July 2005) (“Second Review”).

⁸ Id. at 4.

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petroleum candles containing more than 50 percent petroleum wax.⁹

There has been no litigation arising from the Commission's original determination, first and second review with respect to petroleum wax candles.¹⁰

II. General Legal Considerations Pertaining To Rulings On Adequacy And Whether To Expedite

Please refer to Memorandum GC-GG-039 (Feb. 25, 2009) for the general legal considerations for rulings on adequacy and whether to expedite.

III. Legal Issues Specific To The Instant Review

A. Individual Response Adequacy

As noted above, the Commission received one response from NCA to the notice of institution that was filed on August 2, 2010. The NCA is a trade association a majority of whose members manufacture wax candles and is therefore an interested party. NCA estimates that its association represents [[80]] percent of all domestically produced petroleum candles.¹¹ We concur with OINV's recommendation that the Commission find the individual response of NCA to be adequate.¹²

B. Group Adequacy

The level of responses for the domestic interested parties is addressed on pages 1 and 2 of the OINV memorandum. There was no response to the notice of institution by any respondent interested party from China.

⁹ Original Determination at 1-9 and First Review Determination at 5.

¹⁰ We note that there were a number of cases brought by individual domestic producers involving the Byrd Amendment.

¹¹ OINV Memorandum INV-HH-094 at 2.

¹² See OINV's Recommendation on Adequacy of Responses to Notice of Institution at 2.

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NCA argues that the domestic industry's response should be deemed adequate.

It also argues that because no foreign producer, exporter or U.S. importer of subject merchandise from China filed a response to the Notice of Institution, the Commission should conclude that the respondent interested parties' responses are inadequate.

III. Whether To Expedite The Review

Because the Commission received no respondent interested party responses in this review, it will need to determine whether to expedite the review or to conduct a full review.

NCA asserts in its comments on adequacy that the Commission should conduct an expedited review.¹³

At pages 7-10, Memorandum GC-GG-039 (Feb. 25, 2009) discusses considerations the Commission has examined to determine whether to conduct a full review notwithstanding an inadequate interested party group response. In its January 2009 Federal Register notice of final rulemaking ("2009 NOFR") amending the Commission rules pertaining to the adequacy phase of five-year reviews, the Commission expressly stated that it "disagrees with the premise . . . that an inadequate interested party group response should always result in an expedited determination."¹⁴ The 2009 NOFR identified several circumstances in which the Commission may exercise its discretion to conduct a full review notwithstanding an inadequate interested party group response. The first circumstance, a mixed group response, is inapplicable to this review.

The second circumstance involves significant domestic like product issues. Specifically, the NOFR provides that the Commission may determine to conduct a full review even when interested party

¹³ NCA's Comments on Adequacy at 3.

¹⁴ 74 Fed. Reg. 2847, 2848 (Jan. 16, 2009).

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responses are found to be inadequate when it determines there is a need to re-examine the domestic like product definition made in the original determination. NCA states that it agrees with the definition of domestic like product in the Commission's in the second review determination.¹⁵ Since the second review, there have been multiple scope rulings since the second review determination.¹⁶ According to NCA, most of these rulings relate to unsuccessful exclusion requests.¹⁷ As noted above, the Commission cited the opportunity to examine any like product issues raised by multiple scope rulings (148) since the original order was imposed as one of the reasons for conducting a full review in the second review of the order.

The third circumstance concerns changes in likely conditions of competition. Changes in conditions of competition that the Commission has cited in prior reviews as warranting conducting a full review notwithstanding inadequate interested party group response include increased presence of nonsubject imports in the U.S. market, developments in the subject countries, scope modifications by the Department of Commerce, and changes to bilateral or multilateral agreements concerning the product at issue.¹⁸ In the 2009 NOFR, the Commission adopted some procedural changes in the adequacy phase of five-year reviews, including issuance of mini-questionnaires to purchasers, to provide it with additional information to enable it to decide whether to conduct a full review notwithstanding inadequate interested

¹⁵ NCA's Response to the Notice of Institution at 41.

¹⁶ A complete list of the Department's scope rulings is provided by Commerce in its website at <http://www.ia.ita.doc.gov/download/candles-prc-scope>. See also NCA's Response to the Notice of Institution at Attachment B.

¹⁷ NCA's Response to the Notice of Institution at 35.

¹⁸ See GC-GG-039 at 9, which describes particular reviews where the Commission conducted a full review because of changes in conditions of competition despite inadequate interested party group response.

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party group response.¹⁹

In its response to the Commission's notice of institution in this review, NCA noted the following changes in the conditions of competition for petroleum wax candles in the United States: (1) the virtual elimination of subject imports due to the substantial increase in antidumping duties and an anti-circumvention ruling by U.S. Border and Border Protection concerning wickless candles;²⁰ (2) the increase in the supply of nonsubject imports;²¹ (3) the decline in demand in the U.S. market due to the recession;²² (4) the existence of trade barriers in third countries;²³ (5) the downsizing of the domestic industry since 2004;²⁴ and (6) multiple scope exclusion requests demonstrating the effectiveness of the order.²⁵

We make no recommendation on whether the Commission should exercise its discretion to conduct a full review because of any changes in conditions of competition.

Commerce is conducting an expedited review with respect to petroleum wax candles from China and intends to issue the final result of this review based on the facts available not later than November 18, 2010.

¹⁹ 74 Fed. Reg. at 2848-49.

²⁰ NCA's Response to the Notice of Institution at 29-31, 37-39.

²¹ NCA notes that nonsubject imports from India and Vietnam increased from 5.7 million pounds in 2004 to 112.7 million pounds in 2009. See NCA's Response to Notice of Institution at 30.

²² NCA's Response to Notice of Institution at 27-29.

²³ According to NCA, the European Union imposed an antidumping duty order on candles from China in 2009. NCA's Response to Notice of Institution at 25.

²⁴ NCA's Response to the Notice of Institution at 8.

²⁵ NCA's Response to the Notice of Institution at 35.

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