

On March 17, 2004, the Department extended the time limit for the completion of the preliminary results to July 26, 2004, in accordance with section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), and section 351.214(i)(2) of the Department's regulations. See *Petroleum Wax Candles from the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Reviews*, 69 FR 12641 (March 17, 2004).

On July 21, 2004, the National Candle Association, petitioner, submitted comments regarding the sales under review. We received these comments too late for them to be considered for these preliminary results. These comments will be fully considered and addressed for the final results of this new shipper review.

Verification

As provided in section 782(i) of the Act, we conducted verification of the questionnaire responses of Shanghai R&R. We used standard verification procedures, including on-site inspection of the production and sales facilities, and an examination of relevant sales and financial records. Our verification results are outlined in the *New Shipper Review of Petroleum Wax Candles from the People's Republic of China: Sales Verification Report for Shanghai R&R Import/Export Co., Ltd.*, dated July 15, 2004. A public version of this report is on file in the Central Records Unit located in room B-099 of the Main Commerce Building.

Intent to Rescind Review

With every new shipper review request, the Department has an obligation to analyze the documentation and certifications to establish that they meet the conditions of section 351.214(b)(2)(iv) of the Department's regulations. At the time Shanghai R&R requested this new shipper review, we determined that the regulatory requirements were met and we initiated the new shipper review. At verification, the Department found documentation which brings into question that this sale was in fact made to the importer identified in Shanghai R&R's initial request for review and in all subsequent questionnaire responses. Shanghai R&R's explanation that mistakes were made in identifying the importer in certain sales and accounting records does not persuade us to find that the importer documented in the initial request was correctly identified. As such, we find that our initiation of this new shipper review was based on documents that failed to establish the

date of the first sale to an unaffiliated customer in the United States. Therefore, pursuant to section 351.214(b)(2)(iv)(C) of the Department's regulations, the requirements for initiation have not been satisfied.

Accordingly, we preliminarily intend to rescind this new shipper review. Because much of the information pertinent to our preliminary decision to rescind this review is business proprietary, we have set forth our complete analysis in a separate memorandum. See Memorandum from Scott Lindsay, Case Analyst, through Barbara E. Tillman, Director of Office of AD/CVD Enforcement VII, to Gary Taverman, Acting Deputy Assistant Secretary for Import Administration, Group I, "*Petroleum Wax Candles from the People's Republic of China (PRC): Preliminary Intent to Rescind the New Shipper Review for Shanghai R&R Import/Export Co., Ltd. (8/1/02 - 7/31/03)*," dated July 23, 2004.

Notification

At the completion of this new shipper review, either with a final rescission or a notice of final results, the Department will notify U.S. Customs and Border Protection that bonding is no longer permitted to fulfill security requirements of shipments with the exporter/producer combination of Shanghai R&R/Qingyuan County Artistic and Candle Factory of petroleum wax candles from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the date of publication of the final rescission or results notice in the **Federal Register**. After the publication of the final rescission notice, a cash deposit of 108.30 percent *ad valorem* shall be collected for any entries exported by Shanghai R&R. Should the Department reach a final result other than a rescission, an appropriate antidumping duty rate will be calculated for both assessment and cash deposit purposes.

Schedule for Final Results of Review

Pursuant to section 351.309 of the Department's regulations, interested parties may submit written comments in response to these preliminary results. Normally, case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) a statement of the issues, and (2) a brief summary of the argument. Case

and rebuttal briefs must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.

Also, pursuant to section 351.310 of the Department's regulations, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location. The Department will issue the final results of this new shipper review, which will include the results of its analysis of issues raised in the briefs, within 90 days from the date of the preliminary results, unless the time limit is extended.

We are issuing and publishing this determination in accordance with sections 751(a)(2)(B) and 777(i) of the Act.

Dated: July 26, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04-17560 Filed 8-2-04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A-570-504)

Petroleum Wax Candles from the People's Republic of China: Rescission of Antidumping Duty New Shipper Review

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

SUMMARY: On September 30, 2003 the Department of Commerce (the Department) initiated three new shipper reviews of the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC) covering the period August 1, 2002, through July 31, 2003. See *Petroleum Wax Candles from the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews*, 68 FR 57876 (October 7, 2003) (*Initiation Notice*). These new shipper reviews covered three exporters: Shanghai R&R Imp./Exp. Co., Ltd.; Changshan Import/Export Co., Ltd. (Changshan Ltd.); and Shangdong Huihe., Ltd. For the reasons discussed below, we are rescinding the new shipper review of Changshan Ltd.

EFFECTIVE DATE: August 3, 2004.

FOR FURTHER INFORMATION CONTACT: Dara Iserson or Thomas Gilgunn at (202) 482-4052 and (202) 482-4236, respectively; AD/CVD Enforcement, Office 7, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 2003, the Department received a timely request for a new shipper review of the antidumping duty order on petroleum wax candles from the PRC from Changshan Ltd., an exporter of subject merchandise to the United States. This request included a commercial invoice as documentation establishing the volume of Changshan Ltd.'s first shipment to the United States and the date of the first sale to an unaffiliated customer in the United States pursuant to section 351.214(b)(2)(iv) of the Department's regulations. On September 30, 2003, the Department initiated this new shipper review covering the period August 1, 2002, through July 31, 2003. See *Initiation Notice*.

In its December 18, 2003, questionnaire response, Changshan Ltd. provided another version of its commercial invoice which had a different merchandise description and a different date of sale. We also obtained entry documentation from U.S. Customs & Border Protection (CBP) which was placed on the record. After examining all of these documents, the Department sent a letter to Changshan Ltd. on March 18, 2004, requesting that it explain why the copy of the commercial invoice which documented its single new shipper sale in Exhibit 9 of its December 18, 2003, response contained material differences when compared to the commercial invoice Changshan Ltd. included in its August 14, 2003, new shipper review request. (See our letter dated March 18, 2004, for a complete discussion of those differences.) Changshan Ltd. submitted its response on April 15, 2004. On May 10, 2004, we asked Changshan Ltd. to explain and provide supporting documentation as to why it submitted documents with the same invoice number, but different dates and different merchandise descriptions. In its May 17, 2004, response, Changshan Ltd. stated that the fact that it had prepared multiple versions of the same commercial invoice for its single new shipper sale was the result of clerical errors and a general lack of experience in preparing commercial documents.

After analyzing these responses and all of the information on the record, the Department issued a memorandum informing the parties that it intended to rescind this new shipper review. (See *Petroleum Wax Candles from the People's Republic of China (PRC); Intent to Rescind the New Shipper Review for Changshan Import/Export Co., Ltd. (8/1/02 - 7/31/03)*, dated June 7, 2004 (*Intent to Rescind Memo*.) In our *Intent to Rescind Memo*, the Department informed the interested parties that we intended to rescind this new shipper review because the initiation of this review was based on documents which failed to establish: 1) the date on which the subject merchandise was first entered, or withdrawn from warehouse, for consumption, or the date on which Changshan Ltd. first shipped the subject merchandise for export to the United States; and 2) the date of the first sale to an unaffiliated customer in the United States. (See sections 351.214(b)(2)(iv)(A) and (C) of the Department's regulations.) We provided interested parties an opportunity to comment on the *Intent to Rescind Memo*.

In its June 14, 2004, comments on our *Intent to Rescind Memo*, Changshan Ltd. disagreed with the Department's analysis of its sales documents. Changshan Ltd. made two arguments with respect to the Department's intent to rescind its new shipper review. First, Changshan Ltd. argued that it issued only one invoice for the sale at issue and that any subsequent "revisions" made to that invoice were immaterial. Second, Changshan Ltd. argued that, pursuant to section 351.214(f) of its regulations, the Department can only rescind a new shipper review where the respondent withdraws its request for review where there was no entry or sale within the period of review (POR) and the expansion of the POR would prevent the timely completion of the review. In its June 14, 2004, comments on our *Intent to Rescind Memo*, the National Candles Association, petitioners, provided a statement in support of the Department's decision to rescind this new shipper review. On June 15, 2004, Changshan Ltd. withdrew its request for a new shipper review.

Scope of the Order

The products covered by this order are certain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers. The products

were classified under the Tariff Schedules of the United States (TSUS) item 755.25, Candles and Tapers. The products are currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) item 3406.00.00. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding remains dispositive.

Rescission of Review

With every new shipper review request, the Department has an obligation to analyze the documentation and certifications to establish that they meet the conditions of section 351.214(b)(2)(iv) of the Department's regulations. At the time Changshan Ltd. requested this new shipper review, we determined that the regulatory requirements were met and we initiated the new shipper review. See *Initiation Notice*. Since the initiation, in response to our questions regarding the sale at issue, Changshan Ltd. has submitted documentation which demonstrates that the invoice provided with the request for this new shipper review was neither correct nor accurate. Furthermore, three other versions of this invoice are now on the record of this review. We are not persuaded by Changshan Ltd.'s arguments that only one invoice was issued and the subsequent revisions to this invoice were immaterial. In fact, the discrepancies in the dates on the various versions of the invoice are material to the Department's analysis of whether Changshan Ltd.'s request for a new shipper review fulfills the regulatory requirements necessary for the Department to initiate a new shipper review. See sections 351.214(b)(2)(iv)(A) and (C). Changshan Ltd.'s explanations of why the invoices differ and how errors were made do not demonstrate that the invoice which they describe as the "one" invoice is indeed the correct invoice. Moreover, even assuming we found its explanations reasonable, Changshan Ltd. has stated that the invoice which was the basis for the Department's initiation of this new shipper review is not the original or final version of the document, despite Changshan Ltd.'s having provided the required company certifications that the information provided with its request for review were both complete and accurate. See section 351.303(g)(1) of the Department's regulations. As such, we continue to find that our initiation of this new shipper review was based on documents that failed to establish: 1) the date on which the subject merchandise was first entered, or withdrawn from warehouse, for consumption, or the date

on which Changshan Ltd. first shipped the subject merchandise for export to the United States; and 2) the date of the first sale to an unaffiliated customer in the United States. Therefore, pursuant to sections 351.214(b)(2)(iv)(A) and (C) of the Department's regulations, the requirements for initiation have not been satisfied.

We have also considered Changshan Ltd.'s argument that a new shipper review can only be rescinded when the respondent withdraws its request for review or where there was no entry or sale within the POR and the expansion of the POR would prevent the timely completion of the review. However, the Department has the authority to rescind a new shipper review when, as in the instant case, the Department finds that the documentation submitted in support of the request for new shipper review is defective; thus, the regulatory requirements for initiating a new shipper review have not been satisfied. See, e.g., *Honey from the People's Republic of China: Notice of Preliminary Results and Partial Rescission of Antidumping Duty New Shipper Review*, 69 FR 31348 (June 3, 2004) (the Department rescinded the new shipper review because the company failed to provide documentation and certifications establishing the first sale to an unaffiliated customer in the United States); See, also, *Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of Sixth New Shipper and Preliminary Results and Partial Rescission of Fourth Antidumping Duty Admission Review*, 69 FR 10410 (March 15, 2004) (the Department rescinded the new shipper review with respect to XITIC because it failed to provide proper certifications in accordance with section 351.214(b)(ii)(B) of the Department's regulations based on data contained in its questionnaire response); *Honey from the People's Republic of China: Partial Rescission of Antidumping Duty New Shipper Review*, 68 FR 4760 (January 30, 2003) (the Department rescinded the new shipper review of Sichuan Dubao because the company failed to identify the correct name of the exporter and producer of the subject merchandise). Accordingly, we are rescinding this new shipper review of candles.

Cash Deposit Requirements

The Department will notify CBP that bonding is no longer permitted to fulfill security requirements for shipments from Changshan Ltd. of petroleum wax candles from the PRC that are entered, or withdrawn from warehouse, for consumption in the United States on or after the date of publication of this

rescission notice in the **Federal Register**, and that a cash deposit of 108.30 percent *ad valorem* should be collected for any entries of petroleum wax candles exported by Changshan Ltd.

Assessment of Antidumping Duties

The Department will instruct CBP to assess antidumping duties on all appropriate entries. Since we are rescinding this antidumping duty new shipper review with respect to Changshan Ltd., the PRC-wide rate of 108.30 percent in effect at the time of entry applies to all exports of candles from the PRC by Changshan Ltd. entered, or withdrawn from warehouse, for consumption during the POR (August 1, 2002 through July 31, 2003). The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of this notice of rescission of antidumping duty new shipper review.

Notification to Importers

This notice also serves as a reminder to importers of their responsibility under section 351.402(f)(2) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(2)(B) and 777(i) of the Act.

Dated: July 26, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-504

Petroleum Wax Candles from the People's Republic of China: Notice of Preliminary Results of Antidumping Duty New Shipper Review of Shandong Huihe, Ltd.

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

SUMMARY: On September 30, 2003 the Department of Commerce (the Department) initiated three new shipper reviews of the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC) covering the period August 1, 2002, through July 31, 2003. See *Petroleum Wax Candles from the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews*, 68 FR 57876 (October 7, 2004) (*Initiation Notice*). These new shipper reviews covered three exporters: Shanghai R&R Imp./Exp. Co., Ltd. (Shanghai R&R); Changshan Import/Export Co., Ltd. (Changshan); and Shandong Huihe, Ltd (Shandong). The Department is addressing the preliminary results for Shanghai R&R and Changshan in separate notices. The review of Shandong covers the period August 1, 2002 through August 15, 2003.

We preliminarily determine that sales have not been made below normal value (NV). The preliminary results are listed below in the section titled "Preliminary Results of Review." If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on the difference between the export price (EP) and NV. Interested parties are invited to comment on these preliminary results. (See the "Preliminary Results of Review" section of this notice.)

EFFECTIVE DATE: August 3, 2004.

FOR FURTHER INFORMATION CONTACT: Dara Iserson or Douglas Kirby, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482-4052 or (202) 482-3782, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published in the **Federal Register** an antidumping duty order on petroleum wax candles from the PRC on August 28, 1986. See *Notice*